



CHIEFS AND COUNCILS SAUGEEN OJIBWAY NATION

Chippewas of Saugeen, <contact information removed> <contact information removed>
Chippewas of Nawash, <contact information removed> <contact information removed>

July 24, 2017

The Honourable Catherine McKenna
Minister of Environment and Climate Change
200 Sacré-Coeur Boulevard
Gatineau QC K1A 0H3
Delivered Via Email: ec.ministre-minister.ec@canada.ca

Dear Minister McKenna:

We write with respect to the environmental assessment process for Ontario Power Generation's ("OPG") proposed Deep Geologic Repository for Low and Intermediate Level Radioactive Waste (the "DGR Project").

Some seventeen months ago, following the release of the Joint Review Panel's report, you requested additional information from OPG on its proposed DGR Project. More specifically, you asked for an updated cumulative effects analysis, information on alternate locations for the proposed DGR Project, and an updated list of mitigation commitments. Through two sets of submissions to the Canadian Environmental Assessment Agency (the "Agency")—the first in December 2016 and a second in May 2017—OPG responded to your request.

We understand from recent correspondence between the Agency and OPG, as well as our good meeting with Agency representatives, that the Agency is now satisfied with the information provided by OPG and has determined that the environmental assessment process can proceed to the decision-making stage.

As this next stage begins, we write to reiterate our position on the environmental assessment process for the DGR Project and on the decision that you are being called on to make. As we have consistently said, it is our position that recognition of OPG's commitment that it will not move forward with the DGR Project until the SON communities are supportive of it (the "SON OPG Commitment")¹ must be central to Canada's decision-making process.² That commitment—which came out of many years of discussions and hard work by SON and

¹ Letter from OPG President Tom Mitchell to Chippewas of Nawash Unceded First Nation Chief Arlene Chegahno and Saugeen First Nation Chief Randall Kahgee, dated 7 August 2013.

² See, for example, our letter dated 3 March 2017 to you in which we stated that the commitments from OPG and the Nuclear Waste Management Organization are "not mere acknowledgments of social commitments" but rather "are the mitigation mechanisms in respect of potential impacts to SON that can only be identified, understood, and resolved through a process with SON and its communities." See also our earlier letter to you dated 12 November 2015 in which we highlighted the legal and constitutional significance of a commitment made by a "wholly owned corporation and agent of the Government of Ontario" to SON and urged you to "acknowledge and endorse the agreement between OPG and SON as a necessary and appropriate accommodation mechanism." For earlier submissions on this point, see our closing remarks to the Joint Review Panel dated 9 October 2014 in which we set out outstanding issues and uncertainties relating to potential impacts of the DGR Project on SON rights and interests, asked the Joint Review Panel to acknowledge the commitment, and recommended that it be integrated in subsequent regulatory and decision-making processes to the extent possible.

OPG—represents a necessary accommodation measure and the only mechanism through which the DGR Project’s most significant potential impacts to SON’s interests and rights might be addressed.

The SON communities are now engaged in a community-driven process pursuant to the SON OPG Commitment. Through the process, “Anishnaabekiing, Anishnaabe Inwewin, Anishnaabe Naaknigewin – Our Territory, Our Voice, Our Decisions,” members of the SON communities are becoming better acquainted with nuclear waste issues in order to be able to make a well-informed decision on whether they can support the DGR Project or not. Our view is that the outcome of this community process and, ultimately, the decision of the communities will be necessary information for you to have prior to your decision respecting the environmental assessment.

The commitment by OPG represents an explicit recognition of our people’s role within Anishnaabekiing (our Territory), a necessary first step in a process of reconciliation. As part of its decision-making and in keeping with the Honour of the Crown it is critical that the federal and provincial governments acknowledge and support the SON OPG Commitment and the SON community process. This is particularly so now given Canada’s historic and explicit commitment to free, prior, and informed consent and to ensuring “that Indigenous peoples and their governments have a role in public decision-making as part of Canada’s constitutional framework.”³

We propose that the outcomes of the SON community process could be determinative of whether the DGR Project proceeds and that Crown decisions respecting the DGR Project ought to reflect those outcomes. We would welcome a process with you and your Department to determine how we might ensure that you have this information prior to your decision and how we might collectively affirm and support this historical step toward reconciliation.

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Chief Greg Nadjiwon
Chippewas of Nawash Unceded First Nation

Chief Lester Anoquot
Chippewas of Saugeen First Nation

³ Department of Justice, *Principles Respecting the Government of Canada’s Relationship with Indigenous Peoples*, 14 July 2017.