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**Written Closing Remarks from
Saugeen Ojibway Nation**

**Observations écrites finales de
Saugeen Ojibway Nation**

In the Matter of

À l'égard de

Ontario Power Generation Inc.

Ontario Power Generation Inc.

OPG's Deep Geological Repository (DGR)
Project for Low and Intermediate Level
Radioactive Waste

Installation de stockage de déchets radioactifs à
faible et moyenne activité dans des couches
géologiques profondes

Joint Review Panel

Commission d'examen conjoint

October 2014

Octobre 2014

**Closing Remarks of the Saugeen Ojibway Nation – Hearings for the
Deep Geologic Repository Project for Low and Intermediate Level
Radioactive Waste - CEAA Ref. No. 06-05-17520**

October 9, 2014
Toronto, Ontario

1. OVERVIEW

The Saugeen Ojibway Nations (“SON”) have maintained for many years that OPG’s proposed DGR Project stands to adversely impact its Rights and interests in significant ways and that the nature and scope of these impacts are not yet known or knowable. SON has outlined its concerns through numerous written and oral submissions during these proceedings.¹ SON’s principal concerns have been the lack of clarity on the scope and key characteristics of the DGR Project, deficient study of potential adverse impacts on SON Rights and interests, the failure to consider the cumulative effects of the DGR Project with a reasonably foreseeable future used fuel repository, and a materially incomplete analysis of reasonable alternatives to the DGR Project. These concerns have not been satisfactorily addressed through subsequent evidence and analysis presented during the course of these hearings.

There remain significant deficiencies and uncertainties in the application for the DGR Project and in the record before the Panel. Because of these deficiencies, SON cannot fully and properly assess the nature and scope of potential impacts of the Project on its Rights and interests. Further, SON submits that, based on the existing record, it is not possible to make a final determination of the adequacy of the consultation process relating to the DGR Project at this time.

For this reason, SON submits that if the Panel decides to recommend approval of the DGR Project on the basis that it is not likely to cause significant adverse environmental effects, it should only do so on the basis that the outstanding issues and uncertainties are resolved through on-going engagement between SON and OPG pursuant to the SON-OPG Commitment,² as well as through on-going consultation processes between SON and the Crown as anticipated in the JRP Agreement for these proceedings.³

Finally, these proceedings have themselves raised new concerns for SON. Evidence has been introduced on matters relating to the relative technical merits and suitability of granitic and sedimentary rock as host formations for geologic repositories. Further, significant evidence and analysis has been provided respecting generalized issues of community acceptance and the “willing host community” concept. Neither of these issues were required to be considered as part of the review of this application, and evidence led was not substantiated or subject to full testing. Yet the record and decision of these proceedings may hold real precedential value for the development and review of future nuclear projects in SON territory—specifically, a future project for the geologic disposal for used nuclear fuel. SON respectfully submits that the Panel must make clear that these matters were not fully and properly canvassed in the proceedings and that it has made no findings based on the evidence led on these matters.

¹ Including: Application for Determination on scope of review, August 9, 2012; SON Written Submissions dated August 16, 2013; SON Supplementary Written Submissions, dated July 21, 2014; SON Oral Submissions on September 25, 2013; October 11, 2013; October 30, 2013, and September 17, 2014.

² SON August 2013 Submissions, at p.98

³ DGR JRP Agreement, s. 4.1 (c)

2. IMPACT OF PROJECT ON SON RIGHTS CANNOT BE DETERMINED

SON has explained through its various submissions that the record of this review reveals significant deficiencies and uncertainties that prevent SON, or anyone else, from coming to credible conclusions on the full impact the Project may have on SON Rights and interests.

Key deficiencies and uncertainties include: (1) the nature, scope and significance of potential impacts on SON Rights are not yet understood; (2) the scope of the Project itself is undefined and open-ended; (3) the ultimate technical suitability and safety of the Project cannot and will not be determined in advance; (4) no complete and credible analysis has been presented on whether the DGR Project is the best and safest approach for the management of low and intermediate level nuclear wastes, and (5) the relationship between the DGR Project and a future project for the disposal of used nuclear fuel waste has not been considered.

2.1 Nature, scope and significance of impacts on SON Rights and interests not understood

SON has led significant evidence on the nature and scope of its Rights and interests within its territory, and its reliance on the continued health, and perception of health, of its lands and waters.⁴ SON maintains that the Project stands to impact these rights in numerous ways which are, as yet, not fully understood.

There remains real uncertainty concerning the impacts the Project may have on the waters of Lake Huron and MacPherson Bay. MacPherson Bay, the most proximate connection to the proposed facility, has been identified by OPG and CNSC as aquatic habitats of poor quality. Yet, SON experts have indicated that the conditions present there are good nursing habitat, and consequently, productive fish habitat for Lake Whitefish, a critical species for SON both culturally, and for its sustenance and commercial fisheries.⁵ Data necessary to fully understand the role of these waters in the overall ecology of Lake Huron is still lacking,⁶ and it is not yet possible to draw the kinds of conclusions that OPG and CNSC invite the Panel to accept. Uncertainty regarding potential impacts from the Project on MacPherson Bay are compounded by continuing questions respecting the ultimate design and function of the Storm Water Management Pond.

OPG acknowledges that the Project will have an impact on the Saugeen Ojibway burial grounds, or Jiibegmegoong. This will interfere with the SON communities' use and visitation of the site for ceremony during the construction and operations phases of the

⁴ See generally, SON August 2013 Submissions, sections 2 and 3.

⁵ SON August 2013 Submissions, at p. 53; Testimony of Dr. Crawford October 11, 2013; September 17, 2014.

⁶ *Ibid.*

Project. Importantly, the existence of the facility itself stands to have an enduring impact on the use and visitation of Jiibegmegoong as well as broader SON cultural and spiritual uses, understanding and connection to the land. This matter has not been addressed during these proceedings, as will be explained more fully below.

SON has led significant evidence that there is a very high risk that DGR Project-related stigma will have serious adverse impacts on SON's commercial fishery and tourism-based economy. These impacts are not only economic, but have a far deeper cultural significance. Moreover, these two economies are key current drivers of the overall SON economies and how the SON people have come to rely on their territory in a modern context. Any adverse impacts to these economies threaten, fundamentally, SON's ability to sustain itself economically and culturally from its territory.⁷ The potential for the Project to generate a stigma effect and its impact on SON Rights and interests has not been properly addressed in these proceedings. Dr. Leiss, an independent expert engaged by the Panel, acknowledged the potential for stigma, acknowledged the difficulty of dealing with stigma effects, and suggested that the resolution of the issue would lie in a negotiated outcome and acceptance of the potential impacts by those who will experience them.⁸

The Project stands to have a significant impact on the cultural and spiritual identity of the SON communities, their connection to and perception of the land and waters, and their perception of the value of the plants and animals.⁹ This will almost certainly have a deep and enduring impact on SON members and the continued exercise of their rights within the SON territory.

OPG's assessment of significance of the DGR's residual adverse effects on aboriginal interests has a fundamental flaw – the aboriginal perspective was not considered in determining significance. OPG acknowledges that “[t]here are no absolute effects thresholds to use when evaluating effects that diminish the quality or value of activities undertaken by Aboriginal peoples at Aboriginal heritage resources.”¹⁰ OPG bases its significance assessment on “the professional judgment of the experts who performed the assessment.”¹¹ OPG appears to have considered a significance effect to the resource that Aboriginal people have an interest in, rather than consider the significance to the Aboriginal people of the diminished resource.

As SON has stated, the current analysis of significance is inherently flawed, as it fails to understand and take into consideration the view of Aboriginal peoples themselves. It is self evident that the significance of impacts to culturally and spiritually important sites and activities cannot be credibly or meaningfully assessed except by the Aboriginal people, the SON communities, themselves.

⁷ SON August 2013 Submissions, at p. 46

⁸ DGR Hearing Transcript, October 8, 2013, pp. 167 - 175

⁹ See generally: SON August 2013 Submissions, Section 2; Oral Submissions of Chief Kahgee, September 25, 2013

¹⁰ OPG Consolidated Responses, page 122 of 537.

¹¹ OPG Consolidated Responses, page 122 of 537.

These are not mere issues of “perception”. As the Aboriginal people of the land, their understanding of and connection to the land is the foundation of their culture and identity as a people. The DGR Project, if not understood and accepted by the SON communities, would fundamentally alter their perception of their territory, create anxiety and cleave their connection to the land and waters. As explained by then Chief Kahgee: “OPG has planned its Project to dispose of nuclear waste in our Territory forever. It will create permanent harms and risks for our Territory and people. It will forever change our Territory and become part of the stories of our land, our cosmology. But it is not a positive story.”¹²

Uncertainty surrounding the nature, scope and significance of impacts the Project may have on SON Rights and interests is increased by numerous additional uncertainties respecting the Project itself. Many of these could materially increase the risk to SON and introduce new sources of harm to SON Rights and interests.

2.2 Scope of Project is undefined and open-ended

It is now confirmed that the DGR Project will be expanded – doubled in size – in order to house decommissioning wastes from OPG’s nuclear reactors. The proposed project is no longer a repository for 200,000 cubic meters of operational and refurbishment low and intermediate level nuclear waste, but a phased-in repository project for 400,000 cubic meters of operational, refurbishment and decommissioning low and intermediate level nuclear waste. This represents a very significant change in the nature and scope of the Project and was not the basis of the EIS or safety case, and it was not the basis of OPG’s engagement with SON.¹³

Compounding this uncertainty, other fundamental questions were raised during the hearings respecting the ultimate use of the DGR facility that still remain unanswered, including its future potential use for increased volumes of intermediate level nuclear waste or even used nuclear fuel wastes.¹⁴ How this repository will ultimately be used and developed is an open question. The exact size of the repository and the waste streams it will house will be determined at a later date, and in response to future OPG business decisions. What OPG proposes and seeks approval for is an open-ended project.

¹² Kahgee Affidavit, Appendix to SON August 2013 Submissions, at para. 70.

¹³ It is reasonably foreseeable further expansion of the DGR Project will be necessary to accommodate increased operational and refurbishment waste volumes. OPG has calculated the 400,000 cubic meter size requirement on the assumption that all of its nuclear generating stations will be shut down by approximately 2050. OPG has provided no justification for this assumption, which seems unsupported by current demand and supply predications. Continued reliance on nuclear generation will necessarily produce additional wastes and push for further expansions of extant repositories. There has been no evidence led, nor statements made to confirm, that the DGR Project site cannot be expanded beyond the 400,000 cubic meter size.

¹⁴ SON July 2014 Submissions, at pp. 15 and 16

OPG and CNSC have both stated that any future related project, including expansion, would be subject to further review. SON has stated that it would be highly imprudent to approve the construction of the Project now in reliance on future, speculative, regulatory processes to address the most basic characteristics of the Project.¹⁵

SON has repeatedly asked for an analysis that would clearly set out which future project evolution scenarios would trigger regulatory processes, and the precise nature of those processes, including the scope and mandate of the review and opportunities for public participation. CNSC has not provided such an analysis or clarity. In fact, CNSC recently clarified that it did not expect that an environmental assessment under CEAA 2012 would be required for the expansion of the DGR Project to accommodate decommissioning wastes.¹⁶ Full panel review under CEAA remains the highest, most extensive form of environmental assessment in Canada, and continues to be relied upon by the Crown as a central tool in fulfilling its consultation obligations. Now, we are left with the possibility that a new project of this magnitude will be developed and reviewed without this level of review or degree of Aboriginal participation.

2.3 Technical suitability and safety of site not determined in advance

The ultimate safety and suitability of the DGR Project site must be determined through investigation of the site itself during the construction of the facility. SON has previously expressed its concern about OPG's "wait and see" approach and the absence of clearly defined and testable trigger points and "go / no go" events, and that the GVP needs to have a clear go / no-go decision-making function, and not just facilitate engineering fixes to compensate for inadequate or non-conforming natural conditions.¹⁷

In the final day of hearings, it was confirmed that this would not be done, and that CNSC had no expectation of a quantified set of go / no go parameters.¹⁸ Rather, CNSC would engage in an iterative process of reviewing the safety case based on new data.¹⁹ This process has not been fully or adequately explained, nor have there been clear statements about the possibility of review and testing of these processes.

SON maintains that it is inconsistent with a proper and precautionary approach that site problems could be "engineered around" rather than avoided from the outset. As it stands, the most basic question for this Project – *can the site hold the nuclear waste safely over many tens of thousands of years?* – will not be answered in advance, and is not open to review or assessment by this Panel. Again, this most basic project characteristic will be answered in future regulatory processes that are not yet defined.

¹⁵ July 2014 Submissions, at pp. 16 and 17

¹⁶ Testimony of Dr. P. Thompson, Hearing Transcripts, September 17, 2014

¹⁷ SON July 2014 Submissions; PMD 13-P1.166 Oral Intervention by Saugeen Ojibway Nation, dated August 16, 2013 (CEARIS Ref. Doc. #1427) ("SON Oral Intervention of August 16, 2013"), pages 53-55; Hearing Transcript Volume 22: October 11, 2013 (CEARIS Ref. Doc. #1704), page 15.

¹⁸ Hearing Transcript, September 18, 2014, at pp. 237-238

¹⁹ *Ibid.*, at pp. 16-17, 102-104, 111-115.

2.4 No evidence or analysis to assess whether DGR Project is best and safest approach

SON understands the DGR Project as part of a broader nuclear waste management strategy for the Bruce Nuclear site and the SON territory. SON leadership and communities continue to seek assurance that the DGR Project represents the best and safest management option for low and intermediate level nuclear wastes. It is for this reason that SON has expressed its concerns about the adequacy of OPG's alternative means assessment, and sought further and better data and analysis.²⁰

SON maintains that Independent Expert Group reports (the "IEG" and "IEG Reports") provided by OPG in response to EIS 12-513 provide no new substantive analysis or information on the alternative means assessment.²¹

The IEG Reports fail to consider credible and reasonable alternatives to the DGR Project. The IEG did not consider the possibility of segregation of long-lived ILW for eventual disposal with used fuel. It did not believe it within their mandate to do so. In testimony, Dr. Leiss clarified that his group did acknowledge this approach being employed in both Spain and France, but did not feel it was an option in the Canadian context. For reasons previously explained,²² SON does not agree with this. First, Canada is already implementing a national strategy for the management of high-level waste through disposal in a geologic repository. Second, OPG has acknowledged that it plans to emplace certain ILW-LL waste streams in the HLW repository.²³ The Panel has heard no evidence of material technical or legal obstacles to this approach.

The IEG also failed to consider a credible granitic DGR. As explained in both written and oral submissions, the IEG failed to take into account ample available data on granitic sites, despite direction to do so; based its assessment on a theoretical site which had numerous deficiencies, including the same key perceived flaw as the DGR Project, proximity to a large lake; made unfounded assumptions and conclusions on transportation requirements and risks; and drew unfounded conclusions about the relative risk and suitability of granite and sedimentary rock as host formations for geologic repositories.²⁴

Taken together, the failure to consider these two viable alternatives, reasonably characterized, account for virtually all differences in risk profiles that would seem to speak in favour of the DGR Project. As a consequence, the analysis of the IEG in its various reports is significantly skewed in favour of the DGR Project.²⁵

²⁰ SON August 2013 Submissions, section 4.3.1; SON July 2014 Submissions, section 5.

²¹ *Ibid.*

²² SON August 2013 Submissions, , pp. 65-69; and SON July 2014 Submissions, pp. 24-26.

²³ Hearing Transcript, September 23 2013, pages 16, 58-60.

²⁴ SON July 2014 Submissions, pp. 26-30

²⁵ This is acknowledged in the IEG Report itself OPG Consolidated Responses, page 260 of 537.

SON has previously set out the serious shortcomings in the methodology employed by the IEG in its analysis of relative risk. In summary, the IEG Reports are based on a framework and approach that is insufficiently explained and justified, yet is suggestive of scientific rigour. Analyses are not transparent, defensible or reproducible, and do not generate any reliable parameters that can be used to compare alternatives or determine the best and safest approach to the disposal of long-live radioactive waste.²⁶ In testimony, the IEG described a “work-shopping” approach, and acknowledged that given time constraints, it did not consider other, more objective and repeatable approaches to its work.²⁷ SON experts testified that there are well understood and accepted approaches to expert judgement elicitation, and provided references to peer-reviewed articles explaining the process, including in the nuclear context.²⁸

Finally, the IEG came to no conclusions on relative risk acceptance or community acceptance with respect to the four options it considered. Instead, it provides a general discussion of risk acceptance and performs a questionable analysis of relative *risk acceptability* of the considered options. As SON has stated, this analysis is nothing more than a repeat of its flawed assessment of relative risk, and cannot be taken to address the far more complex and important question of risk acceptance or community acceptance.²⁹

2.5 Connection between DGR Project and future HLW DGR not considered

SON has consistently taken the position that a future project for the long-term management of used nuclear fuel (the “HLW DGR”) must be part of the cumulative effects analysis of the DGR Project review. As explained in previous SON submissions, the HLW DGR is a reasonably foreseeable project and there is a real and demonstrable connection between the DGR Project and the HLW DGR project.³⁰ Further, the DGR Project will act to induce the HLW DGR project and significantly increase the likelihood of its development within the Study Area and in SON territory.³¹

In a pre-hearing ruling, the Panel declined to consider the HLW DGR as a reasonably foreseeable project in the context of these proceedings. This was a decision made early and without the benefit of more recent information that further militates towards a consideration of the HLW DGR as part of the cumulative effects assessment for the DGR Project, including suggestion by CNSC that there are no barriers to a future request by

²⁶ SON July 2014 Submissions, section 5.

²⁷ Testimony of IEG members, Hearing Transcript, September 11, 2014, at pp. 241-243

²⁸ Testimony of John Greeves, DGR Hearing Transcripts, September 18, pp. 7-11; M. M. Merkofer, Quantifying Judgment Uncertainty: Methodology, Experiences and Insights, IEEE Trans.Syst., Man & Cyber. 17 (1987); N. R. Ortiz, Use of expert Judgment in NUREG-1150, Sandia National Laboratories, Albuquerque, NM (1991); Vick, S. G. (2002); Degrees of Belief: Subjective Probability and Engineering Judgment, ASCE Press, ISBN 0-7844-0598-0; W.J. Roberds, Methods for Developing Defensible Subjective Probability Assessments, Trans. Research Record 1288 (1990).

²⁹ SON July 2014 Submissions, section 5.4

³⁰ See generally, SON Application August 2012, part II D; SON August 2013 Submissions, section

4.1.2

³¹ *Ibid.*

OPG or others to use the DGR Project for used fuel wastes, evidence of the possibility of expansion of the DGR Project facility, and ample evidence of public and intervenor concerns about and confounding of the two DGR Projects.

3. DGR PROJECT REVIEW AS PRECEDENT FOR FUTURE NUCLEAR PROJECTS, INCLUDING HLW DGR

Evidence has been introduced in these proceedings on matters relating to the relative technical merits and suitability of granitic and sedimentary rock as host formations for geologic repositories. In particular, the IEG made clear conclusions, albeit unsubstantiated, about the relative technical advantages of sedimentary and granitic host formations.³² It also concluded that the DGR Project site, which it referred to as the “Cobourg DGR”, had a lower relative risk than a “Granitic DGR”. Its conclusions were based on a number of factors including geological characteristics, feasibility of site characterization, reduced transportation risks, and an existing nuclear community.

Any decision by the Panel which endorses, or is based on, the conclusions of the IEG or other evidence respecting the relative risk of a “Cobourg DGR” and a Granitic DGR might be seen as precedent or support for the development of the HLW DGR within the Cobourg formation.³³ The evidence presented on these matters in these proceedings is fundamentally unsubstantiated and untested and with inadequate opportunity for regulatory authorities or intervenors, including SON, to provide full response. For this reason, SON submits it would be highly improper for any such evidence to be relied on as a basis for decision in these proceedings.

A related concern arises with respect to the issue of community acceptance. The DGR Project application has been based on the existence of community acceptance, and more specifically, the concept of a “willing host community.”³⁴ The language of “community acceptance” has persisted throughout these proceedings, including in the Panel’s most recent request asking OPG to produce an alternative means risk analysis which includes analysis of community acceptance.

As has previously been explained, the evidence offered in support of community acceptance³⁵, and the approaches taken to determine community support³⁶ cannot be accepted. SON submits that there is, as yet, no sound or compelling evidence of broad community support for the project.

³² See generally: SON July 2013 Submissions, at pp.26 to 30; Testimony of Dr. Dusseault, Hearing Transcripts, September 11, 2014, and specifically at pp. 109-111

³³ CNSC raised a similar concern in its presentation on September 11, 2014, concluding that “out of context statements about rock types in general presented in an expert report may give misleading information about the suitability requirements for this and other DGR projects proposed that may be proposed in the future”, Testimony of Dr. Brown, at pp. 38 and 39.

³⁴ SON August 2013 Submissions, at pp. 76 and 77

³⁵ SON August 2013 Submissions, section 4.3.2

³⁶ SON July 2014 Submissions, section 5.4

Of even greater concern is the use of the term and concept of “willing host community.” SON has explained that the term has been used in the context of the DGR Project without application of the core principles of the concept as set out in Canadian policy, or international guidance documentation. To allow a superficial and gratuitous use of the term guts the concept and sets a dangerous precedent for its application in future processes—in particular, the HLW DGR siting process.

More generally, SON does not accept that a municipality, or group of municipalities, could be deemed “host” communities for a major nuclear projects at the Bruce Nuclear Site, or otherwise within the SON territory, to the exclusion of SON. It is unthinkable to SON that a municipal corporation would be empowered to make decisions on behalf of SON, or in place of SON, that could materially impact SON’s Rights and interests within its territory. It is SON’s fundamental position that SON must be considered a “host” for any major nuclear project within its territory.

SON states that its “acceptance”, or “willingness” can only be determined through a clear expression of acceptance or support from the SON communities themselves, and after a deep engagement process between SON, the proponent, regulators and the Crown. SON believes that a process like the one committed to by OPG with respect to the DGR Project is a full expression of this approach and what is envisioned and required by concepts like “willing host community” and volunteerism under the adaptive phased management process.³⁷

4. ON-GOING PROCESSES REQUIRED TO RESOLVE SON ISSUES

For the reasons set out above, SON submits that there remain significant deficiencies and uncertainties in the application for the DGR Project and that, consequently, SON cannot fully and properly assess the nature and scope of potential impacts of the Project on its Rights and interests. SON further submits that, based on the existing record, it is not possible to make a final determination of the adequacy of the consultation process relating to the DGR Project at this time.

SON submits that if the Panel decides to recommend approval of the DGR Project, it should only do so on the basis that the outstanding issues and uncertainties relating to potential impacts on SON Rights and interests are resolved through on-going engagement between SON and OPG pursuant to the SON-OPG Commitment, as well as through on-going consultation processes between SON and the Crown as anticipated in the JRP Agreement for these proceedings.

As the Panel is aware, by way of letter dated August 7, 2013, OPG has committed to SON that OPG will not move forward with the construction of a deep geologic repository for low and intermediate level nuclear waste until the SON community is supportive of the project (the “SON-OPG Commitment”). SON has submitted that the SON-OPG Commitment is a necessary mechanism to ensure that SON and its members can fully

³⁷ SON Oral Submissions, Hearing Transcript, September 17, 2013

understand and assess the potential impacts of the Project on their Rights and interests, identify and implement mechanisms to address those impacts, and determine how the Project could contribute to the resolution of the broader nuclear waste management issues within the SON territory.

For this reason, SON has submitted that the SON-OPG Commitment must be acknowledged and reflected in the EA Report and, if the project is recommended for approval, must be made a recommended condition of that approval. Further, SON has submitted that this commitment should be acknowledged and integrated in subsequent regulatory processes to the extent possible within the relevant legislative frameworks.

OPG has included the SON-OPG Commitment in its “DGR Project Consolidated Commitment List,” dated June 6, 2014 (LIC-164, Table A.5, “Commitments in Other OPG Submissions”).

SON submits that if this Project is recommended for approval, the recommendation be made on the basis that mitigation measures proposed and commitments made by OPG during the review and the Panel’s recommendations are implemented, including the SON-OPG Commitment.³⁸ SON respectfully submits that the Panel make specific recommendations that:

- OPG must implement, at a minimum, all of the policies, practices, programs, mitigation measures, recommendations, and procedures referred to in the EIS, OPG’s Consolidated Commitments List or otherwise committed to during the proceedings.
- OPG must track the implementation of its commitments and report on the status and progress of such implementation to the appropriate responsible authority on a regular and timely basis.³⁹

The JRP Agreement for these proceeding specifically anticipates on-going consultation processes between SON and the Crown with respect to the Project.⁴⁰ As one aspect of this consultation process, SON respectfully submits that the Panel make a specific recommendation to CNSC, and other responsible provincial and federal authorities as appropriate, that they continue to work with SON and OPG to determine how subsequent regulatory processes, including licence applications, can reflect, be harmonized with, and act to promote the SON-OPG Commitment as well as any specific actions or measures that result from SON and OPG’s engagement under the commitment.

³⁸ An analogous provision was made in the recent Panel Report for the Darlington New Nuclear Power Plant Project, August 2011, Report Summary, at p.i. The Panel also recognized a third party agreement, concluding: “the Project was not likely to result in significant adverse socio-economic environmental effects, taking into account the implementation of mitigation measures, such as the Clarington Host Municipality Agreement...” Darlington Panel Report, August 2011, at p. 94

³⁹ Similar provisions were made in the recent Panel Report for the Enbridge Northern Gateway Project, 2013, Volume 2, Appendix 1, pp. 366 and 367

⁴⁰ JRP Agreement, s. 4.1 (c)