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CEAA REGISTRY REFERENCE NO. 06-05-17520

HISTORIC SAUGEEN METIS

**SUBMISSION TO THE JOINT REVIEW PANEL
AND REQUEST FOR INFORMATION**

MAY 23, 2013



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Dr. Stella Swanson
Chair, Joint Review Panel
Deep Geologic Repository Project Review
Canadian Environmental Assessment Agency
160 Elgin Street, 22nd Floor
Ottawa, ON K1A 0H3

BY EMAIL: DGR.Review@ceaa-acee-gc.ca

Dear Madam Chair:

**RE: Registry Reference No. 06-05-17520
OPG's Bruce Nuclear Site, Deep Geologic Repository Review (DGR)
And Historic Saugeen Métis**

The Historic Saugeen Métis (HSM) would like to make the following submission, as part of the Public Review and Comment, with the view of providing the Joint Review Panel with background information with respect to our community as well as a high level overview of our interest in the proposed DGR.

Please be advised that HSM fully intends to participate in the DGR hearing at which time we will provide more specific information about our interests and concerns with respect to the DGR. In the interim, HSM makes the following submission to the Joint Review Panel in respect of the following matters:

1. HSM's special interest in these proceedings
 - Who are the local Métis?
 - Identity and Continuity
 - Community Structure
 - The Crown's Duty to Consult
 - HSM Aboriginal Rights and Interests
 - HSM Identified Concerns about the Deep Geologic Repository
 - HSM Commitment to Ensuring the Safety and Security of the Traditional Territory for Future Generations

2. HSM's requests for information.

Please do not hesitate to contact us if we can be of further assistance at this time.

Yours very truly,

<original signed by>

Archie Indoe, President

HISTORIC SAUGEEN MÉTIS SPECIAL INTERESTS IN THE MATTERS OF THE PROPOSED DGR

Who are the Local Métis?

The Historic Saugeen Métis (HSM) consists of the independent historic Métis who have resided along the Lake Huron proper shoreline from the islands at the tip of the Bruce Peninsula to the Ausable River system (south of Goderich) in the vicinity of Port Franks, beginning with trader Pierre Piché in 1818.

Upon Piché's arrival in the traditional Saugeen territory in 1818, the Ojibwe Piché "dish with one spoon" *wampum* exchange took place. The *inter-tribal* "dish with one spoon wampum" is about sharing of hunting areas and the traditional territory, maintaining peace with respect to any hunting disputes, and about the Aboriginals' ancient sharing of their bounty so that all may "eat" from the same bowl.¹ Sharing and generosity is an integral part of Aboriginal culture.

Upon trader Piché leaving Saugeen, the Piché Wampum was passed to Marguerite Lange Gonneville, Cree Métis wife of North West Company voyageur/Saugeen trader Augustin Gonneville. She carried the Piché Wampum until her death in 1889. When the last carrier, Mary Gonneville Benoit de Lamorandière, died at Cape Croker in 1902, her husband Fred de Lamorandière donated the string bead wampum to the Ontario Museum (Department of Education), now the Royal Ontario Museum.

The present day Historic Saugeen Métis community members are descendants of the *historic* Métis who have lived in, cared for and relied on the shared traditional Saugeen territory for generations. Duly-elected councillors of the Historic Saugeen Métis Council, 2013, are direct descendants of the Piché Wampum carrier, Cree Métis Marguerite Lange Gonneville.

The proposed DGR is situated in the center of the traditional Saugeen territory. Many HSM community members reside within a few kilometers of the site. Also, the major HSM community location of Southampton is within 20 kilometers of the DGR site. HSM ancestors are buried within a very short distance of the site. The DGR facility is situated directly along and substantially interacts with Lake Huron, the traditional waters of the local Métis, where HSM continue to exercise and rely on their traditional territory for subsistence in respect of their harvesting rights, including their section 35 constitutionally protected fishing rights.

It is for these reasons that HSM has particularly deep and substantial interests in the proposed DGR, and must have meaningful consultation throughout the life of the project, including the monitoring and decommissioning stages.

In the Métis traditional Saugeen territory none other than the duly-elected

¹ The Cornell Journal of Law and Public Policy, Volume 16 Number 3, Summer 2007, Joyce Tekahnawiiaks King wrote about THE VALUE OF WATER AND THE MEANING OF WATER LAW FOR THE NATIVE AMERICANS KNOWN AS THE HAUDENOSAUNEE.

community council of the Historic Saugeen Métis can speak for the community's Aboriginal rights and interests, as protected under section 35 of the *Constitution Act*, 1982.

Identity and Continuity

Key to understanding the HSM Métis community is insight into the mobility strategies used by Métis necessary for survival in harsh environments, as can be seen in their seasonal round of harvesting activities. The links of the historic Saugeen Métis families to their specific economic activities in distinct areas, collectively comprising a cohesive trading network, helped to define the local Métis community known today as the Historic Saugeen Métis.

To fully understand the structure of the Historic Saugeen Métis community, a wide range of sources has been utilized, including family history, traditional knowledge, Hudson's Bay Company Abstracts of Service, parish registries, journals, correspondence HBC post records, land records, and community histories published around the 1900s. A comprehensive genealogy has been constructed, which provides the basis for community acceptance and registration of today's Historic Saugeen Métis rights-bearers.

Integral to the growth of the Historic Saugeen Métis community was the united opposition and solidarity of HSM traders as against the Hudson's Bay Company. The HBC Lake Huron district territory extended as far south as the mouth of the St. Clair River to the Sarnia area. The community's integration into Lake Huron's mix-blood and First Nation trading networks facilitated their trading activities.

Supported by fur trade kinship, fictive and familial, the HSM community grew along the eastern shoreline of Lake Huron proper and transitioned from the fur trade by adapting their skills to occupations reliant on their traditional lands and waters. As the fur trade declined, occupations that were later found include fishermen, coopers, sailors, schooner captains, guides, trappers, and hunters.

By the 1850s, the bonds amongst the Historic Saugeen Métis community were strong, the development of which was accelerated by their earlier connections, resulting in the development of a distinctive Métis way of life and common culture and customs in the Saugeen territory. By this time, the Historic Saugeen Métis had developed a "Saugeen" identity, an identity which is held steadfastly to this very day.

The Historic Saugeen Métis, a distinctive Métis community that occupied lands along the Lake Huron shore from Sarnia to Tobermory and the islands, have resided with continuity along the Lake Huron shoreline since the early 1800s. Today the independent HSM consist of over two hundred registered descendants of historic families prior to settlement. These rights-bearers, added together with their dependent family members which would total between four and five hundred members, are supported by community efforts in different ways, including elders' luncheons and activities and assistance for post-secondary students.

In May 2013, the HSM community opened the HSM Interpretive Learning Centre, a space dedicated to raising awareness and learning in respect of HSM's local history, including a display of HSM artifacts, in the heart of the Southampton tourist shopping area. It serves as a community outreach meeting room and Learning Centre to foster greater awareness of local Métis culture and heritage. Métis cultural activities and environmental education will take place year round. HSM goals include the promotion of a safer community, increased tolerance for diversity of the area's peoples, and respect for the area's history and its Métis heritage.

Community Structure

The Historic Saugeen Métis community emerged in the early 1800s along the Canadian shoreline of Lake Huron proper from third and fourth generation Métis trading family networks in the Great Lakes since the 1700s.

In 1822, Admiral Henry Wolsey Bayfield, surveyor of Lake Huron, recorded Métis on the British shoreline of Lake Huron near the mouth of the Menesetung River (Goderich), and on the north bank of the Saugeen River (Southampton). These Métis families were known to have connections with Métis communities directly south along the Detroit River system and in Michigan.

Also in the HSM community were Métis trading families displaced by the War of 1812, and former North West Company voyageurs and their Cree Métis families, who relocated to Lake Huron after the 1821 merger of the Hudson's Bay Company and the North West Company.

The Historic Saugeen Métis traded in a south north axis along the Lake Huron proper shoreline from north of Sarnia to HBC Fort LaCloche and Killarney. The latter was a separate Métis settlement that emerged on Lake Huron's north shore.

The Crown's Duty to Consult

In meetings with the Ontario Ministry of Aboriginal Affairs and Ministry of Natural Resources, the Federal Crown, and the Canadian Nuclear Safety Commission, the HSM have advised the Crown of their assertions as a historic Métis community pursuant to the Supreme Court of Canada decision in *R. v. Powley*, 2003, and with respect to HSM's section 35 Aboriginal rights under the *Constitution Act*, 1982.

The Ontario Power Generation's proposed Deep Geologic Repository if approved will lie within the traditional Métis territories of the local Historic Saugeen Métis who reside both in close proximity to the Site Study Area, and within the Regional Study area of the DGR project. Thus, given the potential severity relating to the threat of nuclear impact over a span of several centuries, HSM asserts that a high degree of consultation is warranted.

HSM Aboriginal Rights and Interests

The traditional land use of the Historic Saugeen Métis included the watersheds and lands along Lake Huron proper and the Bruce Peninsula, extending south from the islands at the tip of the Bruce Peninsula to the Ausable River system (south of Goderich) in the vicinity of Port Franks.

The HSM traditional territory includes HSM's burial places and places of cultural and spiritual significance, and is the base for HSM's harvesting activities. The ability of HSM community members to continue exercising their harvesting rights depend inextricably on a safe and stable, toxic-free environment capable of supporting healthy habitats, including clean waters in Lake Huron and Georgian Bay.

The HSM have subsistence fishing and land-based harvesting practices and rights throughout the Métis traditional territory. These provide vital support for HSM's Aboriginal culture and way of life, as well as the economy, health and social relationships in the HSM community.

Meaningful Aboriginal consultation is crucial and necessary particularly for those independent Métis communities that decided to represent themselves rather than through a larger collective. The voice of and potential impact to an independent Métis community, particularly if the impacts of the project would be felt first and foremost by the local Métis community, must be given due consideration. Adopting a different approach to consultation would give effect to assimilation of the independent and distinctive nature of that Métis community.

HSM Identified Concerns about the Deep Geologic Repository

HSM have significant concerns about the proposed DGR based on the fact that this proposal for a nuclear waste repository poses a significant threat to HSM's ability to continue exercising their constitutionally-protected Aboriginal rights.

The scope and nature of the concerns of HSM are inextricably linked to the area of the proposed DGR, which is situated within the HSM traditional territory. The potential for severe impacts to the community's constitutional rights for sustenance harvesting, in the immediate future, and for centuries into the future, is of grave concern to HSM.

Although the HSM community is not against development, it will be difficult for the HSM community to support the proposed DGR absent a clear formalized understanding of how the concerns of HSM will be considered and integrated into the long-term decision-making and monitoring process should the DGR be approved.

While the law as it relates to Métis rights provides important context for HSM's concerns, government policies as they relate to nuclear waste storage are necessary to effectively address the potential adverse impact of nuclear energy generation in Ontario

and its disproportionate impacts on Métis and First Nations communities.

These policies and legal obligations of the Crown respecting the duty to consult or other constitutional duties must be realized for the Historic Saugeen Métis through formalized processes and commitments, such as through agreements directly with the Métis community and/or conditions in any regulatory approvals granted, in order to ensure the proponent continues to be held accountable to the affected Aboriginal community as the proponent proceeds through the project phases, including the construction, operational, monitoring and decommissioning phases of the project.

HSM's Commitment to Ensuring the Safety and Security of the Traditional Territory for Future Generations

HSM are among the Aboriginal Peoples who have lived in, cared for and relied on the traditional Saugeen territory for many generations.

The proposed DGR is situated in the centre of HSM traditional territory. Any adverse impacts from the DGR would be felt first and foremost by the HSM community, thereby posing an ongoing threat to the continued exercise of HSM's section 35 Aboriginal rights. Accordingly, HSM has a substantial interest in all decisions relating to the management of nuclear waste currently at the site and with respect to the proposed DGR.

HSM continues to engage in a dialogue with NWMO and OPG on the potential impacts of the Project to HSM's Aboriginal rights and interests and looks forward to sharing more information with the Joint Review Panel at the hearing.

Historic Saugeen Métis (HSM)- May 23, 2013

Registry Reference - 06-05-17520 Deep Geological Repository for Low and Intermediate Level Wastes Project

IR#	EIS Documents	EIS Section of other technical document	Information Request	Context/ Background
HSM #1	Environmental Impact statement; Aquatic TSD	EIS 7.5.1.1, Table 7.8.2-6; Aquatic TSD 6.2.2.2, 7.2.2.1;	<p>Provide a greater understanding of the potential effect, both direct and indirect, of vibrations from blasting activities on fish and fish habitat.</p> <p>Show calculations for vibration estimates, including details of instruments and methodology used for measurements (including reasons for settings and descriptors used and calibration details).</p> <p>Produce a site map showing location of vibration sources, measurement locations and receivers (from EIS Table 7.8.2-6): aquatic</p> <p>Show on maps the expected extent of the 13 mm/s vibration limit relative to aquatic features: fish and fish habitat.</p> <p>Map proposed monitoring locations (Table 3a, Follow-up Monitoring Report) relative to natural environment receptors: aquatic.</p> <p>Identify mitigation responses if monitoring shows impacts from blasting not anticipated in the EA.</p>	<p>The Federal <i>Fisheries Act</i> includes provisions for the protection of fish, shellfish, crustaceans, marine mammals and their habitat. The detonation of explosives in or adjacent to fish habitat has been demonstrated to cause disturbance, injury or death to fish and aquatic mammals, or the harmful alteration, disruption or destruction of their habitat. Effects to fish as a result detonations range from sub lethal changes in behaviour, to damage to the swim bladder, rupture or hemorrhage of the kidneys, liver or spleen, damage to or mortality of fish eggs and larvae. OPG applied DFO guidelines for peak particle velocity of 13mm/s intended to prevent harm to fish and fish habitat (Wright and Hopky 1998).</p>
HSM #2	Environmental Impact statement; Terrestrial TSD	EIS 7.5.1.1, Table 7.8.2-6; Terr. TSD 7.3.2.2	<p>Provide support for the statement in the Terrestrial TSD: "Wildlife that dwell on the surface or burrow a few feet underground in the soils are not likely affected by the vibrations from the blasting activity because the effect will be localized spatially and temporally." Please define and map the localized temporal and spatial effects. Produce a site map showing location of vibration sources, measurement locations and receivers (from EIS Table 7.8.2-6): terrestrial.</p>	<p>Wildlife may exhibit different behavioral responses to sudden, percussive noise and vibrations resulting from blasting than to ambient background noise.</p> <p>Members of the Historic Saugeen Métis have been using the area of the Bruce Nuclear site (prior to its development) and surrounding areas for hunting, fishing and trapping purposes for generations. Métis</p>

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			<p>Map proposed monitoring locations (Table 3a, Follow-up Monitoring Report) relative to natural environment receptors: such as White tail Deer and Wild Turkey.</p> <p>Information with respect to a monitoring program that can identify and address the various responses of wildlife to ambient noise and blasting.</p> <p>Identify mitigation responses if monitoring shows impacts from blasting not anticipated in the EA</p>	<p>elders and current hunters alike mention the areas around 'Baie du Dore' as important hunting and harvesting grounds.</p>
HSM #3	Aboriginal Interests TSD	7.4 Traditional Use of Land and Resources 7.4.1 Direct Changes	<p>Clarify what is meant by "mechanisms for continued direct communication".</p> <p>Please give examples of intended processes or processes that have been used in the past to facilitate "continued direct communication" during construction and operational stages of major nuclear projects.</p> <p>The agreements described address the regulatory approvals process for the DGR Project. Once the project is approved what mechanisms/ process are intended to be implemented to facilitate relationship building and participation for Aboriginal communities in the construction and operational phases of the project. Please list/ describe.</p>	<p>The Historic Saugeen Métis have been involved with the consultation efforts for the "Deep Geological Repository for Low and Intermediate Level Nuclear Waste" project during this stage of the regulatory process relating to the environmental assessment. It is unclear to what extent HSM will continue to be engaged once project approval has been granted.</p> <p>HSM is specifically interested in the long-term consultation plans/ efforts for the entire life of the DGR project. It is essential that HSM stays connected, informed and apprised of any large-scale nuclear development project in the Saugeen Territory as the potential effect to HSM rights and interests could be devastating. The HSM Council will always be responsible for taking action for the long-term protection of the rights and</p>

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				interests of HSM citizens and must consider future generations in all its decisions. Therefore, it is essential for HSM Council and community to have direct, on-going, and meaningful communication and dialogue with respect to the DGR through out the entire life of the facility, including providing input where necessary on potential effects and mitigation of those effects if confirmed through monitoring.
HSM #4	Aboriginal Interests TSD	7.4 Traditional Use of Land and Resources 7.4.1 Direct Changes	<p>The statement “ Given the results described above and OPG’s ongoing engagement efforts, there is no need to further evaluate effects from the presence of the DGR Project on traditional use of land and resources” appears to be contrary to the principles relating to Aboriginal consultation. There is no clear indication of any commitments, agreements or processes to address consultation efforts during the construction and operational phases of the project, particularly with respect to monitoring to confirm the findings of the EA with respect to potential impacts.</p> <p>Please elaborate on the long-term (entire life of the project) consultation efforts that are planned with the local Aboriginal people. Since this project will be operating in the Saugeen Territory for the entire life cycle of the project and due to the magnitude of the project and the level of uncertainty, we need to understand the long term plans for engagement with the local Aboriginal people. Further, while unforeseen and cumulative effects</p>	See above note.

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			<p>have the potential to occur in any project, given the extreme magnitude and groundbreaking nature of this project, these unknown effects could potentially be more extreme.</p>	
HSM #5	DGR EA Follow-up Monitoring Program	<p>Overarching comment: natural environment; Section 1.3</p>	<p>The stated purpose of the follow-up monitoring program is to "verify the predictions and assessments of the environmental effects of the project; and confirm the effectiveness of the mitigation measures." (Section 1.3)</p> <p>Please provide details on observations, indicators or thresholds that would prompt further investigations and corrective action, including in respect of any changes in surface water flow, crayfish and crayfish habitat, blasting effects on wildlife. Please provide details on potential corrective actions that would be undertaken to address or mitigate those effects once confirmed.</p> <p>Monitoring should define a significant change at the population level for traditional HSM harvested species such as White tail Deer, Wild Turkey.</p>	<p>Aquatic and Terrestrial species and habitat are subject to:</p> <ul style="list-style-type: none"> • Species at Risk Act; • Migratory Birds Convention Act; • Fisheries Act; • Fish and Wildlife Conservation Act; • Ontario Endangered Species Act; and • Ontario Regulation 169 under the Conservation Authorities Act <p>At a minimum, monitoring details, criteria and response indicators, or thresholds should link to relevant legislation and regulations, or to species of traditional interest to HSM such as White tail Deer and Wild Turkey.</p>
HSM #6	Preliminary Decommissioning Plan	Section 4.3; 5.5	<p>The end state decommissioning objectives refer to a site free of biohazards and free of contamination (Section 4.3). Decommissioning objectives should include natural environment targets for aquatic and terrestrial VECs for which residual adverse effects were identified but considered insignificant.</p> <p>Terrestrial and aquatic data should be collected at key stages in the project for the same parameters as were</p>	<p>Data collected at key stages will represent snapshots in time that will assist in the evaluation of EA statements over the entire project duration and will inform ecological restoration targets for the decommissioning phase.</p>

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			<p>sampled for the EA. The key stages include:</p> <ul style="list-style-type: none"> • Pre-construction (already collected during the EA phase) • Post-construction – Pre-operation • Post-operation • Post-decommissioning <p>Site restoration (Section 5.5) includes a commitment to re-grade and re-vegetate the site but no ecosystem targets for restoration are provided. The decommissioning report should outline a process to identify and achieve ecosystem targets beyond re-grading and re-vegetation that are consistent with EA statements.</p>	