

September 26, 2014

Mr. John Mann

Subject: Your submissions (emails) of August 3rd, 4th, 7th, 15th, 25th and September 6th - Request for ruling

Dear Mr. Mann,

The DGR Joint Review Panel (the Panel) has reviewed and considered the multiple requests for ruling embedded in your above-noted emails. Though the Panel recognizes that some of the requests have already been dealt with in previous rulings or that your submissions represent a compilation of your personal views and objections to the DGR and do not necessarily provide sufficient information to support a request for ruling, the Panel has decided that it was important to provide clarification and responses to the various allegations.

A) Acceptance of previously rejected submission - Apprehension of bias

In your August 3rd email, you request that the Panel recuse itself on the basis that the alleged treatment of your hearing submission is, as you state, confirmation of bias or appearance of bias against you.

The Panel reviewed the treatment of your submission and contrary to your statement, it did not change its decision with regard to your submission filed for the additional public hearing days. In accordance with the Amended Public Hearing Procedures, (the Procedures - CEAR # 1868) your submission was reviewed using criteria applicable to all submissions and was accepted by the Panel. Embedded in the volumes attached to your submission were a number of emails that the Panel had previously reviewed and rejected as they did not meet the criteria the Panel used to evaluate all the information received prior to the announcement of the new hearing days. It is only those emails that were removed from your hearing submission.

Accordingly, the Panel has determined that there is no evidence supporting your allegations that it treated your submission differently from all of the other

submissions it received. The Panel notes that you were granted registered participant status, your submission was accepted and you were provided with the opportunity to make an oral presentation during the hearing. Furthermore, you were allowed to pose questions on each day of the hearing in accordance with the Procedures.

Having reviewed the facts, the Panel concludes that you have not raised any suspicion of bias or appearance of bias against you and rejects your request that the Panel members recuse themselves.

B) "No need for the DGR"

In your August 4th email, you ask that the Panel dismiss OPG's application for the DGR because, in your view, there is no need for such a project. This request is similar to the one put forward in your request for preliminary ruling filed July 22, 2013 in which you stated that the DGR review process was "unnecessary." Then as now, the Panel is of the view that the material submitted amounts to a compilation of your personal views and objections to the DGR project, which you are rightly entitled to, but that is not sufficient to bring the review process to a halt. The mandate of the Panel is to conduct the review and the public hearing in a manner that ensures a thorough examination of the project as proposed by Ontario Power Generation Inc.

The Panel has been conducting and continues its review of the project in a manner that discharges its mandate as described in the Agreement to Establish a Joint Review Panel for the Deep Geologic Repository Project by Ontario Power Generation Inc. within the Municipality of Kincardine (the Agreement). The Panel sees no reason to dismiss OPG's application based on your August 4th email.

C) Alleged improperly closed meetings between council representatives and OPG and unsatisfactory remedy

In your August 7th, 15th, 25th and September 6th emails, you refer to certain irregularities associated with closed meetings between County Council representatives and representatives of OPG, as described in the Report to the Corporation of the County of Bruce Regarding the Investigation of Alleged Improperly Closed Meetings of County Council, (the Report) dated July 2014, as grounds to terminate the review process and start over with citizens "participating and running the process."

In addition to starting the DGR process all over again, you request, in the alternative, that all the letters supporting the project and the written documentation filed by various Councils or representatives be excluded from the Joint Review Panel's record and not be considered.

It is important to remember that the Panel's mandate, as described in the Agreement, is to conduct the review in a manner that:

- a) Discharges the requirements set out in the Canadian Environmental Assessment Act 2012;
- b) Permits it to obtain the information and evidence required for it to consider the Licence Application under the Nuclear Safety and Control Act; and,
- c) Permits it to obtain information and evidence about the adverse effects the project may have on potential or established Aboriginal rights, title or treaty rights as identified to the Joint Review Panel by the Saugeen Ojibway Nations and enables it to bring any such information and evidence to the attention of the Minister of the Environment and the Responsible Authorities for the Project in support of consultation between the Crown and the Saugeen Ojibway Nations.

It is not within the mandate of the Panel to venture into the requirements or specificities of the Ontario Municipal Act or to determine whether the Report's recommendation is or is not an appropriate remedy under the circumstances. The Panel does not agree with your characterization of the events and rejects your request to terminate the DGR process.

As part of the review process, the Panel will consider all the information it received or requested to fulfil its mandate. The Panel does not grant your request to expunge its record of the letters supporting the project and the written documentation filed by various Councils or representatives. This information, as for all of the information on the record, will be assessed within the confines of the Panel's mandate and applicable regulatory framework.

D) Breach of Due Process, Democratic and Charter Rights

As stated previously by the Panel to you, the role and mandate of the Panel is very different from that of a court which entertains adversarial proceedings or that adjudicates over individual rights. The role of an expert panel is to gather all of the information it requires to fulfill its mandate and to use its expert judgment in the formulation of the rationale to support its recommendations and conclusions. The approach followed by the Panel for its review of the Project is designed specifically to allow it to perform its tasks and mandate which are quite different from those applicable to courts. Contrary to what you state, the Panel is of the view that it has conducted the review process and the public hearing in a manner that ensures a thorough examination of matters relevant to its mandate while providing for meaningful public participation and ensuring procedural fairness.

Conclusion

The Panel has determined that your requests for ruling embedded in your various emails do not contain any substantial information or raise concerns that warrant granting the reliefs sought: your requests are denied.

Any questions that you may have may be directed to the Panel Co-Managers, Kelly McGee at (613) 947-3710 or Debra Myles at (613) 957-0626.

Sincerely,

original signed by

Stella Swanson

Chair

Deep Geologic Repository Joint Review Panel

c.c.: James F. Archibald, Joint Review Panel Member

Gunter Muecke, Joint Review Panel Member