IN THE MATTER OF THE ENVIRONMENTAL ASSESSMENT ACT S.B.C. 2002, c.43
(the ACT)
AND
PROGRESS ENERGY NON-COMPLIANCE WITH SECTION 8.1 OF THE ACT
ORDER UNDER SECTION 34(1)

WHEREAS:

A. Section 8(1) Act states that a person "must not undertake or carry out an activity that is a reviewable project, or construct, operate, modify, dismantle, or abandon all or part of the facilities of a reviewable project, unless the person first obtains an environmental assessment certificate for the project, or the executive director, under section 10(1)(b), has determined that an environmental assessment certificate is not required for the project".

B. On January 10 and June 22, 2017, the undersigned, in his role as Senior Environmental Assessment Compliance and Enforcement Officer, conducted inspections of dam facilities (the Dams) (located at approximately 10V 555188.00 E, 6303591.00 N and 10V 514042.00 E, 6340516.00 N, also described as d-042-K_094-G-02 and d-048-H_094-B-16), constructed and operated by Progress Energy.

C. Progress Energy had not, at the time of inspection, applied to the executive director for a determination regarding whether the Dams require an environmental assessment certificate, pursuant to section 10 of the Act.

D. An environmental assessment certificate has not been issued for the Dams.

E. After review of information and observations obtained during the inspections, and providing Progress Energy with an opportunity to respond to a preliminary compliance determination, the undersigned has determined that the Dams meet the definition of a reviewable project under the Act, and that therefore Progress Energy is not compliant with section 8.1 of the Act.

F. Section 34 of the Act specifies that if an environmental assessment certificate for a reviewable project has not been issued, the Minister may order that the construction, operation, modification, dismantling, or abandonment of the project cease, either altogether or to the extent specified by the Minister, until the proponent obtains an environmental assessment certificate.

G. The undersigned has received written delegation of the Minister's powers under Section 34 of the Act.

NOW THEREFORE:

Pursuant to Section 34(1) of the Act, **I** order that Progress Energy:

1) Maintain water volumes stored by the Dams at no more than 10% of live storage capacity, unless otherwise directed by EAO Compliance and Enforcement.

2) Monitor and record water volumes on a weekly basis during frozen conditions, and on a daily basis during conditions where flowing surface water is present, and provide that information to EAO Compliance and Enforcement upon request.

Chris Parks,
A/Director, Compliance and Enforcement
Environmental Assessment Office

Dated October 31, 2017