

February 8, 2016

Honourable Catherine McKenna  
Minister of Environment and Climate Change  
House of Commons  
Ottawa ON K1A 0A6

Dear Minister McKenna,

**Re: Respecting Environmental Assessment, Rejecting OPG's DGR for Radioactive Wastes**

Thank you for responding positively to the joint letter sent by Nuclear Waste Watch on November 18<sup>th</sup>, and extending the timeline for issuing a decision statement on Ontario Power Generation's proposal to bury up to half a million cubic metres of radioactive wastes beside Lake Huron.

We're encouraged by your having recognized that this is a complex issue that requires careful consideration. While the previous government may have rough-handed their way through, we are optimistic that you and your government will take a science-based approach and reject the project. This is what both the technical record and the high level of public concern demand.

As has been outlined in many public interest submissions and as summarized in our November letter<sup>i</sup> to you, the Joint Review Panel recommendation that you approve Ontario Power Generation's proposed Deep Geologic Repository for Low and Intermediate Level Radioactive Wastes was in error. Ontario Power Generation failed to meet the requirements of the Canadian Environmental Assessment Act (CEAA 2012), the Environmental Impact Statement (EIS) Guidelines, and the JRP Agreement (as amended), including in the following areas:

- Not identifying and evaluating a reasonable range of functionally different "alternatives to" the DGR;
- failing or refusing to conduct an appropriate site selection as an important component of adequately identifying and evaluating "alternate means" of carrying out the DGR;
- making insufficient information available to identify and evaluate the likelihood and/or significance of the DGR's environmental effects;
- not providing enough information to allow evaluation of mitigation measures that will be effective in preventing significant adverse environmental effects that may be caused by the DGR;
- not providing information at an appropriate level of detail that would allow evaluation of the adequacy of the followup program for the DGR
- not meeting the information requirements necessary to demonstrate that the DGR meets the sustainability purposes and precautionary requirements mandated under CEAA.

Examples of these information and evaluation failures were noted in our letter of November 18<sup>th</sup>, including the OPG's lack of understanding of issues that are fundamental to the safe operation of the proposed DGR, such as rates of gas generation, the waste volume and characteristics, and the chemical stability of the wastes

over time. In addition, we noted that many of the “design” decisions have not yet been made, including important features like the seal for the vertical shafts that connect the underground repository to the environment.

In final comments filed in mid-2014, public interest intervenors<sup>ii</sup> cautioned the Joint Review Panel against recommending a conditional approval containing provisions which would allow OPG to remedy or “backfill” its inadequate EA documentation after the completion of the JRP hearing. Intervenors noted that the review process commenced in 2008, and OPG had ample opportunity (i.e., through the EIS, TSDs, technical briefing sessions, IR responses, supplementary documentation and two rounds of public hearings) to prove its safety case for the DGR, but OPG has failed to fulfill this evidentiary burden. Allowing OPG to conduct yet more field investigations, data collection, information-gathering or analytical work at the Bruce site after the EA process has concluded, or during subsequent licencing processes to be conducted by the CNSC under the NSCA would be contrary to the requirements prescribed by CEAA, the EIS Guidelines and the amended JRP Agreement.

Regrettably, the Joint Review Panel did just that: they recommended an EA approval be given, while setting out a shopping list of information gaps and uncertainties in their May 2015 report. In their recommendations the Joint Review Panel (JRP) erred in several respects, including by failing to appropriately weigh the evidence before them, by basing their decision(s) on impressions they seemingly formed based on information that was not on the public record, and by delegating the actual decision-making role to an unknown future decision-maker.

On June 3, 2015 the Canadian Environmental Assessment Agency issued a notice that the Agency was undertaking a public comment period for the last phase of the environmental assessment process for OPG’s proposed DGR, and invited Aboriginal groups, members of the public and registered participants of the DGR review, to comment on the “*potential conditions related to possible mitigation measures and follow-up requirements that could be necessary, if the project is authorized to proceed*” by September 1<sup>st</sup>. The “potential conditions” as drafted by the Canadian Environmental Assessment Agency (CEAA or “the Agency”) do not remedy the failings of the JRP report or of the OPG project proposal upon which evaluation the JRP is reporting. This is in part because – like the JRP report before it – the Agency’s potential conditions are rooted in OPG’s assumptions about the proposed DGR Project and, by extension, an acceptance of the insufficiencies in OPG’s EA methodology and findings. The potential conditions also fail because they overlook several key issues with the OPG project and presented material. In some instances, the CEAA generated potential conditions fail to incorporate the JRP’s attempt to address inadequacies and gaps in the OPG proposal and evidence.

For example,<sup>iii</sup> in response to issues related to the limestone formation and its suitability, OPG committed to conducting additional “investigations” during construction. The JRP embedded this in JRP Recommendation 13.1 and their proposed requirement that “*Prior to construction, OPG shall enhance the Geoscientific Verification Plan through the inclusion of additional deep boreholes (minimum of three) that are to be drilled beyond the footprint of the proposed DGR to verify the continuity and structural integrity of the Cobourg Formation and the cap rock...*”. There is, however no corresponding proposed condition in the Agency’s June 2015 draft of potential conditions.

And, had the Agency included a corresponding condition, it would still not have been a remedy to the EA failing. Sequencing is at issue here: what OPG has proposed and the JRP has accepted is that the approval be granted and THEN the investigations be conducted. This is unacceptable. As set out in the EIS Guidelines (2009) , “*demonstrating long-term safety consists of providing reasonable assurance that the proposed DGR will*

*perform in a manner that protects human health and the environment* ". This demonstration is to take place within the review process, prior to approval; it is not to be delegated to a future decision-maker at some undetermined point in time after the review process has concluded and the approval has been granted.

We offer the above as simply one example. As outlined in the hundreds of public submissions commenting on the Joint Review Panel Report and the Agency's proposed potential conditions, there are many such examples, and numerous grounds upon which you could – and must – reject this proposal.

The evidence presented to the Joint Review Panel by expert consultants retained by the Review Panel, by independent scientists and engineers, and by other hearing participants establish that the project's proposed design and site geology is **uncertain**, the project is **unacceptable** to the public and the residents of the Great Lakes basin.

**We are writing to you as the federal Minister of the Environment and Climate Change to ask that you reject the OPG proposal to bury radioactive wastes beside Lake Huron.**

The undersigned organizations urge you to issue a Decision Statement informing Ontario Power Generation that the environmental assessment of its proposal to bury nuclear waste beside Lake Huron has been rejected.

**Respectfully submitted on February 8th, 2016 by the undersigned organizations:**

Algoma Manitoulin Nuclear Awareness	(Canada)
Algonquin Eco-Watch	(Canada)
Alliance to Halt Fermi 3	(US)
Beyond Nuclear	(US)
Bluewater Coalition Against Deep Geological Repositories	(Canada)
Bruce Peninsula Environment Group	(Canada)
Canadian Association of Physicians for the Environment	(Canada)
Canadian Coalition for Nuclear Responsibility	(Canada)
Chesapeake Chapter Physicians for Social Responsibility	(US)
Citizens Environment Alliance of Southwestern Ontario	(Canada)
Citizens for Alternatives to Chemical Contamination (CACC)	(US)
Citizens Network on Waste Management	(Canada)
Citizens' Resistance At Fermi 2 (CRAFT)	(US)
Coalition Against Nukes (C.A.N.)	(US)
Coalition for a Nuclear Free Great Lakes	(US)
Concerned Citizens of Renfrew County	(Canada)
Connecticut Coalition Against Millstone	(US)
Council for Public Health in Mining Communities	(Canada)
Council of Canadians	(Canada)
Council of Canadians, Peterborough and Kawarthas chapter	(Canada)
County Sustainability Group	(Canada)
Crabshell Alliance	(US)
Don't Waste Michigan	(US)
Don't Waste Michigan- Sherwood Chapter	(US)
Durham Nuclear Awareness	(Canada)
Fairmont Minnesota Peace Group	(US)

FLOW (For Love Of Water)	(US)
Food & Water Watch	(US)
Friends of Bruce	(Canada)
Great Lakes Environmental Alliance	(US)
Greenpeace Canada	(Canada)
Greenpeace US	(US)
Huron Environmental Activist League	(US)
Huron-Grey-Bruce Citizens' Committee on Nuclear Waste	(Canada)
Long Branch Environmental Education Center	(US)
Maritime Aboriginal Peoples Council	(Canada)
MiningWatch Canada	(Canada)
Mount Horeb Citizens Against Fluoride	(US)
National Council of Women of Canada	(Canada)
Nuclear Energy Information Service (NEIS)	(US)
Nuclear Hotseat	(US)
Nuclear Information and Resource Service	(US)
Nuclear Watch South	(US)
Nukewatch	(US)
Oak Ridge Environmental Peace Alliance	(US)
Ohio CARE - Citizens Against a Radioactive Environment	(US)
Oxford Coalition for Social Justice	(Canada)
Oxford People Against the Landfill (OPAL)	(Canada)
Physicians for Social Responsibility - Kansas City	(US)
Physicians for Social Responsibility Wisconsin	(US)
Port Hope Community Health Concerns Committee	(Canada)
Portsmouth/Piketon Residents for Environmental Safety and Security (PRESS)	(US)
Prevent Cancer Now	(Canada)
Provincial Council of Women of Ontario	(Canada)
Residents Organized For a Safe Environment (ROSE)	(US)
Rocky Mountain Peace and Justice Center	(US)
Safe and Green Energy Peterborough	(Canada)
San Clemente Green	(US)
Save Our Saugeen Shores (SOS Great Lakes)	(Canada)
Save Our Sky Blue Waters	(US)
Sierra Club Nuclear Free Michigan	(US)
Sierra Club Ontario	(Canada)
Stand Up/Save Lives Campaign	(US)
Stop the Lake Huron Nuclear Dump - Grand Bend	(Canada)
The Inverhuron Committee	(Canada)
The Peace Farm	(US)
Three Mile Island Alert	(US)
Toledo Coalition for Safe Energy	(US)
Two Rivers Coalition	(US)
Uranium Watch	(US)
Wisconsin Environmental Health Network	(US)

## ENDNOTES

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<sup>i</sup> Nuclear Waste Watch [letter](#) to the Minister Catherine McKenna, dated 18 November 2015 and signed by 65 public interest organizations

<sup>ii</sup> For example, see [CEAR 2253](#), “Comments to the Canadian Environmental Assessment Agency – Potential Conditions for the Deep Geologic Repository for Low and Intermediate Level Radioactive Waste Project” by the Canadian Environmental Law Association, July 2015

<sup>iii</sup> See [CEAR 2685](#), “Northwatch Comments On The Canadian Environmental Assessment Agency “Potential Conditions - OPG’s Proposed Deep Geologic Repository for Low and Intermediate Level Radioactive Wastes”, September 2015