



April 6, 2016

The Honourable Catherine McKenna,  
Minister of the Environment and Climate Change,  
Environment Canada,  
Minister's Office,  
200 Sacre-Coeur Blvd., 2<sup>nd</sup> Floor,  
Gatineau, QC, K1A 0H3

The Honourable Catherine McKenna:

AN OPEN LETTER TO THE HONOURABLE CATHERINE MCKENNA, MINISTER OF  
THE ENVIRONMENT AND CLIMATE CHANGE RE: THE PROPOSED NUCLEAR  
WASTE DUMP AT KINCARDINE ON THE SHORE OF LAKE HURON

Thank you for deferring your decision on the Kincardine Nuclear Waste Dump pending further work by Ontario Power Generation Inc. (OPG) and possible further hearings.

We applaud your determination to get more information from the proponent, OPG, on three areas of enquiry identified in your letter of February 18, 2016 to Ms. Swami, Vice President of Nuclear Services, OPG. Your request for more detailed information reflects only three of the eight points raised in the detailed SOS Briefing Document we sent to you November 17, 2015.

Any one of those eight issues (following) is sufficient reason to scrap the proposed Deep Geologic Repository (DGR) for Low and Intermediate Nuclear Waste on the shore of Lake Huron. Collectively, they make an overwhelming case to reject the DGR.

#### **1. ABANDONING SCIENCE:**

You were elected on a promise of decision-making founded on evidence-based science. The first step of the prevailing International Best Practice for Nuclear Waste calls for building an Underground Research Laboratory (URL) to scientifically test the geology and construction methodology.

Inexplicably, despite the fact that all other countries use URLs during planning of a DGR, the Regulators failed to require OPG to do this. This failure is especially critical for two reasons. First, a DGR in sedimentary rock such as that present at the Bruce Nuclear Plant is without precedent anywhere in the world. Secondly, the reason for building a test structure was recently and tragically highlighted in Bure, France, when a URL tunnel in sedimentary rock collapsed, killing one worker and injuring others.

## **2. THE JOINT REVIEW PANEL (JRP)'S REPORT IS A QUASI-JUDICIAL PRECEDENT WHICH EVISCERATES THE CORE PRINCIPLES OF CANADIAN ENVIRONMENTAL ASSESSMENT:**

In addition to your recent questions to OPG about alternate locations and cumulative effects, we trust you are giving very careful scrutiny to the manner in which OPG and the JRP also failed to consider alternate means such as the current world-wide preference for above ground or shallow storage for Low and Short Lived Intermediate Level Waste (80- 95% of the OPG waste by volume).

We also urge you to carefully examine the JRP's:

- a) Disregard of the Canadian Environmental Assessment Act (CEAA) with respect to the Precautionary Principle and Sustainable Development and,
- b) Misuse of Adaptive Management Measures as an improper substitute for evidence-based science.

## **3. PUBLIC HEALTH AND SAFETY:**

When every other DGR in the world has either leaked or failed to contain the highly toxic nuclear waste they were designed to isolate, why would the Government of Canada needlessly risk the health and safety of Canadians and Americans who share the Great Lakes as their source of fresh drinking water? The fact that OPG based its case so substantially on the now failed and closed Waste Isolation Pilot Plant (WIPP) in Carlsbad, New Mexico, should make this risk totally unacceptable.

The JRP allowed OPG to get away with not disclosing the potential health risks of radiation exposure from this project to the public and not presenting adequate baseline health data to allow for proper monitoring of potential future health effects.

Why would the JRP allow OPG to “screen out” so many potentially catastrophic events that could affect the DGR? Why did the JRP not require OPG to adequately describe the magnitude, geographic extent, timing, duration, frequency and degree of irreversibility of any of the very limited number of events it did require OPG to consider? Why did it fail to mention the cumulative effects thereof?

As a nation, have we already forgotten Walkerton, Ontario? Have we learned nothing from Flint, Michigan?

Is the opposition to the DGR by almost 200 Municipal Councils on the Great Lakes and St. Lawrence Seaway irrelevant?

The answers to these questions may be found in Section 8 below.

## **4. BREACH OF INTERNATIONAL COMMITMENTS:**

Your predecessor in the Harper Government breached the Canadian Environmental Assessment Act

by failing to consult and cooperate with the United States, the American States bordering on the Great Lakes, Quebec and 34 US Federally recognized Tribal Governments in the Great Lakes Basin. The JRP, which she helped create, did not consider that relevant. The Great Lakes Water Quality Agreement required Canada, as an equal partner with the US, to properly notify the US of OPG's DGR proposal in a timely manner. It did not and again, the JRP thought that failure was irrelevant. Today, US Municipal Governments, the National Association of Counties and Federal and State legislators are expressing their outrage. Why should your new Government have to bear responsibility today for this reprehensible failure on the part of your predecessor?

## **5. PUBLIC AND COMMUNITY ACCEPTANCE:**

The support of Mayors of local communities to the DGR site was bought for \$35M in a deal that was hatched and enforced over 8 years in a series of 14 secret unlawful meetings of Bruce County Council.

The year-round residents of Kincardine were tricked with a deceptively worded January 2005 telephone Poll that was supposed to gauge support for the DGR before the signing of the Memorandum of Understanding with OPG. In fact the MOU received second reading and was signed in 2004 before the Poll. The Poll was done in the dead of winter and the seasonal residents were not consulted.

In 2003 Kincardine's Mayor Glenn Sutton, formerly an OPG colleague of the OPG DGR Team, commissioned a Study and Report by the Ivey Business School on the possible economic effects of a Nuclear Waste DGR on Kincardine. OPG paid for this Study and Report. The Report, in Section 7.3.1, Table 6, on page 25 of 44 estimated a negative effect on Kincardine's economy over the next 30 years of almost \$700,000,000 for the combined DGR and BPNP. The records of Kincardine Council disclose no evidence the Ivey Report was ever seen by Kincardine Council, the people of Kincardine or the public at large.

The Ivey Report was unearthed by a local resident's Freedom of Information Application. It was referred to, and quoted in submissions to the JRP to suggest that other evidence of public acceptance was suspect because of its failure to take the Ivey Report into account. Glenn Sutton also referred to the Ivey Report in his testimony to the JRP. Curiously, he claimed that the Ivey Report suggested a net benefit, rather than a major deficit, to the economy of Kincardine.

Despite the JRP's extensive recital of OPG's effort to show Public Acceptance for the DGR, no reference was made to the Ivey Report by the JRP, the secret meetings, the cash for support, the grooming of the mayors' testimony, or the wholly inadequate phone Poll.

In addition, the larger public who get their drinking water from the Great Lakes were never considered or consulted by your predecessor, the Canadian Nuclear Safety Commission (CNSC), or OPG. The JRP saw no problem with this failure.

## **6. NEED/COST:**

At a time when the rest of the world prefers enhanced above-ground or shallow storage for Low and Short Lived Intermediate Level Waste at less cost, why would Canada even think of underground storage? The JRP admits that 80-95 percent of the planned waste does not merit below grade burial. People are asking, 'Is this whole charade finally being unmasked as the devious attempt to dig a hole for later use for High Level waste?'

## **7. INCOMPLETE REPORT:**

Why would you accept a "Report" from the JRP that is not a Report?

The purpose of the hearing was to have the proponent, OPG, put all the information on the table to be examined by the other parties and the tribunal, followed by multiple decisions by the tribunal as required by the Canadian Environmental Assessment Act. Then, and only then, is the Minister expected to make a decision. Instead, with 98 conditions there are more than 98 gaps in the required array of decisions. The gaps produced improper delegations to OPG and others who are not impartial. As Minister, you deserved much more.

The law required the JRP to do much more.

## **8. THE JRP'S LACK OF IMPARTIALITY:**

The Canadian Nuclear Safety Commission (CNSC), an agency of the Government of Canada, is supposed to be an impartial regulator guaranteeing the people of Canada not only safety but appropriate conduct on the part of persons dealing with matters Nuclear. Their CEO played a vital role in the set up and appointment of personnel of the JRP, a quasi-Judicial tribunal to whom the rules of fairness, impartiality and freedom from any hint of bias, clearly apply. Yet, on September 30, 2009 we find him at a secret, illegal meeting of OPG and the Bruce County Mayors expressing his bias in favour of the proponent. When a perfectly appropriate issue about possible reasonable apprehension of bias was raised before the Chair of the Panel, her reaction was anything but judicially impartial. It was arrogantly dismissive, as befits a person whose career has been serving the very industry whose proposal she has been entrusted to impartially judge.

A truly impartial tribunal would have made an interim report to your predecessor asking why OPG had not been required to do a URL. A truly impartial tribunal would never have replicated OPG's and Kincardine's cover-up of the Ivey Business School Report as this JRP did.

We have also read your letter to the Panel Chair referring to a possible further role relating to the matters on which you have asked OPG to report in your letter of February 18, 2016. Based on their conduct, we do not think the Panel is qualified to play any further role.

We are SOS Great Lakes, a group of concerned Canadian and American citizens who have voluntarily opposed this plan since it first became known to us in 2012. Originally formed as SOS Save Our Saugeen Shores to successfully oppose the prospect of a spent fuel DGR in our

community, we have taken up the arduous task of informing ourselves of the many complex issues related to this proposed nuclear waste dump. Our membership includes people with diverse backgrounds who have devoted countless hours to studying this proposal, to following the extensive hearings, to researching nuclear waste experience around the world. The more we have learned, the more we consider the creation of a nuclear waste dump on the shore of Lake Huron to be a highly dangerous and ill-conceived endeavor.

Our concerns are only magnified by the deviousness of regulatory officials and OPG to force approval of this plan at any cost, including needlessly risking the lives of 40 million people who rely on the Great Lakes for drinking water. Surely, if this plan was based on sound scientific merit and addressed the safety and environmental concerns, there would have been no need for this underhanded and conspiratorial approach. We recognize that nuclear waste management is an increasingly important issue. We believe that burying it on the shore of the largest body of fresh water in the world is ludicrous. We have made it our mission to inform those people of this risk to them, to their offspring for one thousand centuries to come, and to the ecological treasure that constitutes the largest body of fresh water in the world.

Respectfully,



Jill Taylor, President  
SOS Great Lakes  
On behalf of the Board of Directors

With copies to:

The Right Honourable Justin Trudeau, Prime Minister of Canada  
The Honourable Kathleen Wynne, Premier of Ontario  
The Honourable James Carr, Minister of Natural Resources  
The Honourable Jane Philpott, Minister of Health  
The Honourable Stephane Dion, Minister of Foreign Affairs  
The Honourable Ralph Goodale, Minister of Public Safety and Emergency Preparedness  
The Honourable Bob Chiarelli, Minister of Energy  
The Honourable Eric Hoskins, Minister of Health and Long Term Care  
The Honourable Yasir Naqvi, Minister of Community Safety and Correctional Services  
The Honourable Glen Murray, Minister of the Environment and Climate Change  
The Honourable Bill Mauro, Minister of Natural Resources