
FIRST NATIONS CONSULTATION TECHNICAL SUPPORTING DOCUMENT FOR THE HOUND CHUTE PROJECT



Submitted To:

ONTARIO **POWER**
GENERATION

Submitted By:

Montreal River EA Consulting Team

March 2007

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FOR THE HOUND CHUTE PROJECT

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1.0 PROJECT DESCRIPTION

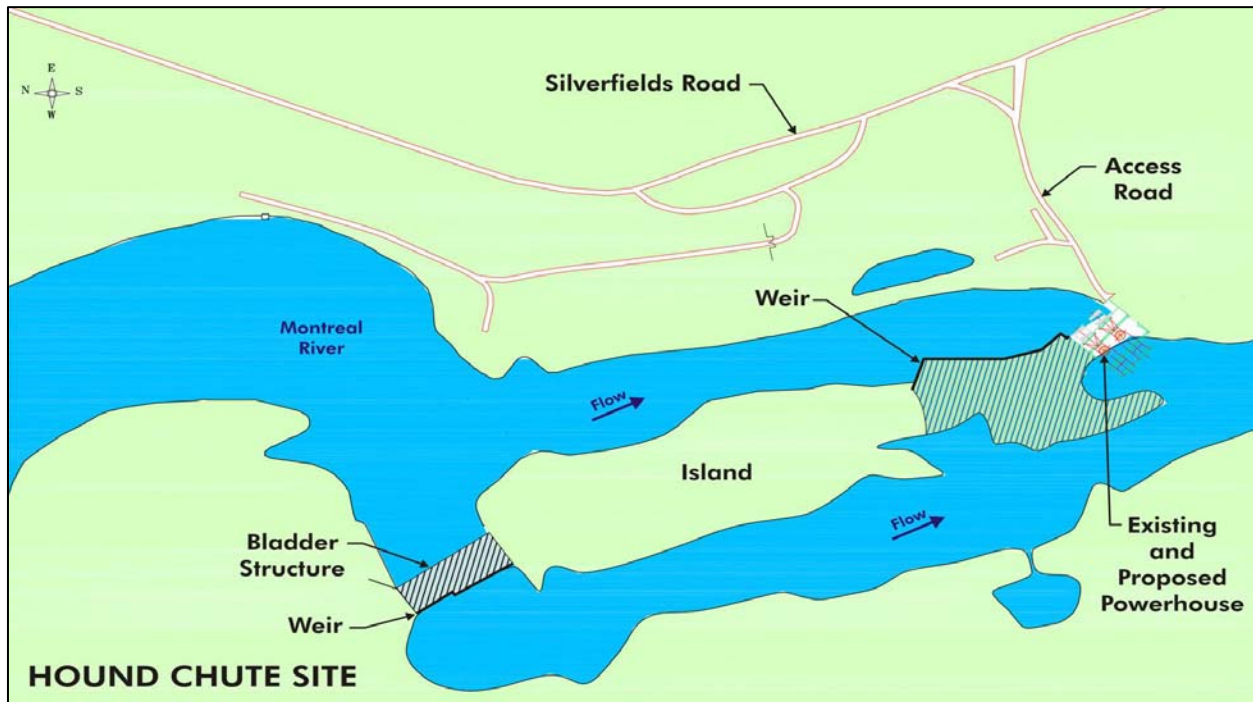
The 3.6 MW Hound Chute GS is located on the Montreal River straddling the townships of Latchford and Coleman in the District of Timiskaming, approximately 10 kilometers southwest of the Town of Cobalt. This 4-unit plant, initially placed in service in the early 1900s, is accessed by Silverfields Road which is maintained by OPG but open to public use. Photograph 1.1 depicts Hound Chute GS.

Photograph 1.1: Hound Chute GS



The Hound Chute GS has a cement-capped rockfill weir and a concrete spillway terminating in abutments at each end. Flash boards are removed each spring prior to the freshet to help mitigate flooding upstream. The dam diverts the river through a 427 meters canal excavated along the east bank of the river, directly to the headgates (see Figure 2.8). At the intake of each turbine chamber, there is a gate 3 meters high by 4.6 meters wide with a pass and gate lifting apparatus as well as two stoplog checks.

Figure 1.1: Current and Proposed Facilities, Hound Chute GS



The proposed powerhouse at Hound Chute GS is planned to be located on the same footprint as the existing powerhouse and will consist of two units with a total expected nameplate capacity of 9.5 megawatts. The existing powerhouse will be demolished followed by the construction of the new facility.

Water would continue to be conveyed from the forebay along the existing canal into a direct intake in the new powerhouse.

Refurbishments to the wing wall will be required and can be done in the dry while the powerhouse is being constructed. A new electrical substation will be built. The proposed facility will be connected to the existing 44 kilovolts feeder.

A Water Management Plan for the Montreal River System has not been submitted for approval. It is prepared in accordance with the Water Management Planning Guidelines for Waterpower, as approved by the Minister of Natural Resources on May 14, 2002. The Ontario Lakes and River Improvements Act requires compliance by facility operators with the operating regimes (required flows) established in the Water Management Plans and a compliance monitoring program will be established. There are no change to flows and levels as a result of the redevelopment.

2.0 FIRST NATIONS CONSULTATION PLAN

A First Nations Consultation Plan was prepared with the overall objective of “to provide First Nations (FN) with an opportunity to have meaningful input on the Project and address pertinent First Nations concerns wherever feasible through a process that is fair and reasonable with respect to the Hound Chute Project.”

The First Nations Consultation plan identified the First Nations to be contacted and for each First Nation, the Chief was identified as the key contact person. The plan also identified the possible communication vehicles to be used. These included sending registered letters prior to each of the two open houses, with a minimum of three follow-up phone calls to each. The first letter provided information about the Project and offered to meet with Chief and Council. The second registered letter provide high level results of the EA field work and again offered to meet with Chief and Council. Follow-up calls were made for these. The plan was flexible to accommodate further meetings as defined by the individual First Nation interests (whether these are community meetings or meetings with Chief and Council).

The approach for the First Nations consultation was based on an understanding of Supreme Court of Canada Decisions (i.e., Haida, Taku and Mikisew) with respect to the Crown’s obligation to meaningfully consult and accommodate on current First Nations consultation practices employed in Northern Ontario with respect to resource management and

development. As well it was recognized that a number of First Nations participated in the Montreal River System Water Management Planning exercise.

In assessing the scope of the consultation for the Proposed Undertaking two factors were taken into consideration. An assessment of the overall impact of the project on First Nations rights, values and interests and the strength of the First Nations interest. In assessing the overall impact of the redevelopment of Hound Chute it was OPG's assessment that the impact was low. The generating station has existed for close to 100 years, the site has been disturbed by the initial construction and ongoing maintenance activities associated with its operation, the effects associated with the project are localized to the immediate site and are temporary and minor and there is to be no changes to the river levels and flows that are currently adhered to by OPG. The level of First Nations interest in the Project was expected to be low. Several generations of individuals have now become accustomed to the presence of this facility. As well, the MNR undertook extensive consultation with First Nations during the Water Management Plan process including the examination of site specific issues. There was no indication from that process that there were any outstanding First Nations issues or concerns associated with the site. Furthermore, as part of the EA, OPG had retained a local archaeologist to carry out an archaeological and cultural heritage resource assessment at Hound Chute. The Temagami First Nation has a published set of point values on a map that the archaeologist used.

Based on the assessment of the project's impact and the potential impact on First Nations rights, values and interests it was determined that a combination of notice, direct and separate consultation with First Nations (from the general public) and an honest dissemination and exchange of information of interest to the First Nations would be the appropriate fit for the project. This is consistent with Supreme Court of Canada decisions such as Mikisew which outlined the content of the spectrum of appropriate consultation procedures (see Issac and Knox, 2005).

Based on OPG's and SENES' experience in the region, previous correspondence with First Nations and direction provided by the Ontario Ministry of Natural Resources, inquiries were placed with three First Nations to see if they were interested in being consulted on the project. The First Nations identified for consultation were:

- Matachewan FN;
- Temagami First Nation (TFN);
- Teme-Augama Anishnabai (TAA); and,
- Mattagami FN.

Details on the First Nations to be consulted are provided below.

The Matachewan FN is located near the unincorporated municipality of Matachewan in the Temiskaming District. Historically, Matachewan FN has a traditional area along the upper

Montreal River system. It was recommended by the Ministry of Natural Resources that the Chief be contacted and let him decide whether consultation should be required.

The TFN and the TAA are located in the same office on Bear Island with the TFN representing the First Nation Registered (status) Band population and the Teme-Augama Anishnabai (TAA) representing all Temagami aboriginals with ties to the traditional lands (Daki Menan). The Hound Chute site is located within the traditional territory of the TAA and the TFN and MNR North Bay District indicated that they both should be consulted with.

The Mattagami First Nation was involved in the water management planning exercise for the Montreal River but did not actively participate. Nevertheless it was agreed that Mattagami FN should be approached with respect to consultation on the project. OPG has conducted numerous consultation sessions with the Mattagami First Nation on the Upper Mattagami redevelopment project and at an early meeting with the Chief it was asked if they might have an interest in Hound Chute. He indicated that they would not.

General public consultation notices (not special notices, but general consultation notices) were also sent to the Temiskaming Metis Community Council and the Timiskaming First Nation located in Quebec. The latter was done at the recommendation of the Ministry of Natural Resources.

Role of MNR and OPG

In the case of the Haida decision the Supreme Court identified that while the Crown may delegate procedural aspects of consultation to industry proponents of projects, the ultimate legal responsibility for consultation and accommodation remains with the Crown. As OPG is the proponent of the Project, the Ministry of Natural Resources and Ministry of the Environment were advised of OPG's First Nations Consultation program. MNR was copied on all correspondence to First Nations and invited to attend all First Nation meetings. OPG has had considerable discussions and interactions with the District and Regional MNR staff with respect to OPG's First Nation consultation initiatives. Both Ministries have advised OPG that their duty to consult is defined by the specific approval decisions associated with the project. For instance, MNR's duty to consult will be focused on approval decisions related to the Lakes and Rivers Improvement Act and the Public Lands Act.

3.0 CONSULTATION ACTIVITIES

Described below is a summary of consultation activities with the First Nations.

3.1 LETTERS TO FIRST NATIONS AND FOLLOW-UP PHONE CALLS

3.1.1 Temagami First Nation

A registered letter was sent on March 7, 2006 from the Project Manager OPG to Chief Alexander Paul of the Temagami First Nation (TFN), informing him of the project and making an offer to consult on the project. Three phone calls were placed to Chief Alexander Paul in March and April 2006 and messages were left with the receptionist, but no response was forthcoming from the TFN at that time.

Prior to the second public open house a second registered letter was sent on October 4th 2006 to Chief Paul asking him again if there was an interest on the part of the TFN to be consulted, with an offer to meet. The second letter indicated that the EA field work was completed that the findings indicated that the project will have temporary minor effects on the environment that can be fully mitigated, and that Mr. John Pollock a licensed archaeologist based out of New Liskeard, undertook an archaeological assessment and determined that no archaeological resources will be affected by the project. Following that three phone calls were placed to the TFN and Phil Shantz of SENES was successful in speaking to Chief Paul. While Chief Paul did not indicate whether the TFN needed to be consulted on the project, it was agreed to re-courier him all the letters and newsletters previously sent to him. The letter indicated to him that if he had any questions, concerns or interests about the project he was asked to get back to Phil. To date no response has come back from Temagami First Nation.

3.1.2 Teme-Augama Anishnabai

A registered letter was sent on March 7, 2006 from OPG to Chief John Mackenzie of the Teme-Augama Anishnabai, informing him of the project and making an offer to consult on the project. Three phone calls were placed to Chief Mackenzie in March and April 2006 and messages were left with the receptionist, to have Chief John Mackenzie call back, but no response was forthcoming from the TAA at that time.

Prior to the second public open house a second registered letter was sent on October 4th 2006 to Chief Mackenzie asking him again if there was an interest on the part of the TAA to be consulted, with an offer to meet. The second letter indicated that the EA field work was completed and the findings indicate that the project will have temporary minor effects on the environment that can be fully mitigated, and that Mr. John Pollock a licensed archaeologist based out of New Liskeard undertook an archaeological assessment and determined that no archaeological resources will be affected by the project. Following that a follow-up phone call was placed to the TAA and Phil Shantz of SENES spoke to Chief Mackenzie. In that phone call Chief Mackenzie did not indicate whether he recalled the letter or if the TAA might have an

interest in being consulted. He took down Phil's contact name and information and indicated that he might get back to him.

3.1.3 Matachewan First Nation¹

A registered letter was sent on March 7, 2006 from OPG to Chief Fabian Batise of Matachewan First Nation, informing him of the project and making an offer to consult on the project (the letter also included a newsletter and notice providing more details about the project). A total of four phone calls were placed in March and April to determine if Matachewan had an interest. In the second call to Matachewan SENES was successful in speaking to Chief Batise. He requested that the letter be re-faxed to him and stated that Matachewan might have an interest in being consulted on the project and that he may direct the matter to Wabun Tribal Council. Two more phone messages were left with Chief Batise in order to ensure that he received the fax and to receive further direction on whether or not he wanted Matachewan to be consulted on the project and if he wanted the matter directed through Wabun Tribal Council. There was no response to either of these last two phone messages.

Prior to the second public open house a second registered letter was sent on October 4th 2006 to Chief Batise asking him again if there was an interest on the part of Matachewan being consulted, with an offer to meet. The second letter indicated that the EA field work was completed and the findings indicated that the project will have temporary minor effects on the environment that can be fully mitigated, and that Mr. John Pollock a licensed archaeologist based out of New Liskeard undertook an archaeological assessment and determined that no archaeological resources will be affected by the project. Following that three follow-up phone calls were placed to Matachewan, one with Chief Batise and two with Band Administrator Anne Batise (MNR had informed OPG that Chief Batise had moved to Northwestern Ontario, even though his voice mail remained active). No response occurred from any call.

3.1.4 Mattagami First Nation

OPG has consulted with Mattagami FN on several occasions in the last year with respect to the Upper Mattagami projects, which are situated close to the Mattagami Reserve. During an initial meeting with the Chief of Mattagami and some Council members it was asked whether they would have an interest in the Hound Chute site and the Chief indicated that they would not. The Hound Chute site is located over 150 kilometers southeast of the Mattagami Reserve.

¹ OPG has made the offer to consult with Matachewan for both its Upper Mattagami and Hound Chute projects.

4.0 OPPORTUNITIES FOR FIRST NATIONS CONSULTATION

Until the Environmental Assessment is submitted, OPG will be open to any further comments from First Nations and Aboriginal people.

5.0 SUMMARY/CONCLUSIONS

Based on the assessment of the project's impact and the potential impact on First Nations rights, values and interests it was determined that a combination of notice, direct and separate consultation with First Nations (from the general public) and an honest dissemination and exchange of information of interest to the First Nations would form an appropriate platform for First Nations consultation on the project and be consistent with Supreme Court of Canada Decisions on consultation requirements with Aboriginal peoples.

An offer to consult was placed to four First Nations; Matachewan, Temagami, the Teme-Augama Anishnabai and Mattagami. Early on in the process Mattagami indicated that it did not need to be consulted on the project although OPG has conducted extensive consultations with them on the Upper Mattagami. With respect to the other First Nations a minimum of two letters and five phone calls were placed to each and conversations were held with the respective Chiefs. At no time was there expressed a desire to be consulted on the Hound Chute project, beyond the initial phone conversation.

OPG implemented what it had originally planned by retaining both John Pollock a licenced archaeologist from New Liskeard to assess archaeological resources and cultural values. His study determined that no cultural heritage values or archaeological heritage sites (buried sites and ruins) were located within the proposed development areas.

It is the view of OPG that the First Nations consultation program was appropriate, well documented and consistent with the First Nations rights, values and interests and the proposed project's impacts. MNR has been involved at key stages of the process and was consulted on the overall First Nations consultation plan and was apprised of progress throughout the project.

OPG recognizes that the ultimate duty to consult is the crown's and that the crown has potentially a wide array of approval points associated with the project. While broad approval is sought with the environmental assessment, other approvals that will need to be obtained down the road include approvals under the Lakes and Rivers Improvements Act or Certificate of Approvals under the Environmental Protection Act. It is the view of OPG that the environmental assessment is the appropriate decision-point for the crown to consult with First Nations as it is the only approval that marries overall project impacts with the potentially affected First Nations rights, values, interests and resources.

APPENDIX A
LETTERS TO FIRST NATIONS (CONFIDENTIAL)