



**Métis Nation of Ontario**  
Lands, Resources and Consultations

March 21, 2017

Ms. Cindy Parker  
Panel Manager, Review Panels Division  
Canadian Environmental Assessment Agency  
22<sup>nd</sup> floor Place Bell  
160 Elgin Street  
Ottawa, ON K1A-0H3

Dear Ms. Parker:

**Re: Métis Nation of Ontario Comments on Ontario Power Generation Minister's request for additional information on an Alternative Locations, Cumulative Environmental Effects and Mitigation Measures Report.**

I am writing to you on behalf of the Métis Nation of Ontario (MNO) including the Moon River Métis Council, the Georgian Bay Métis Council and the Great Lakes Métis Council, collectively known as the Georgian Bay Traditional Territory Consultation Committee.

Please find attached the MNO's initial comments in respect of the Ontario Power Generation's (OPG) response to the request made by the Minister of Environment and Climate Change Canada (the "Request") concerning the Deep Geologic Respiratory (DGR) licensing Application (the "Application"). Specifically, these comments take into consideration the following OPG response in relation to the Request:

- 1) Ontario Power Generations Cover Letter dated December 28, 2017;
- 2) The Study of Alternate Locations, Main Submission
  - The Description of Alternate Locations
  - The Environmental Effects of Alternate Locations
  - The Cost and Risk Estimate for Packaging and Transporting Waste to alternate Locations;
- 3) The Updated Analysis of Cumulative Environmental Effects
  - The Adaptive Phased Management (APM) DGR Preliminary Description;
- 4) The Mitigation Measures Report; and
- 5) The Addendum and Errata to OPG's Submission of December 28, 2016 (submitted January 13, 2017)

As you know, the Métis are one of three distinct Aboriginal peoples in Canada, whose rights, interests and way of life are constitutionally protected under section 35 of the *Constitution Act, 1982*. The MNO has Aboriginal rights in the lands, waters and natural resources within the area in respect of which the Application is being proposed. These rights are held as collective rights by the regional rights-bearing Métis community defined as the Georgian Bay Traditional Harvesting Territory, as represented by the MNO. The Crown therefore has a duty to consult the Métis before making a decision, taking any action, or issuing an approval that could have any impact on such Aboriginal rights, interests or way of life.

The MNO has been engaged with OPG since the execution of a Memorandum of Understanding (MOU) on 18 July 2014. This engagement has included the sharing of the following initial comments related to the Request and OPG's ongoing commitment to the MNO to address these comments. According to the MOU that the MNO has with OPG, the MNO intends to actively engage OPG on the comments identified within this covering letter and the attached technical review (the MNO's "Submission"). The MNO anticipates that the majority of our comments in relation to the Request will be meaningfully addressed at that table and prior to the Minister making a decision. The MNO respectfully requests that the Canadian Environmental Assessment Agency (CEAA) accept the following as initial "draft" comments, provide the MNO and OPG the time required to address these comments and that the CEAA inform the MNO prior to finalizing its Minister's Report in order for the MNO to be able to ascertain which comments (if any) identified within this Submission have not yet been meaningfully addressed by OPG.

**The enclosed draft comments make clear that OPG's response to the Request contains certain deficiencies that will make it difficult for the CEAA to conclude that OPG's response has appropriately taken into consideration Métis rights, interests and way of life considerations.** The enclosed comments identify and explain many of these deficiencies, including with respect to the following areas of OPG's response:

#### Comments on the Study of Alternate Locations

The main issue with the Study of Alternate Locations is the lack of information related to the MNO. In reading these documents, it would appear that little consultation has taken place with the MNO, which is not in fact the case. No consideration has been given to the comments that the MNO has submitted to date, there is no discussion of the VECs selected for use in the Annual Monitoring Program for the DGR and there is no recognition of the Métis involvement beyond a brief reference to the agreement.

#### Comments on the Updated Analysis of Cumulative Environmental Effects

Similar to the Study of Alternate Locations, the Updated Analysis of Cumulative Environmental Effects does not include information related to the MNO. More troubling is the focus of this analysis on the 'consent' of another rights-bearing Aboriginal group with no reference to a similar consent requirement from the MNO. Further, this document outlines the Project effects from the original EIS. This listing included both residual effects and instances where the effects were not found to be residual. In both cases, no effects to Aboriginal (Indigenous) interests were listed. This is problematic for a number of reasons. First, the original EIS did include an Aboriginal Interests VEC. This was not carried forward in any way for this analysis. Second, the MNO, as mentioned above, has provided comments to OPG since the filing of the EIS and has been working collaboratively in consultation to arrive at VECs for use in the Annual Monitoring Program for the DGR. None of this information was used or incorporated. It is recommended therefore that OPG use the MNO-proposed VECs to consider potential effects to Metis rights, interests and way of life in any additional information that is filed on this Project.

#### Comments on the Mitigation Measures Report

The mitigation measures do not have any additional Métis specific measures identified. However, there is some opportunity for the MNO to request input/additional consultation from OPG in relation to some Indigenous related mitigation commitments. These include noise levels, vibration and natural assets, soil quality and air Quality.

We look forward to your response to our comments in due course and to convening a meeting within the next few months so that we may discuss and address these comments.

Should you have any questions or concerns regarding this letter or the enclosures, please do not hesitate to contact Mr. James Wagar, MNO Lands, Resources and Consultations Branch Manager by telephone at <contact information removed> or via email at <email address removed> .

Yours truly,  
<Original signed by>

Pauline Richardson  
Chair, Georgian Bay Traditional Territory Consultation Committee  
Region 7 Councillor – Provisional Council of the Métis Nation of Ontario

c.c.

M. Margaret Froh, President, Métis Nation of Ontario

Georgian Bay Traditional Territory Consultation Committee, Métis Nation of Ontario

Peter Coture, President, MNO Great Lakes Métis Council  
David Dusome, President, MNO Georgian Bay Métis Council  
Larry Duval, Senator, MNO Moon River Métis Council  
Greg Garratt, Captain of the Hunt, MNO Region 7

Wenda Watteyne, A/Chief Operating Officer, Métis Nation of Ontario

Aly N. Alibhai Director, Lands, Resources and Consultations Branch of the Métis Nation of Ontario

James Wagar, Manager, Lands, Resources and Consultations Branch of the Métis Nation of Ontario



March 8, 2017

James Wagar  
Manager of Natural Resources and Consultation  
Métis Nation of Ontario  
Email: <email address removed>

**RE: Métis Nation of Ontario Comments on the Additional Information Submitted by the Proponent, Ontario Power Generation, in response to the Ministers Request.**

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Dear Mr. Wagar,

As per our identified Scope of Work, we are writing to provide detailed tables of comments and concerns with respect to the above mentioned matter and to provide an overview of the comments and concerns herein.

As part of our Scope of Work, we reviewed:

- The Cover Letter dated December 28, 2016
- The Study of Alternate Locations, Main Submission
  - The Description of Alternate Locations
  - The Environmental Effects of Alternate Locations
  - The Cost and Risk Estimate for Packaging and Transporting Waste to Alternate Locations
- The Updated Analysis of Cumulative Environmental Effects
  - The Adaptive Phased Management (APM) Deep Geologic Repository (DGR) Preliminary Description
- The Mitigation Measures Report
- The Addendum and Errata to OPG's Submission of December 28, 2016 (Submitted January 13, 2017)

Based on our review, we have divided our comments into three categories, comments on the Study of Alternate Locations, comments on the Updated Analysis of Cumulative Environmental Effects and comments on the Mitigation Measures Report.

## **Comments on the Study of Alternate Locations**

The main issue with the Study of Alternate Locations is the lack of information related to the Métis Nation of Ontario (MNO). In reading these documents, it would appear that little consultation has taken place with the MNO, which is not the case. There is no consideration of the comments MNO has submitted to date, no discussion of the VECs selected for use in the Annual Monitoring Program for the DGR and no recognition of Métis involvement beyond a brief reference to the agreement. To date there has been minimal conversation on the alternate site location with MNO. There is an opportunity for topics, such as this, to be addressed at the quarterly MNO – OPG meetings.

Both the crystalline and sedimentary locations had opportunities for discussion of Métis specific information. For example, Métis specific information could have been discussed in the species listing for the terrestrial environment. The error of omission was repeated in the supporting documentation (description of alternate locations, environmental effects of alternate locations and cost and risk estimate for packaging and transporting waste to alternate locations).

For detailed comments on the Study of Alternate Locations, please see **Appendix A**.

## **Comments on the Updated Analysis of Cumulative Environmental Effects**

Similar to the Study of Alternate Locations, the Updated Analysis of Cumulative Environmental Effects does not include information related to the Métis Nation of Ontario. More troubling, is the focus of this analysis on the ‘consent’ of another rights-bearing Aboriginal group with no reference to a similar consent requirement from the Métis Nation of Ontario.

The Métis are one of three distinct Aboriginal people in Canada whose rights, interests and way of life are constitutionally protected under Section 35 of the *Constitution Act, 1982*. There is no hierarchy of Section 35 rights; there is no case law that exists to support this idea<sup>1</sup>. The Métis Nation of Ontario is a recognized rights holder in the Project area. Indeed, the Project is located within the Métis Nation of Ontario Georgian Bay Traditional Harvesting Territory as defined in the 2001 MNO-MNR Harvesting Agreement. Based on the described approach in this document (i.e. seeking consent from only one rights-bearing Aboriginal group) seems to imply that OPG is treating Métis rights as “lesser than” other Aboriginal group’s Section 35 rights.

Further, this document outlines the Project effects from the original EIS. This listing included both residual effects and instances where the effects were not found to be residual. In both cases, no effects to Aboriginal (Indigenous) interests were listed. This is problematic for a number of reasons. First, the original EIS did include an Aboriginal Interests VEC. This was not carried forward in any capacity for this analysis. Second, the MNO, as mentioned above, has provided comment to OPG since the filing of the EIS and has been working collaboratively in consultation to arrive at VECs for use in the Annual Monitoring Program for the DGR. None of this information was used or incorporated. It is recommended that OPG use the MNO-proposed

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<sup>1</sup> “A Matter of Nation and Constitutional Import: Report of the Minister’s Special Representative on Reconciliation with Metis: Section 35 Metis Rights and the Manitoba Metis Federation Decision” Thomas Isaac. June 2016

VECs to consider potential effects to Metis rights and interests in any additional information that is filed on this Project.

For detailed comments on the Updated Analysis of Cumulative Environmental Effects, please see **Appendix B**.

**Comments on the Mitigation Measures Report**

The mitigation measures do not have any additional Métis specific measures identified. However, there is some opportunity for the Métis Nation of Ontario to request input/additional consultation from Ontario Power Generation in relation to some Indigenous related mitigation commitments. Including:

VC	Mitigation/Monitoring Commitment Number	Suggestion
Noise Levels; Vibration; Natural Assets.	MON-A-05	<p>This monitoring commitment states that monitoring locations for noise and vibration monitoring will be identified through consultation with Aboriginal groups.</p> <p>The Métis Nation of Ontario should be involved in identifying Métis specific locations for this commitment. This could be done though consultation at community meetings or these sites could be selected based on harvesting sites identified within the MNO Traditional Knowledge and Land Use Study for this Project.</p>
Soil Quality	MON-R-03	<p>This monitoring commitment states that soil samples will be collected within the Site Study Area and Local Study Area as part of the Radiological Environmental Monitoring Program.</p> <p>At minimum, MNO should request annual or bi-annual reporting on the Radiological Environmental Monitoring Program be presented to MNO leadership for dissemination to MNO citizens.</p> <p>MNO could also request participation in the ongoing Monitoring, including relevant training.</p>
Air Quality	MON-A-03	<p>This monitoring commitment states that there will be a follow-up program to monitor acrolein concentrations at air receptor sites.</p> <p>The Métis Nation of Ontario should approach OPG for involvement in selection of appropriate air receptor sites. This could be done through consultation at community meetings or these sites could be selected based on harvesting sites identified within the MNO Traditional Knowledge and Land Use Study for this Project.</p>

Beyond these commitments, there is no statement from OPG identifying Indigenous participation in other mitigation measures.

Despite the consultation efforts between MNO and OPG, including quarterly meetings, it appears that OPG has failed to meaningfully incorporate MNO information into their regulatory filings and reports. This is problematic as work continues to be completed for this Project. This collection of additional MNO information presents an opportunity for OPG and the Crown to be more inclusive in the incorporation of MNO information and interests in relation to this Project.

Overall, this issue should be addressed by OPG prior to a decision by the Minister. It would be our recommendation that the issues contained in the appendices be raised through the CEAA process to ensure they are aware of any deficiencies in relation to Métis information.

Sincerely,

<Original signed by>

Germaine Conacher



## Appendix A

### OPG's DEEP GEOLOGIC REPOSITORY PROJECT FOR LOW & INTERMEDIATE LEVEL WASTE – STUDY OF ALTERNATE LOCATIONS – MAIN SUBMISSION – 00216-REP-00701-00013

Section	Page	Comment
Executive Summary	Pg. vi	<p>This section states that an alternate location would require "...the consent of Indigenous communities." This statement requires clarification as the Métis Nation of Ontario has not given consent for the DGR Project. Why would consent be required for the alternate location, but not for the currently proposed location?</p> <p>OPG and the Crown should also seek MNO consent prior to approval of the current Project.</p>
Executive Summary	Pg. vi	<p>In paragraph 4 and paragraph 5, OPG highlights the importance of their ongoing relationship with the Municipality of Kincardine as well as with the Saugeen Ojibway Nation; however, there is no mention of the importance of the relationship with the Métis Nation of Ontario.</p>
2.1 Criteria and Thresholds for Technical and Economic Feasibility	Pg. 17, 18, 19	<p>The geologic stability and depth and thickness of rock should not have been the only technical feasibility criteria for the DGR as the objective of any selected location is that the location would not harm the public or the environment.</p> <p>Additional criteria related to the environmental impacts of the Project should have also been considered; within these environment related criteria, specific criteria related to the MNO could have been applied.</p>
4.1.1 Key Environmental Features	Pg. 31	<p>This section states that "[m]uch of the crystalline alternate location is currently Crown land..." As Crown land represents much of the land that is available to the MNO for the exercise of their rights. Specific analysis is required on the alternative locations to ensure Aboriginal rights and interests are properly quantified in comparison to the currently proposed DGR location.</p>
5.1 Methodology	Pg. 35	<p>There are no Valued Components identified for evaluation of alternate locations which specifically relate to the Métis Nation of Ontario. This is a missed opportunity by OPG to take the learnings from the Environmental Assessment and apply them going forward.</p> <p>Additionally, it is noted in this section that "These VC groupings are also consistent with the VCs used in the EIS for the DGR Project at the Bruce Nuclear site, which was based on input from the public..." This statement is misleading as input from MNO was not incorporated into the original EIS and ongoing comment from the MNO on the insufficiency of the assessment without Métis information has not been considered.</p>
5.1 Methodology	Pg. 35	<p>For the purpose of this assessment, the VCs should have included the Aboriginal components as defined in Section 5(1)(c) of CEAA 2012, not just Section 5(1)(a).</p>
5.2 Other Valued Components	Pg. 36	<p>This section states that "...the current use of lands and resources for traditional purposes is considered through the use of lands and</p>

		resources VC in the assessment.” However, there is no discussion of the other criteria listed under CEEA Section 5(1)(c).
5.3.1 Atmospheric Environment	Pg. 37	It is unclear from the description whether the air related mitigation proposed for the potential effects is the same mitigation proposed for the DGR or if unique mitigation was considered for the alternative sedimentary location.
5.3.1 Atmospheric Environment	Pg. 37	It is unclear from the description whether magnitude of effects was calculated in partnership with other residual effects characterization criteria, or if this was the only criteria used. Further, it is unclear whether the existing criteria for the DGR’s air assessment was applied, or if specific criteria was developed for the alternative sedimentary location.
5.3.1 Atmospheric Environment	Pg. 38	It is unclear from the description whether the noise related mitigation proposed for the potential effects is the same mitigation proposed for the DGR or if unique mitigation was considered for the alternative sedimentary location.
5.3.1 Atmospheric Environment	Pg. 38	There is no discussion of potential effects of air quality or noise in relation to MNO. This is particularly important in terms of MNO’s perception of the Project locale and exercise of their rights in the vicinity. The lack of consideration is problematic for a fulsome assessment.
5.3.2 Surface Water Environment	Pg. 39	It is unclear from the description whether the surface water mitigation proposed for the potential effects is the same mitigation proposed for the DGR or if unique mitigation was considered for the alternative sedimentary location.
5.3.2 Surface Water Environment	Pg. 39	It is unclear from the description whether magnitude of effects was calculated in partnership with other residual effects characterization criteria, or if this was the only criteria used. Further, it is unclear whether the existing criteria for the DGR’s surface water assessment was applied, or if specific criteria was developed for the alternative sedimentary location.
5.3.2 Surface Water Environment	Pg. 39	There is no discussion contained within this section about the potential effects of surface water quality on the MNO. This is of particular concern in terms of MNO use of surface water resources. In addition, it is recommended that the MNO participate in environmental monitoring in relation to resources (e.g. wildlife, vegetation, surface water) of concern.
5.3.3 Aquatic Environment	Pg. 40	There is no indication of which fish species are preferred by MNO for harvest in this summary. This is problematic as MNO has provided considerable species information through the Traditional Knowledge and Land Use Study which has not been incorporated into the alternatives assessment.
5.3.3 Aquatic Environment	Pg. 40	It is unclear from the description whether the aquatic environment mitigation proposed for the potential effects is the same mitigation proposed for the DGR or if unique mitigation was considered for the alternative sedimentary location.
5.3.3 Aquatic Environment	Pg. 40	It is unclear from the description whether magnitude of effects was calculated in partnership with other residual effects characterization criteria, or if this was the only criteria used. Further, it is unclear whether the existing criteria for the DGR’s aquatic environment assessment was applied, or if specific criteria was developed for the alternative sedimentary location.
5.3.4 Terrestrial Environment	Pg. 41	There is no indication of which wildlife or vegetation species are preferred by MNO for harvest in this summary. This is problematic as MNO has provided considerable species information through

		the Traditional Knowledge and Land Use Study which has not been incorporated into the alternatives assessment.
5.3.4 Terrestrial Environment	Pg. 41	There is no mention of protection or setback for habitat of importance to MNO. This is particularly relevant in the location of the alternative sedimentary location as it is in an increasingly disturbed area which requires careful consideration of any land being removed from Métis use.
5.3.4 Terrestrial Environment	Pg. 41	There is no description of fragmentation in terms of Métis use of the area. This is a critical aspect as much of the "...land has already been anthropogenically altered (i.e. , agricultural, commercial or industrial)."
5.3.4 Terrestrial Environment	Pg. 42	This portion of the summary list states that "[n]o measurable changes to soil quality, groundwater quality or groundwater flow is likely outside of the immediate footprint of the DGR." In the case of the currently proposed DGR location, as it is on an existing site, there would be no measurable changes. However, for the alternative sedimentary location, it is difficult to rationalize that there would be no changes as the site would have to be fully cleared and excavated. Please clarify this point.
5.3.4 Terrestrial Environment	Pg. 42	This section details that "...the land cover in this ecoregion is fairly disturbed, it is likely that this effect would be of low magnitude." However, the type of disturbance must be considered in comparison to the alternative sedimentary location. Previously, it was noted that the land was disturbed by agricultural, commercial and industrial developments. It would be helpful to identify what percentage of the land is affected by industrial development to have an accurate comparison to the alternate location.
5.3.4 Terrestrial Environment	Pg. 42	This section outlines that "[l]ocation specific mitigation would be required..." and provided two examples. However, without a detailed listing of potential mitigation measures it is difficult to understand the reduction or elimination of potential effects.
5.3.7 Land and Resource Use (Traditional and Non-traditional)	Pg. 45	This section indicates that "[s]ite selection and licensing activities would involve the acquisition of at least 40 ha, and up to approximately 900 ha of land. During site preparation, security fencing and land clearing would commence, which would further restrict access and remove at least part of the land from its previous use." This concept of removal of land from its previous use is a central concept in identifying potential impacts to Métis harvesters, but it has not been explored sufficiently. There is no mention of this loss of land in terms of Métis rights and interests and no further clarification on this statement presented.
5.3.7 Land and Resource Use (Traditional and Non-traditional)	Pg. 45	This section states that "[u]p to 40 ha of clearing is assumed to be required, and it would likely include some areas that have not been previously disturbed, and would therefore, have archaeological potential." While areas of archaeological potential are of concern to MNO, the key concept in terms of land loss would be the potential effect on Métis use of that land. This must be quantified and considered in order to present an accurate picture of potential effects from the alternative sedimentary locale.
5.3.7 Land and Resource Use (Traditional and Non-traditional)	Pg. 45	There is no discussion of mitigation related to Land and Resource Use (Traditional and Non-Traditional). Therefore it is difficult to assess the accuracy of the conclusions made in this section.
5.3.7 Land and Resource Use	Pg. 45	This section of the alternatives assessment does not consider any of the criteria under Section 5(1)(c) of CEAA sufficiently. There is

(Traditional and Non-traditional)		no description of potential effects on MNO's current use of lands and resources, no description of health and socio-economic conditions of MNO, and no description of physical and cultural heritage of MNO. Further, the brief reference to archaeological resources does not give confidence that these resources were properly explored as part of the alternative sedimentary location.
5.4.1 Atmospheric Environment	Pg. 46	The summarized effects of the alternate crystalline location are identical to the summarized effects of the alternate sedimentary location, with the exception of distances and kt of CO <sub>2</sub> . This is problematic as the location in the crystalline area would likely be situated in a more remote locale that has different air quality values than those identified at the sedimentary location. Please provide a detailed rationale on why the air quality effects would remain identical.
5.4.1 Atmospheric Environment	Pg. 47	This section states that "Background air quality concentrations at the crystalline alternate location are likely to be lower, therefore the cumulative ambient air quality concentrations are likely to be lower as compared to those at the Bruce Nuclear site; therefore, less mitigation may be required to maintain compliance with air quality standards." This conclusion is problematic for a number of reasons. While the cumulative ambient air quality concentrations may be lower than those at the Bruce Nuclear site, the <i>change</i> from the base will likely be larger in magnitude at the crystalline location than at the Bruce Nuclear Site. That change will likely be more noticeable to Métis harvesters in that region. Additionally, compliance with air quality standards does not necessarily meet the criteria of being acceptable to Métis harvesters as perception must be considered.
5.4.2 Surface Water Environment	Pg. 48	There is no consideration of Métis in the description of the surface water environment for the alternative crystalline location. This is of particular importance as there may be effects or encroachment on streams or wetlands, which are generally of importance to MNO citizens.
5.4.3 Aquatic Environment	Pg. 49	Similar to the sedimentary location, there is no indication of which fish species are preferred by MNO for harvest in this summary. This is problematic as MNO has provided considerable species information through the Traditional Knowledge and Land Use Study which has not been incorporated into the alternatives assessment.
5.4.3 Aquatic Environment	Pg. 49	It is unclear from this section whether the proposed "...specific mitigation measures..." referred to were specifically developed for the crystalline alternative location or whether they would be adopted from the Bruce Nuclear site option.
5.4.4 Terrestrial Environment	Pg. 50	Similar to the alternative sedimentary location, there is no indication of which wildlife or vegetation species are preferred by MNO for harvest in this summary for the crystalline location. This is problematic as MNO has provided considerable species information through the Traditional Knowledge and Land Use Study which has not been incorporated into the alternatives assessment.
5.4.4 Terrestrial Environment	Pg. 50	Similar to the alternative sedimentary location, there is no mention of protection or setback for habitat of importance to MNO with regards to the alternative crystalline location. This is particularly relevant in the location of the alternative crystalline location as it is assumed to be on Crown Land and in a relatively undisturbed area

		which requires careful consideration of any land being removed from Métis use.
5.4.4 Terrestrial Environment	Pg. 50	Similar to the alternative sedimentary location, this portion of the summary list states that “[n]o measurable changes to soil quality, groundwater quality or groundwater flow is likely outside of the immediate footprint of the DGR.” In the case of the currently proposed DGR location, as it is on an existing site, there would be no measurable changes. However, for the alternative crystalline location, it is difficult to rationalize that there would be no changes as the site would have to be fully cleared and excavated. Please clarify this point.
5.4.4 Terrestrial Environment	Pg. 50	Similar to the alternative sedimentary location, this section outlines that “[l]ocation specific mitigation would be required...” and provided two examples. However, without a detailed listing of potential mitigation measures for the alternative crystalline location it is difficult to understand the reduction or elimination of potential effects.
5.4.7 Land and Resource Use (Traditional and Non-traditional)	Pg. 54, 55	This section is identical to the alternative sedimentary location description which highlights the lack of unique consideration Métis issues were given in terms of the varying locales.
5.4.7 Land and Resource Use (Traditional and Non-traditional)	Pg. 54	In identical text to that listed for the alternative sedimentary location, this section indicates that “[s]ite selection and licensing activities would involve the acquisition of at least 40 ha, and up to approximately 900 ha of land. During site preparation, security fencing and land clearing would commence, which would further restrict access and remove at least part of the land from its previous use.” This concept of removal of land from its previous use is a central concept in identifying potential impacts to Métis harvesters, but it has not been explored sufficiently. There is no mention of this loss of land in terms of Métis rights and interests and no further clarification on this statement is presented.
5.4.7 Land and Resource Use (Traditional and Non-traditional)	Pg. 54	In identical text to that listed for the alternative sedimentary location, this section states that “[u]p to 40 ha of clearing is assumed to be required, and it would likely include some areas that have not been previously disturbed, and would therefore, have archaeological potential.” While areas of archaeological potential are of concern to MNO, the key concept in terms of land loss would be the potential effect on Métis use of that land. This must be quantified and considered in order to present an accurate picture of potential effects from the alternative sedimentary locale.
5.4.7 Land and Resource Use (Traditional and Non-traditional)	Pg. 54	In identical text to that listed for the alternative sedimentary location, there is no discussion of mitigation related to Land and Resource Use (Traditional and Non-Traditional). Therefore it is difficult to assess the accuracy of the conclusions made in this section.
5.4.7 Land and Resource Use (Traditional and Non-traditional)	Pg. 54,55	This section of the alternatives assessment does not consider any of the criteria under Section 5(1)(c) of CEAA sufficiently. There is no description of potential effects on MNO’s current use of lands and resources, no description of health and socio-economic conditions of MNO, and no description of physical and cultural heritage of MNO. Further, the brief reference to archaeological resources does not give MNO the confidence that these resources were properly explored as part of the alternative crystalline location.

5.5 Environmental Effects Summary	Pg. 55	We disagree that “[a] DGR could be constructed at either of the alternate locations without any likely significant adverse environmental effects” as effects to Métis have not been accurately captured in either scenario. Both the Crown and OPG must work to ensure the incorporation of Metis information in environmental assessments in order to have confidence in the conclusions of these assessments.
6.1 Transportation Costs	Pg. 58	While potential costs were considered for the sedimentary and crystalline locations, there was no consideration of the increased transportation for the exercise of Métis rights and interests. This is a gap in the alternatives assessment which must be addressed.
6.4 Transportation Risks	Pg. 65	While transportation risks (radiological and conventional) were considered for the sedimentary and crystalline locations, there was no consideration of the transportation risks on the exercise of Métis rights and interests. This is a gap in the alternatives assessment which must be addressed.
7.2.2 DGR Not a Concern	Pg. 72	This section states that “...there is little interest among the general public regarding the DGR Project at the Bruce Nuclear site.” However, the Métis Nation of Ontario has expressed great interest in this Project and has provided numerous instances of regulatory based comment <sup>2</sup> . This was not described.
7.3 Relationships with Indigenous Communities	Pg. 78	This section states that “OPG is confident that a new site for a waste repository could be successfully identified with the support and consent of the indigenous communities.”  To date, MNO has not given their consent for the DGR location at the Bruce Nuclear site. Based on the described approach in this document (i.e. seeking consent from only one rights-bearing Aboriginal group) seems to imply that OPG is treating Métis rights as “lesser than” other Aboriginal group’s Section 35 rights. There is no hierarchy of Aboriginal rights.

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<sup>2</sup> August 17, 2012 Metis Nation of Ontario – Proposed Information Requests Submission to the JRP (CEAA # 690)  
August 19, 2012 MNO Letter to the JRP – Regarding the MNO’s Preliminary Review and Comments on the EIS (CEAA # 751)  
May 24, 2013 Proposed Information Requests Submissions from the MNO to the JRP (CEAA # 1165)  
July 28, 2014 Submission for the MNO to the JRP concerning the DGR Project (CEAA # 2035)  
September 1, 2015 From MNO to the CEAA re: Comments Regarding Potential Conditions for the DGR Project (CEAA # 2692)

## Appendix B

### OPG's DEEP GEOLOGIC REPOSITORY PROJECT FOR LOW & INTERMEDIATE LEVEL WASTE – UPDATED ANALYSIS OF CUMULATIVE ENVIRONMENTAL EFFECTS – 00216-REP-07701-00018

Executive Summary	Pg. v	<p>We disagree with the statement that “[t]he original conclusions presented in the Environmental Impact Statement (EIS) regarding cumulative effects on the DGR Project at the Bruce Nuclear site and other projects and activities remain valid when the APM DGR is considered. “</p> <p>The APM DGR will have its own unique effects and challenges associated with it that were not fully considered prior to this cumulative effects analysis. Further, the original EIS does not consider effects to Métis rights and interests, therefore this issue would have been carried forward to the current cumulative effects analysis.</p>
Executive Summary	Pg. v	<p>This section states that “...OPG has committed not to move forward with the construction of the DGR Project at the Bruce Nuclear site until the SON community is supportive of the project.” However, there is no mention of any requirement of Métis Nation support prior to moving forward with the construction of the DGR Project. This is despite the Project being located within the Métis Nation of Ontario Georgian Bay traditional territory, including the MNO Moon River Métis Council, the MNO Georgian Bay Métis Council and the MNO Great Lakes Métis Council.</p>
1.0 Introduction	Pg. 1	<p>The original wording from the Minister of Environment and Climate Change (the Minister) was problematic as it did not identify that the host communities’ fall within the traditional territory of the Métis Nation of Ontario. This error was carried forward by OPG in this section where it restates that the Project is within the traditional territory of the Saugeen Ojibway Nation but is silent on the Project’s location in the Métis Nation of Ontario’s territory.</p> <p>This is problematic as it implies that the Métis Nation of Ontario’s rights in the region to be less than those of another Aboriginal Group. There is no hierarchy of Aboriginal rights.</p>
2.0 Methodology	Pg. 3	<p>This section states that “...the cumulative effects assessment considers residual effects identified for the DGR Project at the Bruce Nuclear site on each valued ecosystem component (VEC)...” This is a problematic approach from the Métis perspective as Métis rights and interests were not captured in the original EIS VECs.</p> <p>OPG could have proactively included VECs of importance to the Métis Nation of Ontario in this updated cumulative effects analysis, but did not. This lack of consideration show the superficial nature of the ongoing consultations with the Métis, who have spent considerable time and resources in identifying VECs of importance for use in Annual Monitoring and which could have been explored in this assessment.</p>
2.2 Description of	Pg. 5	<p>Discussion of the potential effects of the APM DGR is premature</p>

Potential Effects of the APM DGR		as no environmental assessment work has been completed for this facility to date. How can MNO have confidence in the identified effects when no work with sufficient scientific rigor has been completed for this facility?
2.3 Identification and Assessment of Potential Cumulative Effects including Mitigation	Pg. 5	<p>This section identifies a measurable change as "...a change that is real, observable or detectable compared with existing conditions." How, then, could measurable changes be identified properly for the APM DGR in the 'Preliminary Description'? The location is not set, therefore identifying real, observable or detectable changes would be impossible.</p> <p>This exercise is entirely theoretical yet still does not consider Métis rights and interests.</p>
3.0 Residual Effects of the DGR Project at the Bruce Nuclear Site	Pg. 8, 9, 10	<p>There is no mention of Aboriginal VECs in either table 3-1: Summary of Residual Adverse Effects of the DGR Project at the Bruce Nuclear Site Considered in the Updated Analysis of Cumulative Effects or Table 3-2: VECs for which No Residual Adverse Effects of the DGR Project at the Bruce Nuclear Site were Identified.</p> <p>While the Métis Nation of Ontario is aware that no residual effects to Aboriginal interests were identified as part of the environmental assessment process, the omission is still troubling.</p>
3.0 Residual Effects of the DGR Project at the Bruce Nuclear Site	Pg. 10	This section states that "...a residual adverse effect on the radiation and radioactivity VECs was not identified in Section 7 of the EIS [OPG 2011a]. However, radiation and radioactivity has been included to allow for the consideration of potential cumulative effects." This same consideration was not provided for Aboriginal interests.
4.1 Project Description	Pg. 11	<p>This section states that "[t]he NWMO is also in discussion with Indigenous communities with traditional lands in these areas, and in particular with the SON."</p> <p>The omission of the MNO from this description is problematic. The description must be updated to reflect ongoing consultation with MNO.</p>
4.2 Potential Residual Effects of the APM DGR	Pg. 13	Table 4-1: Potential Interactions between the APM DGR and the Environment does not have any environmental component related to Aboriginal rights and interests. Indeed, the table does not conform to CEAA Section 5(1)(c) for identification of effects to Aboriginal peoples.
5.1 Surface Water Quantity and Flow	Pg. 17, 18, 19	There is no mention of Aboriginal issues in this section, specifically; there is no mention of the Métis Nation of Ontario despite ongoing consultations and comments filed on the original EIS.
5.2 Terrestrial Environment	Pg. 19, 20, 21, 22	There is no mention of Aboriginal issues in this section, specifically; there is no mention of the Métis Nation of Ontario despite ongoing consultations and comments filed on the original EIS.
5.3 Aquatic Environment	Pg. 22, 23, 24	There is no mention of Aboriginal issues in this section, specifically; there is no mention of the Métis Nation of Ontario despite ongoing consultations and comments filed on the original EIS.
5.4 Air Quality	Pg. 24, 25, 26, 27	There is no mention of Aboriginal issues in this section, specifically; there is no mention of the Métis Nation of Ontario



		despite ongoing consultations and comments filed on the original EIS.
5.5 Noise Levels	Pg. 27, 28, 29	There is no mention of Aboriginal issues in this section, specifically; there is no mention of the Métis Nation of Ontario despite ongoing consultations and comments filed on the original EIS.
5.6 Human Health	Pg. 29, 30	This section of the analysis outlines the potential exposure of Indigenous communities to acrolein emission that may affect human health. However, there is no consideration of acrolein emissions effects on Métis land users in proximity to the DGR or the APM DGR.  This must be considered to ensure the analysis is fulsome.
5.7 Socio-Economic Environment	Pg. 31, 32	This section details a potential effect on the enjoyment of private property as a result of the DGR Project at the Bruce Nuclear site. However, there is no consideration for the DGR or the APM DGR of the enjoyment of Crown lands or lands where the Métis have a right of access for the purposes of harvesting. This is problematic and must be considered in the cumulative effects analysis.
7.0 Summary	Pg. 40	While the analysis has found that "...the DGR Project is not likely to cause significant adverse cumulative environmental effects" this assumption was reached without inclusion of necessary Métis information and consideration of Métis VEC. This Métis specific information must be incorporated and considered before the MNO can consider the analysis complete.