



**CEAA EXPERT PANEL REVIEW OF
ENVIRONMENTAL ASSESSMENT PROCESSES
WRITTEN SUBMISSION**

***“WHAT IS NOT WORKING WELL AND NEEDS TO
CHANGE WITH CURRENT FEDERAL ENVIRONMENT
ASSESSMENT PROCESSES?”-***

Lessons Learned from the Kincardine DGR Approval Process

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INTRODUCTION

- Thank you to the CEAA Expert Panel for providing a well- organized and respectful environment and process.
- We believe deeply in the value and importance of reform of the Canadian Environmental Assessment Act, its Policies, Regulations and the process of implementation.
- We advocate a holistic approach to the CEAA that recognizes the interdependence of all human and environmental systems in a cumulative, eco-system-wide scoping, design, impact assessment and decision-making framework.
- Canadians have an abiding understanding of the importance of sustaining our environment including all land, water, atmosphere, animal life and habitats.
- This Canadian knowledge and perspective in many cases outstrips in quantity and quality, the ability of agencies, corporations and government regulators to scope, evaluate and report on the value of environmental and human components, or to define protection through generations.
- The knowledge that Canadians bring to the CEAA process must be seen as a touchstone of the preservation of the good of our nation, and our national environment.
- It is not merely a construct of process that engagement of public experts and traditional knowledge keepers from all walks of life, and from all age groups, are asked to participate in the EA process.
- The experience and opinion of informed public participants, including the First Nations, and our international neighbours, should be held as pre-eminent in the scoping, evaluation and decision making about projects that have the potential to affect the health, socio-cultural and socio-economic well-being of this and future generations.

1.0 AN EXAMPLE OF ENGAGEMENT IN THE CEAA 2012

PROCESS: DGR 1 JOINT REVIEW PANEL HEARINGS UNDER

CEAA 2012

- SOS Great Lakes (SOSGL) has engaged in a process of response during hearings conducted under the CEAA 2012 process to the Joint Review Panel (JRP) set up by the federal government to review the Ontario Power Generation's proposed Deep Geological Repository (DGR) for Kincardine. The DGR is proposed to be constructed for the permanent burial of Low and Intermediate Level Waste on the site of the Bruce Nuclear Plant less than 1 km from the shore of Lake Huron. The hearings occurred in 2013, and the JRP requested that the hearings be resumed in 2014, prior to their decision being made.
- The JRP conditionally approved the OPG DGR, with almost 100 conditions in May 2015.
- The decision on license now rests with the federal Minister of the Environment and Climate change. The Minister has at the current moment, requested that additional information be presented to the government on some aspects not completely dealt with in the hearings or submissions. The decision is therefore delayed.
- SOS Great Lakes, and many of the intervenors in the two years of hearings, continue to believe that key issues of project need, purpose, alternatives to, alternative means, and cumulative effect had been ignored by their proposal and that the JRP had given this conditional approval to OPG was given the JRP stamp of conditional approval without demonstrating that the DGR was necessary or that it had selected the best possible location for the DGR, or that it had chosen the best available method of nuclear waste storage.
- We contend that this project and the implementation of review under the CEAA provide ample evidence that improvements and better enforcement are required to the CEAA.
- We are concerned with the appropriateness of unchecked involvement of the CNSC and similar entities in the EA process. We have observed in the OPG DGR process, that there was a too-close relationship between proponent industry and regulator leading to concerns about impartiality and bias in favour of the project. This type of relationship should not be allowed in the future CEAA, and alternative means devised to administer and advise during the process of nuclear project evaluation.

Our Correspondence with Minister of Environment and Climate Change, the Hon. Catharine McKenna in 2015 and 2016.

SOS Great Lakes has sent a brief to Minister McKenna and her cabinet colleagues describing the failure of OPG, the CNSC and JRP to meet the key requirements CEAA 2012 and the TOR for the EIS, on *8 Public Policy Issues/Grounds*. Recognizing that these issues have not been sufficiently addressed, and that the project has gone to the approval stage, indicates that current Legislation is not being enforced, and that strict conformance to it by proponents and the regulators is not regarded as being mandatory. The following is a summary of these Grounds. My co-presenters Eugene Bourgeois, Ellen Dailey and Rod McLeod will spoke to Alternate sites, Public Health, Community Acceptance and Apprehension of bias, in greater detail, with recommendations coming out of their deputations to the Panel.

Ground 1: ABANDONED SCIENCE: Non Compliance to Requirements for Evidence Based Science

Instead of conducting adequate geologic investigation, to determine the suitability of a site for the construction, operation and abandonment of a DGR, the proponent put forward information on suitability based on distant international sites (not of similar type of geology, some out of commission), computer modelling and less than 6 relevant boreholes (some distant from the site). OPG substituted these proofs for the standard previously recognized in Canada, and internationally, the construction and long term testing of an Underground Research Laboratory (URL). The OPG methodology is an inadequate substitute for physical science, and their determination to promote a DGR in the untested sedimentary geology was questioned from the very beginning of the hearings, including by expert scientists from the field, and by CNSC.

Ground 2: ALTERNATIVE SITES AND MEANS

The CEAA and the TOR required OPG to study alternative sites to the project and alternative means to store or dispose of the waste including methods of advanced above ground hardened storage and off site storage. Despite the fact that no actual alternative sites were studied as required by the CEAA, and reporting on alternative means of disposal was not authoritative, accurate nor systematic, the Joint Review Panel found OPGs consideration of siting and means analysis to be the best option for development.

One of the reasons that the JRP Hearing had to be reconvened in 2014 was a realization that OPG had inadequately dealt with this *'alternatives'* criteria of the CEAA process; OPG did not succeed in fulfilling this requirement even after its second try in 2014.

Now, the current Minister of Environment and Climate Change has required OPG to respond to her by December 2016 in order to supply information on alternatives that that meets the test of the Act, and addresses its substantive requirements. To date, OPG has refused to prepare the work required, as the Minister has stated it, but promises to respond in December.

Ground 3: PROOF OF SUSTAINABILITY

The precautionary principle and proof of sustainability are important elements of an Environmental Assessment.

The CEAA says ([Section 4](#)), “The purposes of this Act are (...) to encourage federal authorities to take actions that promote sustainable development in order to achieve or maintain a healthy environment and healthy economy.” [Elsewhere](#), the CEAA defines sustainable development as “[d]evelopment that meets the needs of the present, without compromising the ability of future generations to meet their own needs”.

The consideration of sustainability in the CEAA requires diligence in the consideration of project factors that have the potential to affect human health, social and cultural well-being, economy and the environment. How then could OPG state, and then the Joint Review Panel conclude, on page 41 of its [final report](#), that the application of sustainability principles was ‘not readily applicable to this project’?

The OPG EIS demonstrated none of the requirements that had been mandated by the CEAA or the TOR to achieve sustainable development. The Chair of the JRP, Stella Swanson, further compromised the requirements of the CEAA by stating explicitly in the Socio-Economic Special Session that socio-economic concerns that could affect the sustainability of the region in the short and long term would not be sufficient to dismiss the DGR Project.

Repeating the same claim developed in the IAS Golder Report of 2002-4, the JRP concluded that a DGR on the Bruce site was more sustainable than a DGR at an undeveloped off-site location because transportation off site did not meet sustainability criteria. The JRP made this judgement with no description of alternative means or actual alternative sites, and no account of the relative sustainability of alternatives and no updating of the shift in definition of sustainability that was current at the time of their final Report in 2015. Clearly abdicating its obligations to rule on the protection of the health and environment of future generations, the JRP Report addressed the issue of long term future effects as not assessable, and therefore, not a factor for evaluation, because “OPG assumed that such effects would have no impact beyond the life of the project and that the environment would return to existing conditions”. (JRP p. 41) The JRP could have corrected OPG at any time by requiring it to adhere to the CEAA.

Ground 4: PUBLIC HEALTH AND SAFETY

Despite EIS Guideline requirement for baseline health data from which to compare future health predictions, the JRP allowed OPG to minimize this step. They also permitted OPG, in its contingency and emergency planning, to ignore: severe climatic events; unplanned malfunction or accidents such as the fire that closed the WIPP or other events that had caused serious unplanned failures at other DGRs in the world. Showing no reliance on the precautionary principle in planning OPG, with the acceptance and support of the CNSC the JRP continued to treat the Waste

Isolation Pilot Plant in New Mexico (WIPP) as a successful and safe precedent for their proposal, even though explosion and accident had closed the facility in the year of the hearing, in Feb 2014.

Ground 5: INTERNATIONAL COMMITMENTS

The Canadian Environmental Assessment Act mandates consultation and co-operation of an Environmental Assessment with the United States, U.S. states and Canadian provinces bordering the Great Lakes St. Lawrence basin, and the federally recognized U.S. tribal governments in the Great Lakes Region. Many Great Lakes States, and politicians at the Federal and State levels, oppose this project. Close to 200 municipalities lining the Great Lakes basin have passed formal motions opposing this project.

Ground 6: PUBLIC ACCEPTANCE

Public acceptance is a prerequisite for all nuclear waste projects in Canada. Despite that, the Mayor of Kincardine, Ontario, the host community and an employee of Ontario Power Generation, signed the host agreement prior to consulting with the public. The ensuing public consultation consisted of a single ambiguous and misleading question prefaced with a highly biased preamble, which would not be considered reliable by any accredited public opinion survey standard. In return for this support, OPG pledged \$35 million to local municipalities and more to the county government.

Ground 7: INCOMPLETE REPORT

The JRP Report contains nearly 100 conditions which rely on biased entities to fulfill.

Ground 8: REGULATORS AND REGULATED

OPG, Canadian Nuclear Safety Commission and the Joint Review Panel worked together. The relationship between the regulated and the regulators has been far too close throughout this process. Incredibly, CNSC President Michael Binder, in attendance at a secret and unlawful meeting of local mayors, was quoted years before the public hearings saying he hoped their next meeting would be the ribbon cutting ceremony for DGR1.

Conduct of the JRP DGR 1 Hearings 2013 and 2014.

During hearings occurring in 4 fall weeks of 2013 and 2 fall weeks of 2014, OPG presented their EIS to the Panel, sitting across an aisle from CNSC. The Panel, at the front of the room on a stage, included the three panel members including the Panel Chair, the CNSC lawyer and often the CNSC co-manager. Questions were asked of the OPG by the Panel and by CNSC.

- The public were screened at building entry by police; in 2013, there were armed police on the roof top of the building; there were plain clothes officers in the hall. There were regularly, 30-60 members of the public and First Nations presenters and observers. Some participants were

elderly, most in late middle age, with some youth. Some of the presenters had come from the United States, including elected officials. Many presenters (called intervenors) including Americans, had been contacted by the OPP, in an intimidating way, prior to the first day of the hearing in 2013. There was a squabble, in public, between the OPG and CNSC, about who had asked the police to visit and call intervenors. It was vaguely mentioned that the municipality may have given the instruction to contact intervenors.

- Presentations by First Nations represented by their legal counsel were scheduled, and registered participants including expert witnesses, local stakeholders, provincial and international representatives were generally allowed to present in the afternoons. Open question periods were limited; no cross-examination of proponent witnesses was allowed; subject matter discussions were curtailed if the subject question did not relate to the testimony of the day.

A Flawed and Incomplete EIS

- The EIS prepared by OPG was very incomplete and deeply flawed. During the hearings it was apparent that the CEAA and EIS guidelines established out of the CEAA were not being followed. We and other participants observed an uneven handling of material and obvious flaws in reporting by OPG and lack of diligence in requests for information of OPG by CNSC and the Panel. Particular significant requests for inclusion of material and questions relating to cumulative effects, the effect of decommissioning waste that would double the DGR size, the effect of DGR 2 for HLW and questions about suitability of the site from a geophysical standpoint, were denied.

Hundreds of Clarifications Required During and After the Hearings

- There were hundreds of requests for clarification of the EIS during the Public Hearings, and a lengthy continuing period of back and forth between OPG and the Panel following the 2013 hearing, until February 2014.

New Facts Emerged and New Hearings Had to be Held

- In February 2014 two major events occurred: the model that CNSC/OPG and the Panel had relied on for design (Waste Isolation Pilot Project -W.I.P.P- in New Mexico) was closed due to fire, explosion, injury and accident (and has never totally re-opened), and nuclear scientist Frank Greening discovered a serious underestimation in the CNSC evidence regarding the quantity and

quality of waste that had been predicted to be abandoned within the DGR 1. In combination with pressure to come clean on the issues of cumulative effects and alternative sites and means evaluation, the JRP declared that a second hearing would be held in Fall 2014, but that would only hear evidence/testimony related to specific subjects determined by the Panel.

- These hearings, taking place long after the CEAA would have imagined information to be top of mind for the Panel, were not satisfactory. Information from the Proponent was insubstantial and did not answer key questions posed by the CEAA policy on assessment of adverse effects, cumulative effects, alternate sites and means or project need. On the close of those hearings, another period of back and forth between OPG and the Panel ensued, with OPG consistently providing incomplete answers.

The JRP Report, May 2015

Finally, although its evidence was incomplete, on May 2015 the JRP issued its Findings on DGR 1, concluding:

- that underground disposal has lower risks than surface storage
- there was a strong safety case for the DGR
- that the geology was suitable
- that the nature of the waste to be buried was suited to burial
- that they were confident that the DGR would perform well in the long-term under normal conditions
- that the project was not likely to cause significant adverse effects
- that it will be important for OPG and CNSC to be prepared for malfunctions and accidents
- that the addition of decommissioning waste from Bruce, Darlington, and Port Hope will not cause further cumulative harm
- that the DGR should be built now rather than later

Notably, for those here today to review the reform of the CEAA, the JRP noted that they recognized that the OPG EIS had,

- “not addressed a cumulative effects analysis at an ecosystem scale, but that this was not explicitly required under the EIS Guidelines...however the concerns expressed by participants about the ecological integrity of Lake Huron and the potential for cumulative effects on the Lake, and the Great Lakes in general, illustrates the need for a social discussion, regarding how

outcomes can be addressed – if not by individual proponents, then by provincial and federal regulatory agencies.”¹.

- They noted later in their Report that, “sustainability principles were not really applicable to this project”

The JRP went further, expressing confidence that proponent OPG together with nuclear regulator CNSC:

- “would continue to demonstrate their pre-existing strong safety culture, “ (recently criticized as we know in summer 2016)
- without sufficient evidence the JRP went on to say without demonstration of future management plans, that worker health and safety and public health and safety would not be adversely affected by the project, including through construction, noise, air and water quality degradation, anxiety, well-being, emotional trauma, or radioactive exposure, but that a representative from the Grey Bruce Health unit could be beneficial
- that a rigorous adaptive management process would be applied
- that the DGR project would not affect Lake Huron despite major concerns “from the Canadian and American citizens about drinking water quality, recreational use, aquatic ecology and the economic, cultural and spiritual value of the Lake” ²

The JRP Report approved the OPG proposal for construction but placed almost 100 conditions on CNSC and OPG; many of these conditions gave the oversight role of OPG to CNSC.

Timeline of Events Following May 2015 Report

- The JRP Report caused great surprise and disappointment among the community of participants who had advocated against the OPG proposal
- On June 5, SOSGL registered a Notice of Application in Federal Court declaring, among other grounds, that the JRP failed to require OPG to fulfill the requirements of the CEAA, its own TOR, or the requirements of the Environmental Impact Statement. One other registered participant also filed a Notice of Application.
- On June 3 2015, the Conservative Minister of Environment delayed the DGR decision until December 2015.

¹ Joint Review Panel Report, page ix.

² Joint Review Panel Report page xii

- On June 3 2015, CEAA called for a 90 day comment period for Aboriginal groups, registered participants and the public to comment on potential mitigation measures and follow-up requirements. Of over 600 Canadian and American responses to this request, 97% were solidly against the proposed DGR 1.
- On November 27 2015 after the election of the new Liberal Government, an extension for decision was made to March 1, 2016.
- On February 8 2016, Minister of the Environment and Climate Change, Catherine McKenna, wrote to OPG requesting, through CEAA by April 18 2016: a study of alternative locations; an update on cumulative effects given that NWMO was considering three sites in the traditional territories of the S.O.N. for the DGR 2; and an updated list of mitigation commitments for each identified adverse effect.
- On April 15 2016 OPG proposed an extension for the additional studies and a re-interpretation of McKenna's requirements.
- On Sept 7 2016, Minister of the Environment responded to OPGs April letter restating her requirement for conformance to the requirements of February 18 2016.
- On September 7 2016, the Minister of the Environment dismissed the Joint Review Panel.
- It is expected that the OPG response will be available in December 2016 although as of Dec 22, it has not been posted
- The CEAA has provided opportunities for public input into the review of the OPG response will include a review of the response, and will include participant funding.
- Similarly, there is an offering of public response to the Minister's decision,
- A new timeline for a decision has been set, but as of today, not for public response period.

2.0 RECOMMENDATIONS FOR REFORM OF THE CEAA ARISING FROM THE DGR 1 JRP HEARINGS AND REPORTING.

The current process and legislation lacks authority, and is being manipulated by proponents to side step responsibility. Our critique of the JRPs decision and OPGs lack of compliance to the CEAA includes disregard of, or lack of detail in, or incomplete reporting on key factors to be considered in a designated project: environmental effects of malfunctions and accidents, cumulative effects likely to arise, the purpose and need of the project, alternative means and sites, environmental effects/climate, requirements of follow up program, comments from the public. The Operational Policy Statement provides details of determination of significance that were not followed; the purpose of the Act to ensure precaution, sustainability and a healthy environment and economy were not met.

General

This Expert Panel must look broadly at the whole of the CEAA: its purpose, definitions, timelines, the role of indigenous peoples and the public in participation, the detail criteria of screening/evaluation/recommendation/mitigation, governance and enforcement.

- The reform of the CEAA, its Policies and Regulations must be updated to reflect the urgent need for meeting broad environmental, human health and socio/cultural sustainability.
- An ecosystem approach with a focus on sustainability and precaution should be developed out of the project specific approach.
- The most important effects considered may well be cumulative effects, and there is no clear understanding of the concept of cumulative effects, or reporting or review of cumulative effects.
- It should be anticipated by the CEAA that projects will overlap many boundaries and jurisdictions.
- Averaging of factors of significant adverse effect should not constitute an acceptable project.

The CEAA as a Tool

- The CEAA process must be a tool for designing and evaluating projects
- The CEAA process must include a well- vetted EIS TOR
- The EIS should be designed as a *process* used at the beginning, middle and end of project design, to come up with the best possible end results

- The EIS Report must not be used as post-rationalized, wrap up of a pre-existing design.

The CEAA Must be More Rigorous, Clear and Detailed

- The CEAA Legislation, Policy and Regulations 2012 lacked the power and enforcement to ensure that OPG, CNSC, and the JRP Panel conducted a complete and authoritative EIS, or hearing, for this highly significant project
- The emphasis placed on assessment of effect on a limited number of components listed as examples in the CEAA led to exclusions of critical ecosystem, human and socio cultural factors
- Taking Operational Policy Statement literally as written led to poor outcomes in the reporting and decision making chain.

Explicit Design, Decision-Making and Risk Assessment Criteria Are Required

- It should be up to an authority other than the Proponent and Regulator to determine the design, decision-making and risk assessment matrix in an EIS
- The CEAA must take significant steps to establish detailed criteria for project identification, scoping, definition of geographic extent (regional), identification of VECs, assessment of adverse effect and cumulative effect on all VECs including health socio-economic factors, alternative sites and means, what constitutes mitigation, sustainability and precaution.

Assistance and Monitoring of the Process by CEAA or Involvement of Arm's Length Parties

- The CEAA or an arm's length body should review the proponent's understanding of the factors to be considered, criteria for evaluation, including their summary of methodology and project development before the project begins in order to ensure the best design, according to CEAA policies.
- Monitoring by the CEAA or arm's length body should continue through project development to ensure conformance with processes.

Review of Material and Accuracy of Material

- The substance and accuracy of an EIS should be reviewed in detail by unbiased parties at various stages of its preparation, by experts and non-experts, before it is presented to a Panel and to the Public for review
- The reporting must be objective and peer reviewed, and based on evidence based science.

Time Frames

- A project should not be presented for decision-making before its time
- Adequate time for meaningful public consultation should be made and repeated if necessary
- Adequate timeframes for notification and preparation of submissions must be ensured for all parties
- Adequate time for public presentations during the public participation sessions must be made
- Panels and reviewers must have adequate time for meaningful review and reporting.

Permission to Evolve

- Changing conditions in the context, environment, scientific discovery, accident/malfunction, social/cultural shift in health and environmental concerns, including attitudinal shifts, changes the legislation or public concern during the course of a project should be flexibly and logically accommodated within the period of project formulation, TOR preparation, EIS preparation and during the review and decision-making by parties during the review and reporting on the EIS

Permission to Expand Scope

- As information, factors, new VECs, new focuses of attention emerge in a project, the project scope and requirement of assessment should be allowed or encouraged to change.

Accounting for Climate Change

- The accounting and measurement of the effect of climate change in the short and long term must be clearly indicated to proponents as they are considering project design mitigation, accidents/malfunctions and significance of effect on VECs.
- In the OPG EIS, the discussion of climate change was judged “not a factor” (allowing the public to ask if the federal and provincial government acknowledged or denied ‘climate change’) despite dramatic recent changes in patterns of tornadoes, hurricanes, stalled weather events, heat effect and snow and ice at the Bruce site. Flooding of the side has already been admitted to cause the likely overflow of storm water management systems at the new DGR into the Lake in current weather events; there was no explanation of what would happen in future climate change scenarios.

Alternatives

- Alternative sites and means must be scoped and reviewed for approval of unbiased parties at the beginning of a project, and provide a legitimate alternative for investigation.
- The goal of decreasing requirements for mitigation in favour of avoidance of disturbance of VECs and reduction of risk must overlay the project method.
- Flexibility in evolution of chosen alternative sites and means should be encouraged during project process so that the most sustainable, precautionary and least invasive approaches can be evaluated together before a recommended option for development is chosen.
- The words, “... That are technically and economically feasible” must be eliminated from the Legislation, and a new manner of describing what this clause devised. If every measure required to create sustainable development is judged against if it is technically and economically feasible “a proponent will not, a.) Be open to alternative approaches that they do not know to be technically feasible, and b.) Use the argument of monetary hardship in every point of expense related to implementation of the Act as a tool of sustainable development.

Health, Socio-cultural and Socio Economic Effects

- Socio-economic, socio-cultural and health effects must be central to project EA, and evaluation of impact must be based on a resource of long-term, accurate, authoritative data; if there is no such data base, one must be prepared. For example, in proving no likely significant adverse effect to health, data on health including cancer rates for the community and region already affected by the Bruce Nuclear site was not available or provided. Therefore the Panel conclusion was base-less.
- There must be clear and detailed criteria for meeting an up-to-date standard according to the precautionary principle and sustainable development with flexibility to stretch targets for both, as these policies evolve over time.

Multiple Jurisdictions

- Jurisdictional identification and collaboration is essential: means of international, interprovincial, community to community, national to nation co-operation and engagements must be spelled out
- Timelines must allow for adequate notification and response (the United States was notified only 2 weeks prior to the JRP submission of deputations deadline).
- The identification of adjacent communities must be thorough and wide-reaching

- Where provincial and federal interests are both involved, as in the DGR EIS and hearing, the roles and responsibilities must be transparent and explained clearly
- Where responsibilities from the project trickle down into counties, municipalities, or communities, such as in issues of management of emergencies in malfunctions, accidents, or malevolent events, in maintenance of civic infrastructure, in management of human health and in socio-economic impact and in taxation or reduction of property values due to project impact criteria must be established for analysis of effect, short and long-term funding and support according to recognized principles, and not through non-negotiation.

Public Engagement Must be Valued and the Terms Enhanced

- Valuable information from the public should be listened to, then adequately evaluated and reported on by the responsible parties
- Public input should not be curtailed in the guise of expedient procedure
- Public engagement must be meaningful and inclusive
- Participation in public engagement should be adequately funded : It must be recognized that the public and non- profits are left with the burden of proof against corporations and agencies with endless funds spent on promotion, incentives, legal counsel, and studies that marginalize the public participant contribution
- The public must not be stigmatized and penalized for its efforts in acting for the public good
- Participants should not be ostracized, surveilled and intimidated by the government that has asked for their help
- Environmental Not for Profits: Not only do we not get funding from the government, and are expected to fund expensive and long campaigns for the public good, we find that there is a disincentive for other members of the public to assist by donation to our work because we are not, as an environmental organization, allowed charitable status. This should be changed.

Enforcement

- An independent authority should be established to oversee conduct of the hearing process for fairness and compliance
- A proponent, regulator or Panel that is obstructive or disinterested in following the CEAA or a TOR for an EIS must be made to comply with the law early in the process

- Exceptional measures may be required to enforce the requirements of the CEAA, even when a project is referred to a Judicial Review Panel
- The Canadian Environmental Assessment Agency and their legal representatives should be available at stages formation of terms of reference, report preparation, engagement of the public, in order to provide support and to ensure that the Legislation, Regulations and Policy, are met.

Potential for Conflicts of Interest

- A close connection between the OPG proponent and the CNSC as regulator on nuclear projects created conflicts of interest in the advice to the municipalities, preparation of the EIS and in the hearings that should not be repeated
- It should be obvious through this example that proponent secret dealings and work arounds to cut red-tape, non-compliance with EA process and policy, will never prove effective in the project approvals process.

Go/No Go Triggers

- Proponents and the process must recognize that total avoidance may be necessary in lieu of mitigation
- There should be a clear option at all times that a project may not go ahead if the project does not meet the standards set by the CEAA
- It should be obvious that if an over-abundance of conditions is required, a project should not likely go ahead
- Over-reliance on adaptive management is an indicator of poor investigation, testing, science or time to plan the project, and may mean that a project should not go ahead
- The requirement of an over-abundance of questions to the proponent not accurately answered the first time, may mean a project should not go ahead
- If it is obvious to multiple parties, including the public, that a proponents reporting is unsound, if the Panel conduct is not of high calibre, if testimony has been encouraged through incentives, if the regulator has made up its mind that a project should proceed prior to the commencement of the hearing, that the hearing should be adjourned and reframed.

The Operational Policy Statement

Appendix 2: Key Criteria for Determination of Significance

Using Appendix 2: as an example of aspects of the Operational Policy Statement that require reform

- the criteria for determination of significance be completely overhauled
- the text descriptions of criteria be rewritten, and be inclusive of all potentially affected VECs
- measurement parameters must be explained to prevent application of parameters that are subjective or exclusionary
- Magnitude and Geographic Extent be reassessed
- Timing, Frequency and Duration be reassessed
- the concept of Reversibility and recovery from environmental effect, and the concept of establishment of baseline conditions be must be re-evaluated to prevent devaluation of immediate impact, impacts on the environment or health and socio-cultural or economic conditions that have short but significant durations before reversibility can occur, and where reversibility is assumed but not known such as in the DGR example, where the JRP reported that, ultimately, the site would return to its prior condition.

Establishment of Areas of Study: Geographic Extent

- As an example of reform required in the definition of criteria for in one specific area, geographic area of influence must be regional, and where air and water are at play, must include all aspects of dispersion of affects causes by a project. For example, the scoping of the DGR I project was so tight that only the Lake edge and stream mouth was included in the area of influence, this enabling OPG to discount the potential of Lake-wide and international contamination as, “out of scope”.
- The review of geographic extent must be community sanctioned; the effect of project adversity outside the defined area should be exemplified in the Appendix 2, and should definitely not be limited to the example of, ‘atmospheric pollutants from transportation’.

Nuclear Waste Projects

Nuclear Waste Projects and Sustainability

- We are working in a context where the emphasis is on achieving the goals of the Paris Agreement, and achieving carbon neutral targets through clean energy production. This is a very important role for our government and one that must be reinforced through the CEAA and its Policy.
- However, we are in the very real and increasingly present danger of having nuclear production sanctioned while the producers, regulators and corporations who will be cheerleading for all things nuclear IGNORE that nuclear power generation produces the most toxic products in the form of contaminated waste known to man.
- There is little if any recognition of the downstream environmental effect of nuclear power production although its waste lasts from 300 to over 1 million years in deadly toxic state.
- One of the reasons is that radionuclide dispersal in expected doses is considered safe by the CNSC and OPG.
- The CEAA must recognize that there are no safe doses of radionuclides, or other toxic contaminants within our ecosystem.

Thank You.