



July 14th, 2016

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

Dear Minister McKenna:

Thank for your letter of July 4, 2016 in which you respond to Nuclear Waste Watch's joint letter of November 19, 2015 concerning the Deep Geologic Repository Project for Low and Intermediate Level Radioactive Waste (the Project) proposed by Ontario Power Generation.

We appreciate both your response and your interim actions. In particular, we were very encouraged by the directions set out in your letter of February 18, 2016 in which you requested that the proponent, Ontario Power Generation, provide additional information on three aspects of the environmental assessment:

- technically and economically feasible alternate locations for the Project,
- cumulative environmental effects of the Project, and
- an updated list of mitigation commitments for each identified adverse effect under the *Canadian Environmental Assessment Act, 2012*.

As you note in your letter to Nuclear Waste Watch, on April 15, 2016 Ontario Power Generation (OPG) wrote to the Canadian Environmental Assessment Agency (the Agency) outlining its intended approach to responding to your request for additional information, and indicating OPG's intention to provide a response by the end of 2016.

In your letter of July 4th you state that "*Ontario Power Generation also noted it intends to file the requested information by the end of 2016.*"(emphasis added)

In fact, Ontario Power Generation states in their letter that they do not intend to respond as directed by you. Rather than the requested information, they intend to provide you with yet another set of reports that attempt to side step what is required of them.

More specifically:

Your requirement:

A study that details the environmental effects of technically and economically feasible alternate locations for the project, with specific reference to actual locations that would meet Ontario Power Generation's criteria for technically and economically feasible.

OPG's Response:

OPG has interpreted this request as follows: OPG will assess the environmental effects of two technically and economically feasible geologic regions in Ontario for a new low and intermediate level waste (L&ILW) disposal facility.

OPG has clearly stated they intend to do something other than what you have required of them, i.e. they intend to provide a conceptual comparison, rather than an assessment based on actual locations and stated criteria. If allowed to go this route, we anticipate that OPG will provide you with another iteration of the generic evaluations they provided the Joint Review Panel during the extended hearing, after the Joint Review Panel directed them to conduct a study of alternate locations. While the Joint Review Panel failed to require OPG to follow their direction, as Minister it is essential that you hold them to a reasonable standard of performance.

Your requirement:

An updated analysis of the cumulative environmental effects of the Project in light of the results for the Phase I Preliminary Assessments undertaken by the Nuclear Waste Management Organization, which identified three potential host communities that fall within the traditional territory of the Saugeen Ojibway Nation.

OPG's Response:

OPG will assess the cumulative effects of a hypothetical used fuel repository on the L&ILW DGR, within the boundaries of the DGR study area for those communities that are active in the NWMO siting process and which lie within the Saugeen Ojibway Nations (SON) traditional territory (i.e. Huron-Kinless and South Bruce

OPG is misinterpreting your direction. Simply put, OPG is proposing to assess the effect of one of their projects on another of their projects, rather than doing a cumulative effects study of the two projects in combination (OPG has majority control of the NWMO and owns 90% of the wastes that are subject of the NWMO project; the NWMO is the technical manager for OPG's proposed DGR for low and intermediate level wastes). OPG's proposed approach will not provide the information you required in your letter of February 2016.

As outlined in our joint letters of 19 November 2015 and of 6 February 2016 and in many additional public interest submissions, 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 follow-up 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.

We appreciate that the direction you provided Ontario Power Generation in your February 2016 was an effort to have OPG address some of their repeated failures to meet the requirements of the Canadian Environmental Assessment Act. However, as evidenced by their response of April 2016, it appears that OPG continues to be unwilling or unable to meet those requirements.

In planning subsequent procedural steps in the review and federal decision-making with respect to this Project, it is imperative that you and your office pay careful attention to the details of Ontario Power Generation’s response and place it within the context of their pattern of non-conformance with both the requirements of the Canadian Environmental Assessment Act and the directions of the previous Joint Review Panel. In addition, there are other gaps in the OPG application which must be filled prior to any approval being possible, such as repository and shaft collar design, final waste characterization, baseline health studies, etc.

In preparing this letter, we consulted with the 179 individual intervenors, intervening organizations, and co-signors to Nuclear Waste Watch’s joint letters of November 2015 and February 2016 on the advice we would provide you with respect to the review process following OPG’s submission, now expected by year-end of 2016.

The following points summarize our collective advice:

- a) The Joint Review Panel appointed in 2012 is now *functus* with respect to their responsibilities and mandate under CEAA 2012;
- b) Indigenous peoples, past intervenors in the review process and the public more generally must be consulted on the OPG response and other related matters prior to the issuing of your decision statement;
- c) Direct consultation by you as Minister is the most appropriate course of action under these circumstances;
- d) Given the technical nature of the decisions to be made and in light of your Government’s commitment to making decisions based on sound science, we encourage you to seek – in particular – the advice of the Minister of Science, the Hon. Kirsty Duncan;

- e) There may be a role of the Canadian Environmental Assessment Agency in acting as support and secretariat for the actual consultation activities (e.g. discussion documents, public meetings, webinars, etc.), based on your direction and requirements.

We remain committed to working with you and other elected officials to achieve an informed outcome of this review process. Thank you for your continued consideration.

Respectfully submitted on July 14th, 2016 by the undersigned organizations:

Algoma Manitoulin Nuclear Awareness	Canada	Great Lakes Environmental Alliance	Binational
Algonquin Eco-Watch	Canada	Greenpeace Canada	Canada
Bluewater Coalition Against Deep Geological Repositories	Canada	Huron Environmental Activist League	U.S.
Bruce Peninsula Environment Group	Canada	Huron-Grey-Bruce Citizens' Committee on Nuclear Waste	Canada
Canadian Coalition for Nuclear Responsibility	Canada	Inter-Church Uranium Committee Educational Cooperative	Canada
Canadian Environmental Law Association, Theresa McClenaghan	Canada	Lambton Shores Residents Against the Nuclear Dump on Lake Huron	U.S.
Citizens Environment Alliance of Southwestern Ontario	Canada	National Council of Women	Canada
Citizens Network on Waste Management	Canada	Northwatch	Canada
Coalition for a Nuclear Free Great Lakes	U.S.	Nuclear Hotseat	U.S.
Concerned Citizens of Big Bay (Michigan)	U.S.	Nukewatch	U.S.
Concerned Citizens of Renfrew County	Canada	Ontario Clean Air Alliance	Canada
Council for Public Health in Mining Communities	Canada	Port Hope Community Health Concerns Committee	Canada
Council of Canadians	Canada	Prevent Cancer Now	Canada
Council of Canadians, Peterborough and Kawarthas Chapter	Canada	Provincial Council of Women of Ontario	Canada
Don't Waste Michigan	U.S.	Redwood Alliance	U.S.
Don't Waste Michigan- Sherwood Chapter	U.S.	SOS Great Lakes	Binational
Durham Nuclear Awareness	Canada	Save Our Sky Blue Waters	U.S.
Fairmont Minnesota Peace Group	U.S.	Sierra Club Nuclear Free Michigan	U.S.
FLOW (For Love Of Water)	U.S.	Sierra Club US	U.S.
Friends of Bruce	Canada	Southampton Residents Association	Canada
Grand River Environmental Network	Canada	Stand Up/Save Lives Campaign	U.S.
		The Inverhuron Committee	Canada
		Toledo Coalition for Safe Energy	U.S.
		Uranium Watch	U.S.
		Watershed Sentinel	Canada
		Educational Society	
		Zero Waste 4 Zero Burning	Canada

cc. Federal Cabinet

Hon. Kathleen Wynne, Premier of Ontario