



GREENPEACE



Great Lakes United

April 24, 2012

Dr. Stella Swanson, Panel Chair  
Dr. James F. Archibald, Panel Member  
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Dear Panel Chair and Members:

**Re: Deep Geologic Repository (DGR) Joint Panel Review**

We are writing in response to the letter from Dr. Michael Binder, President, Canadian Nuclear Safety Commission (CNSC) to the Joint Review Panel Chair (Panel Chair) dated January 23, 2012.

We wish to join President Binder in expressing our congratulations to you on your appointment as Chair and members of the Joint Review Panel, and to express our appreciation of your commitment to a transparent and open public review process.

Both the perception and the experience of transparency is essential to the Review process and its good reputation. From our perspective, Dr. Binder's letter raises some questions that may place the transparency of the review process in jeopardy, and we wish to raise these with you now in the early days of the review so that our concerns may be noted and future difficulties avoided.

In the second paragraph of his letter, Dr. Binder states that even though the Joint Review Panel (Panel) is authorized to retain its own independent experts and advisors the Panel Secretariat, as well as CNSC's scientific and technical expertise will be available to respond to requests from the Panel Chair.

While we do not object to the provision of scientific and technical expertise by the CNSC, we ask that that any communication from the CNSC to the Panel be disclosed to all the public participants. This is necessary to ensure that the review process is transparent and that public participants are privy to the information which will inform the Panel's review of Ontario Power Generation's proposed project to construct and operate a facility for the long-term management of low and intermediate level radioactive waste in Ontario. It will also ensure that public participants who may have concerns or disagree with the information that has been provided to the Panel will be able to contest the information.

Similarly, we note Dr. Binder's encouragement of you to direct staff to prepare assessments and evaluations of information requests and responses, and to call upon the Federal Review Team to fulfill their responsibilities in the review process, and to seek legal opinions and briefings on matters which are central to your review, including such matters as the duty to consult and the address of need and alternatives.

Again, we wish to emphasize the importance of all of these exchanges being conducted in a manner which is consistent with the principles of openness and transparency, which includes documenting and making publicly available the substance of any discussions. We have noted with concern that there have been meetings in earlier stages of this review between the proponent and the regulator and the discussions were not documented and added to the public record, and feel strongly that this practice should not continue.

Finally, we note with concern that in the outline of "best practices" from the recently concluded Darlington New Nuclear Project Joint Panel Review which Dr. Binder including in his letter as "Appendix A" that there are several practices included which suggest a process which may be the antithesis of openness and transparency. These include indications that only a subset of the information available to the Panel will be publicly available – even beyond the usual withholding of information for which the release might have security implications – and that information will not necessarily be made available through the public registry in "real time" but may be subject to delayed release for unspecified reasons.

We, therefore, request that the Panel ensure that all communications between the Panel and the Secretariat, independent experts retained by the Panel, the proponent and government agencies be disclosed through postings of meeting records or written materials on the public registry. In addition, we request that public participants be provided an opportunity to attend and observe any briefings provided to the Panel during the review process, including any site visits. We believe these measures are necessary to ensure transparency and fairness of the review process under the *Canadian Environmental Assessment Act*.

Yours truly,

<original signed by>

Theresa McClenaghan, Canadian Environmental Law Association

<original signed by>

Anna Tilman, International Institute of Concern for Public Health

<original signed by>

John Jackson, Great Lakes United

<original signed by>

Sharen Skelly, Huron-Grey-Bruce Citizens Committee on Nuclear Waste

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John Bennett, Sierra Club of Canada

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Shawn-Patrick Stensil, Greenpeace Canada

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Brennain Lloyd, Northwatch