Aboriginal Interests
Crown Consultation

Deep Geologic Repository Project for
Low- and Intermediate-Level Waste
Proposed by Ontario Power Generation

Joint Review Panel Hearing
October 7, 2013

CNSC Staff Presentation

• e-Doc 4177609 (PPT)
• e-Doc 4190223 (PDF)
Presentation Outline

- CNSC Aboriginal Consultation Process
- DGR Crown Consultation Process
- Crown Consultation Activities for DGR Project
- Aboriginal Concerns Raised to Date
- CNSC Staff Assessment of Proponent Environmental Impact Statement (EIS) and Engagement Activities
- CNSC Staff Conclusions
CNSC Aboriginal Consultation Process (1)

• Understands and recognizes the importance of consulting and building relationships with Canada’s Aboriginal peoples

• Considers Aboriginal group’s potential or established rights as recognized and affirmed by the Constitution Act, 1982

• Ensures all licensing and EA decisions uphold the honour of the Crown

• Recognizes Aboriginal groups have concerns with regards to nuclear sector

Flexible, Adaptive and Responsive Approach
CNSC Aboriginal Consultation Process (2)

- Whole-of-Government Approach
  - Integrates consultation activities into EA and regulatory processes, to extent possible
  - Acts as the Crown Consultation Coordinator (CCC)
  - Expects proponents to consult potentially impacted Aboriginal groups to identify potential impacts on traditional use practices

CCC Role Offers One-Window Approach and Easily Accessible Information
DGR Project Crown Consultation Process (1)

• CNSC took into account the Guiding Principles that have emerged from Canada’s case law and best consultation practices as outlined in Federal Guidelines (2008 and 2011 updated version)

• CNSC recognizes that meaningful consultation done in good faith includes the consideration of the potential need to accommodate the concerns raised by Aboriginal groups

• Scope of Consultation
  – CNSC Consultation Approach: high level of consultation activities in light of issues raised and complexity of project

Important to Seek Opportunities to Work Together
DGR Project Crown Consultation Process (2)

• Aboriginal Consultation Framework for DGR Project
  – Identified key consultation opportunities in review process
  – Adopted a flexible, transparent and adaptive approach
  – CNSC Crown Consultation Coordinator Role

• Aboriginal groups were requested to:
  – Outline the nature and the scope of potential or established rights
  – Identify how the Project may affect those rights
  – Share traditional knowledge

• OPG’s engagement activities were important and informed CNSC’s Aboriginal consultation process

Traditional Knowledge can be Valuable to the Review Process
DGR Project Crown Consultation Activities (1)

• Saugeen Ojibway Nation (SON)
  – Preliminary Consultation Activities Initiated in 2006 - Acted in good faith to understand concerns as early as possible
    ▪ Comprehensive Study Track Report
    ▪ Joint Panel Agreement and Draft EIS Guidelines – opportunity to input
    ▪ Joint Review Panel (JRP)
      Member Selection – opportunity to recommend candidates
    ▪ CEAA Participant Funding – to facilitate consultation activities
    ▪ Six meetings 2006 – 2009

• Further Consultation Activities (2009 – present)
  – Three meetings – requests re: information on Rights and Traditional Knowledge
  – EIS and Supporting Technical Documents – opportunity to review
  – CNSC responsive to requests for information
DGR Project Crown Consultation Activities (2)

• Further research led to identification of additional Aboriginal groups
  – information provided by OPG with respect to their Aboriginal engagement program
  – research on Treaties and land claims in the DGR Project area
  – relevant information from previous consultations
  – Aboriginal Affairs and Northern Development Canada

• Métis
  – Historic Saugeen Métis (HSM), 2007
  – Métis Nation of Ontario (MNO), 2007

• Manitoulin Island First Nations (7)
  – United Chiefs and Councils of Mnidoo Mnising (UCCM), 2010
  – Wikwemikong Unceded Indian Reserve, 2010

• Haudenosaunee Confederacy Chiefs Council, 2010

Inclusive Approach
DGR Project Crown Consultation Activities (3)

• CEAA Participant Funding
  – Phase I (August 2007)
    ▪ Review of draft EIS Guidelines and JRP Agreement via regular Participant Funding Program
    ▪ $50,000 was awarded to six applicants ($144,619 total was requested)
    ▪ the SON was the only Aboriginal group to apply (awarded $13,500)
  – Phase II (June 2011)
    ▪ Facilitate Aboriginal participation and project review activities among groups or organizations via Aboriginal Funding Program
    ▪ $151,025 was awarded to three applicants ($414,241 total was requested)
      o HSM: $55,270
      o MNO: $48,650
      o UCCM: $47,105

Funding Supported Aboriginal Participation and Related Consultation Activities For The Project
Completed Activities

- Notified Aboriginal groups of project and review
- Invited participation in review of key documents
- Provided updates via letters, e-mails and phone calls at key points in the process
- Encouraged Aboriginal groups to share any DGR Project specific issues and/or concerns
- Reviewed submissions to assess potential impacts on right

Strongly Encouraged Aboriginal Groups to Participate in the JRP Hearings
• Completed Activities (continued)
  – Proactively offered opportunities for Aboriginal groups and CNSC Staff to discuss issues
    ▪ held and attended over a dozen meetings with SON, MNO, HSM, the UCCM and the Wikwemikong Unceded Indian Reserve
    ▪ sent over a hundred letters, which included notification and updates at key points in the process
    ▪ made dozens of follow-up phone calls
  – Responsive to requests and preferred consultation methods
  – Requested further information and clarity through information request process
  – Responded to issues on clarity regarding CNSC’s role

Efforts Made to be Readily Accessible to Aboriginal Groups
Aboriginal Concerns Raised to Date

Key issues raised include:

- Proximity of the DGR to Lake Huron
- Risk of contamination of drinking water
- Impacts of noise and vibration on Aboriginal interests
- Impacts on fishing and harvesting rights
- Respect for cultural heritage and traditional knowledge
- Risk of displacement of Aboriginal groups if an accident contaminated their traditional lands
- Impacts on access to, and value or quality of cultural activities undertaken by the SON at the burial ground on the Bruce nuclear site

- Stigma effects - commercial fishery and tourism economy
- Transportation of nuclear waste issues
- Inadequacy of alternatives assessment analysis in the EIS
- Valued Ecosystem Component (VEC) selection
- Review Process Timelines were too constrained for adequate input
- Potential placement of used nuclear fuel in the DGR and cumulative effects from proposed nuclear fuel repository (APM)

Efforts Made to Address Issues Early in the Process
CNSC Staff Assessment of Proponent EIS and Engagement Activities

- Determined that OPG has provided detailed evidence and outcomes of engagement activities conducted with a wide range of Aboriginal groups with an interest in the Project.

- Supports OPG’s findings on the potential impact of the Project on asserted or established Aboriginal rights, Aboriginal title and treaty rights, and the measures to prevent or mitigate these potential impacts.

OPG has Made Best Efforts to Engage Aboriginal Communities, in Keeping With the EIS Guidelines.
CNSC Staff Conclusions

• Based on all the information received to date, CNSC staff are not aware of any adverse impacts the DGR Project may have on any potential or established Aboriginal or treaty rights

• The DGR Project is not likely to result in significant adverse effects on Aboriginal interests, taking into account the implementation of mitigation measures

• If the DGR Project is approved, the CNSC is committed to continuing consultation and dialogue towards relationship-building

Consultation Activities are in Accordance with the Federal Guidelines and Demonstrate Meaningful Consultation