
FIRST NATIONS CONSULTATION TECHNICAL SUPPORTING DOCUMENT FOR THE UPPER MATTAGAMI PROJECT



Submitted To:

ONTARIO POWER
GENERATION

Submitted By:

Mattagami River EA Consulting Team

March 2007

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FOR THE UPPER MATTAGAMI RIVER PROJECT**

Submitted to:

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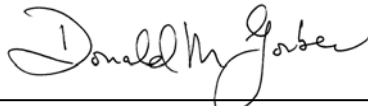
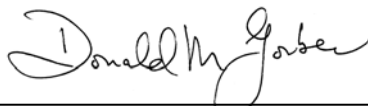
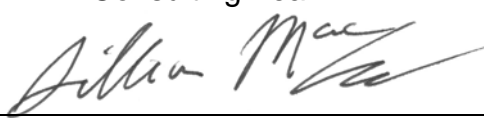
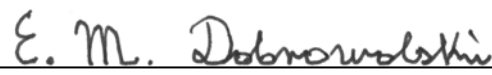
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1.0 PROJECT DESCRIPTION

Ontario Power Generation Inc. (OPG) is proposing to redevelop three hydroelectric generating stations located on the Upper Mattagami River: Wawaitin and Sandy Falls generating stations located within the City of Timmins and Lower Sturgeon Generating Station located north of Timmins (The Project).

The Project is subject to the requirements of OPG's Class Environmental Assessment for Modifications to Hydroelectric Facilities under the Ontario Environmental Assessment Act (EA Act). In addition, a number of environmental permits and approvals may be required including approvals from the Ministry of the Environment (MOE) and the Ministry of Natural Resources (MNR).

The Wawaitin, Sandy Falls and Lower Sturgeon Generating Stations are small run-of-the-river hydroelectric facilities that have provided a clean and renewable source of power for over 90 years. All three facilities are now at the end of their designed service life. These three generating stations operate at 25 cycles and therefore the power cannot be used locally in Timmins and instead must be transmitted to Sudbury in order to convert the power to 60 cycles and then be injected into the power grid. Significant energy losses occur during the process of transmitting and converting the 25 to 60 cycle power. All three plants are in need of structural and electrical/mechanical repair in order to continue to provide Ontario with this clean and renewable source of power.

Wawaitin Generating Station

The Wawaitin Generating Station is a 10.4 megawatts facility located within the City of Timmins municipal boundaries approximately 25 kilometers southwest of the urban centre. The plant, placed in service in 1912, is accessed by a municipal road. The Wawaitin Generating Station has a main dam at the northern end of Kenogamissi Lake. The existing powerhouse is operated remotely. Plant operation is controlled to ensure optimal energy production, while satisfying concerns of Kenogamissi Lake cottagers regarding water levels and flooding concerns downstream at Timmins. Typically, water levels are not allowed to fluctuate more than 0.4 meters in Kenogamissi Lake during the summer months from the Victoria Weekend to Thanksgiving Weekend, with sufficient water passage through the Wawaitin Generating Station (GS) and/or spilling to ensure adequate downstream supply to Timmins and the pulp and paper mill in Smooth Rock Falls. Water level fluctuations must all be in compliance with the approved Mattagami River System Water Management Plan.

The proposed new powerhouse at Wawaitin GS is planned to be located adjacent and to the north of the existing powerhouse. The proposed Wawaitin GS is expected to have two generating units with an approximate capacity of 15 megawatts. Water in the existing intake canal would be conveyed through the existing intake structure via a new steel penstock about 850 meters in length to the new powerhouse and the adjacent substation. The proposed

facilities will be connected to the Hydro One Networks Inc. (Hydro One) Timmins Transformer Station at 27.6 kilovolts to feed into the Timmins local distribution system. This penstock system is expected to be buried parallel and to the north of the existing twin penstocks that feed the existing Wawaitin GS. Some refurbishment to the existing dams will be required.

Sandy Falls Generating Station

The 3.0 megawatts Sandy Falls GS is located within the Timmins municipal boundaries approximately 10 kilometres northwest of the urban centre. The plant, placed in service in 1911, is well accessed by municipal roads. The Sandy Falls GS receives water upstream of a 216 meters long spillway weir dam across the Mattagami River. As a run-of-the-river plant, the Sandy Falls GS utilizes available water only. Water levels in the headpond are not controlled by plant operation, but are the result of natural water level fluctuations and/or upstream controls and activities. Water levels are maintained to provide sufficient water for Timmins by drawing down the upstream storages when inflows drop in late summer.

The proposed new power house at Sandy Falls GS is located adjacent to the east of the existing powerhouse and the new powerhouse will enclose one generating unit with a nameplate capacity of approximately 5.5 megawatts. A water canal will be used to convey water to the new powerhouse using the existing intake structures No. 2 and No. 3. The intake structures and weir dam will also need to be refurbished.

Lower Sturgeon Generating Station

The 5.3 megawatts Lower Sturgeon GS is located outside the municipal boundaries of Timmins and approximately 48 kilometres north of the City. The plant, placed in service in 1923, is accessed by a road west of Highway No. 655. The Lower Surgeon GS has a dam, 165 meters in length, constructed in three differently angled sections, extending across rock outcrops along almost the entire width of the river.

The existing powerhouse is operated remotely. As a run-of-the-river plant, there is no drawdown of the headpond. Any upstream water level fluctuations are the result of natural water levels and/or upstream controls or activities. In most years, sufficient water exists to operate the plant at full-load on a continuous basis. OPG attempts to pass at least 15 m³/s of water at all times for dilution of effluent discharge at the pulp and paper mill at Smooth Rock Falls. In late winter, the forebay is drawn down to provide water to Little Long GS downstream.

The proposed new powerhouse at Lower Sturgeon GS is planned to be located at the site of the existing powerhouse and will be redeveloped to produce about 14 megawatts of power.

Mattagami River System Water Management Plan

A Water Management Plan for the Mattagami River System has been developed and includes eighteen waterpower structures and facilities located along the river system that have influence on levels and flows. The Plan was the result of a partnership between Ontario Power Generation, the Ministry of Natural Resources and other private power producers which operate facilities along the river as well First Nations and the general public, which participated in the form of various advisory committees.

The Water Management Plan for the Mattagami River System was approved in 2006. It was prepared in accordance with the Water Management Planning Guidelines for Waterpower, as approved by the Minister of Natural Resources on May 14, 2002. The Ontario Lakes and River Improvements Act requires compliance by facility operators with the operating regimes (required flows) established in the Water Management Plans and a compliance monitoring program has been established. First Nations participated in the Water Management Planning process.

2.0 FIRST NATIONS CONSULTATION PLAN AND FIRST NATIONS CONSULTED

A First Nations Consultation Plan was prepared with the overall objective of the plan “to provide First Nations (FN) with an opportunity to have meaningful input on the Project and address pertinent First Nations concerns wherever feasible through a process that is fair and reasonable with respect to the Upper Mattagami Project.”

The First Nations Consultation plan identified the First Nations to be contacted and for each First Nation, the Chief was identified as the key contact person. The plan also identified the possible communication vehicles to be used. These included sending registered letters prior to each of the two open houses, with a minimum of three follow-up phone calls to each. The first letter provided information about the Project and made an offer to meet with Chief and Council. The second registered letter provided high level results of the EA field work and again made an offer to meet with Chief and Council. Follow-up calls were made as noted in the Plan. The plan was flexible to accommodate further meetings as required by the individual First Nation interests (whether these be community meetings or meetings with Chief and Council).

The development of the First Nations Consultation Plan was based on an understanding of Supreme Court of Canada Decisions with respect to the Crown’s obligation to consult (i.e., Haida, Taku and Mikisew Cree)¹ as well as current practices employed in Northern Ontario with respect to resource management and development.

¹ Case citations: Haida Nation v. British Columbia (Minister of Forests), [2004] 3 S.C.R. 511, 2004 SCC 73; Taku River Tlingit First Nation v. British Columbia (Project Assessment Director), [2004] 3 S.C.R. 550, 2004 SCC 7; and, Cree First Nation v. Canada (Minister of Canadian Heritage) [2005] S.C.J. No. 71.

OPG understands that the courts have recognized that the Crown has a duty to consult with Aboriginal peoples and in certain instances, to accommodate their needs. While the content of the duty to consult and accommodate varies from case to case, the scope of the duty is proportionate to a preliminary assessment of the strength of the case supporting the existence of Aboriginal right or title and to the seriousness of the potentially adverse effect upon the right or title claimed. Furthermore, while the Crown can delegate procedural aspects of the consultation to proponents, the ultimate duty to consult is left with the Crown.

In assessing the scope of the consultation for the Upper Mattagami project two factors were taken into consideration. An assessment of the overall impact of the project on First Nations rights, values and interests and the strength of the First Nations interest. In assessing the overall impact of the redevelopment of Wawaitin, Sandy Falls and Lower Sturgeon it was OPG's assessment that the impact was low. The generating stations have existed for close to 100 years, the sites were disturbed by the initial construction and ongoing maintenance activities associated with their operation, the effects associated with the project are localized to the immediate site and are temporary and minor and there is to be no changes to the river levels and flows that are currently adhered to by OPG. With respect to the level of First Nations, interest in the Project it was expected to be low. Several generations of individuals have now become accustomed to the presence of these facilities. As well, the Ministry of Natural Resources undertook extensive consultation with First Nations during the Water Management Plan process, including the examination of site specific issues. There was no indication from that process that there were any outstanding First Nations issues or concerns associated with any of the three sites. Furthermore, as part of the environmental assessment, OPG had retained a First Nations value expert from the Mattagami First Nation to assess the presence of any Mattagami First Nation values at or near any of these sites that could potentially be affected. Further, an archaeological and cultural heritage resource assessment was planned to be undertaken.

Based on the assessment of the project's impact and the potential impact on First Nations rights, values and interests it was determined that a combination of notice, direct and separate consultation with First Nations (as distinguished from the general public) and an honest dissemination and exchange of information of interest to the First Nations would be the appropriate fit for the project. This is consistent with Supreme Court of Canada decisions such as the Mikisew Cree case which outlined the content of the spectrum of appropriate consultation procedures (see Issac and Knox, 2005).

Based on OPG's and SENES' experience in the region, previous correspondence with First Nations and direction provided by the Ontario Ministry of Natural Resources, inquiries were placed with four First Nations to see if they were interested in being consulted on the project. The First Nations identified for consultation were (correspondence was also initiated with the Wabun Tribal Council (WTC))

- Mattagami First Nation
- Flying Post First Nation

- Matachewan FN
- Taykwa Tagamou First Nation (TTN).

Details on the First Nations to be consulted are provided below:

The Mattagami FN Reserve located near Gogama is located approximately 40 kilometers south of the Wawaitin Generating Station (GS) and has a historical interest in hydro development on the river owing to the flooding of Mattagami Lake that affected their traditional and existing Reserve lands. Prior to initiating the EA and its associated consultation plan, OPG had already had one previous meeting in 2005 with the Mattagami FN leadership to introduce the Project and while no specific issues were raised it was understood at that meeting that the Mattagami FN would be interested in being consulted on the project.

The Flying Post FN has an uninhabited Reserve approximately 40 kilometers from the Lower Sturgeon Generating Station. Prior to initiating the EA and its associated consultation plan, OPG sent a letter to the Chief of Flying Post FN to inform him of the project. While there was no response to that letter, it was recommended that the Flying Post FN be included in the FN Consultation Plan offered an opportunity to be consulted on the project.

The third First Nation with a potential interest is the Matachewan FN, located near the unincorporated municipality of Matachewan in the Temiskaming District. Historically, the Matachewan FN has a traditional area along the upper Montreal River system. It was recommended by the Ministry of Natural Resources that the Chief be contacted and let him decide whether consultation should be required.

The fourth First Nation with an interest is the Taykwa Tagamou Nation (TTN). The main reserve of the TTN is located east of Cochrane and a second uninhabited reserve is located 88 kilometers north of Cochrane and four kilometers east of the Abitibi River. TTN declared an interest in Wawaitin, Lower Sturgeon and Sandy Falls generating stations along with several other facilities in the Moose River in an August 2002 letter to OPG. Based on that letter of interest, it was recommended that OPG consult with them.

OPG had already developed a relationship with Wabun Tribal Council (WTC) because of meetings held in 2005 where OPG met with Shawn Batise, Executive Director of Wabun Tribal Council and it was recommended that the First Nations Consultation Plan indicate that they receive notifications about the project, albeit the offer of consultation was put to the First Nations and not the Tribal Council. It was also recommended that the Local Metis Council be notified of the project's commencement via standard public consultation notices.

Role of Provincial Ministries

In the case of the Haida decision the Supreme Court identified that while the Crown may delegate procedural aspects of consultation to industry proponents of projects, the ultimate legal responsibility for consultation and accommodation remains with the Crown. As OPG is the proponent of the Project, the Ministry of Natural Resources and Ministry of the Environment were advised of OPG's First Nations Consultation program. MNR was copied on all correspondence to First Nations and invited to attend all First Nation meetings. OPG has had considerable discussions and interactions with the District and Regional MNR staff with respect to OPG's First Nation consultation initiatives. Both Ministries have advised OPG that their duty to consult is defined by the specific approval decisions associated with the project. For instance, MNR's duty to consult will be focused on approval decisions related to the Lakes and Rivers Improvement Act and the Public Lands Act.

3.0 CONSULTATION ACTIVITIES

Described below is a summary of consultation activities with the First Nations.

3.1 LETTERS TO FIRST NATIONS AND FOLLOW-UP PHONE CALLS

Mattagami First Nation

A registered letter was sent on March 7, 2006 from OPG to Chief Willis McKay of the Mattagami First Nation, informing him of the Project and making an offer to consult on the Project (the letter also included a newsletter and notice providing more details about the project). Phil Shantz from SENES Consultants Limited was able to speak to Chief McKay on March 24th, 2006. Chief McKay indicated that he had received the letter and was interested in being consulted on the project. Subsequently, a meeting was held on April 18th, 2006 with the Chief and Council. At this meeting it was suggested that OPG return to meet with the community. A community meeting was arranged on June 27, 2006. At this meeting, participants indicated that they would be interested in touring a small hydro facility. A tour of Wawaitin and Sandy Falls GS's took place on October 20, 2006. These consultation efforts are documented in section 4 in more detail. Prior to the second public open house, another registered letter was sent to Chief McKay in October inquiring if he had any other comments or concerns about the Project. This letter indicated that the EA field work was completed and the findings indicated that the Project will have temporary minor effects on the environment that can be fully mitigated, and that Mr. John Pollock a licensed archaeologist based out of New Liskeard undertook an archaeological assessment which concluded that no archaeological resources will be affected by the Project. This letter also indicated that a First Nations values specialist from Mattagami First Nation determined that there are no Mattagami FN values at or near Wawaitin, Sandy Falls and Lower Sturgeon GS's. There was no response to this second letter.

Matachewan First Nation

A registered letter was sent on March 7, 2006 from OPG to Chief Fabian Batise of Matachewan First Nation, informing him of the Project and making an offer to consult on the Project (the letter also included a newsletter and notice providing more details about the project). A total of four phone calls were placed in March and April, 2006 to determine if Matachewan had an interest. In the second call to Matachewan SENES was successful in speaking to Chief Batise. He requested that the letter be re-faxed to him and stated that Matachewan might have an interest in being consulted on the Project and that he may direct the matter to Wabun Tribal Council. Two more phone messages were left with Chief Batise in order to ensure that he received the fax and to receive further direction on whether or not he wanted Matachewan to be consulted on the Project and if he wanted the matter directed through Wabun Tribal Council. There was no response to either of these last two phone messages.

Prior to the second public open house a second registered letter was sent on October 4th 2006 to Chief Batise asking him again if there was an interest on the part of Matachewan being consulted, with an offer to meet. The second letter indicated that the EA field work was completed and the findings indicate that the Project will have temporary minor effects on the environment that can be fully mitigated, and that Mr. John Pollock a licensed archaeologist based out of New Liskeard undertook an archaeological assessment and determined that no archaeological resources will be affected by the project. The letter also indicated that a First Nations' values specialist from Mattagami First Nation determined that there are no Mattagami FN values at or near Wawaitin, Sandy Falls and Lower Sturgeon. Following that three follow-up phone calls were placed to Matachewan, one with Chief Batiste and two with Band Administrator Anne Batiste (MNR had informed OPG that Chief Batise had moved to Northwestern Ontario, even though his voice mail remained active). There was no response to these calls.

Taykwa Tagamou Nation

A registered letter was sent on March 30, 2006 from OPG to Chief Dwight Sutherland of the Taykwa Tagamou Nation (TTN), informing him of the Project and making an offer to consult on the Project (the letter also included a newsletter and notice providing more details about the project). Three phone calls were placed to Chief Sutherland in April 2006 and voice mail messages on each occasion were left but no response occurred at that time.

Prior to the second open house, a second registered letter was sent to Chief Sutherland on October 4th, 2006. The second letter indicated that the EA field work was completed and the findings indicated that the Project will have temporary minor effects on the environment that can be fully mitigated, and that Mr. John Pollock a licensed archaeologist based out of New Liskeard undertook an archaeological assessment and determined that no archaeological resources will be affected by the project. The letter also indicated that a First Nations values specialist from Mattagami First Nation determined that there are no Mattagami FN values at or near Wawaitin, Sandy Falls and Lower Sturgeon. In early November 2006 Chief Sutherland contacted Phil Shantz (SENES) indicating that he understood that OPG was not supposed to be moving forward on projects in TTN's traditional territory until their past grievances with OPG were settled. Mr. Shantz then passed the concern on to OPG for comment. OPG sent a registered letter and information package on November 20th, 2006 to Chief Sutherland offering to meet and discuss the redevelopment project. Additional phone calls have been placed to find out if and when TTN would like to meet. On February 20, 2007

OPG representatives held a meeting on February 20, 2006 with Taykwa Tagamou Nation to discuss the Lower Sturgeon Generating Station project. While the Chief and a Councillor of TTN had originally planned on being at the meeting, OPG representatives did speak with Mr. Wayne Ross, a representative of TTN. Mr. Ross was provided with a presentation about the project, its rationale and need and impacts expected. TTN did not raise any questions at the meeting except for where Yellow Falls was in relation to Lower Sturgeon, as the community has

some interests in Yellow Falls. No issues were raised about the Lower Sturgeon project or the EA results. OPG has also made an offer to go to the TTN Reserve to explain the project, should the community wish it. TTN did not have an interest in either Sandy Falls or Wawaitin Generating Stations.

Flying Post First Nation

A registered letter was sent on March 7, 2006 from OPG to Chief Murray Ray of Flying Post First Nation, informing him of the Project and making an offer to consult on the Project (the letter also included a newsletter and notice providing more details about the project). Two phone calls were placed to Chief Ray in March and April. Chief Ray returned the call and spoke to Phil Shantz (SENES) about the project. He inquired as to whether these were existing facilities and wanted assurances that there would be no changes to levels and flows. He indicated that he did not think there would be an impact to their reserve but indicated a desire to be kept informed (but not officially consulted) about the project. Phil Shantz agreed to touch base with Chief Ray every few months on the project. A registered letter, with Newsletter # 2 was sent in October 2006 to Chief Ray explaining where OPG was in the EA process and that the EA field work was completed and the findings indicate that the Project will have temporary minor effects on the environment that can be fully mitigated, and that Mr. John Pollock a licensed archaeologist based out of New Liskeard undertook an archaeological assessment and determined that no archaeological resources will be affected by the project. The letter also indicated that a First Nations values specialist from Mattagami First Nation determined that there are no Mattagami FN values at or near Wawaitin, Sandy Falls and Lower Sturgeon. Subsequently two phone calls were placed to Chief Ray to inquire whether he had any desire to be further consulted about the project. To date no response has been received.

Wabun Tribal Council

A registered letter was sent to the Economic Development and Technical Services Advisor of the Wabun Tribal Council on April 4, 2006, informing them of the project. As the Tribal Council is not a First Nation, the letter provided information on the Project (copy of the Notice of Commencement and Newsletter # 1) that was also sent to the targeted First Nations. The Council was informed of the general consultation that was occurring and that specific First Nations were being consulted directly. Although the letter to Wabun did not specifically include a special offer to consult about the Project the letter indicated that they could contact OPG or its consultant if they had any questions or concerns. A second registered letter was sent on October 4, 2006 again informing them of the Project and indicating that four First Nations in the area had been offered opportunities to consult. In December, Wabun Council gave OPG a copy of a letter they sent to Minister David Ramsay that referenced the Upper Mattagami Projects among other matters. OPG subsequently discussed this letter with staff from MNR, and provided them with a summary of all UMRP consultation undertaken to date (registered letters as well as telephone contact) that has taken place within the EA process.

4.0 MEETING WITH MATTAGAMI FIRST NATION CHIEF AND COUNCIL

In response to the registered letter sent in March 2006, the April 18th, 2006 meeting was held on the Mattagami First Nation Reserve with Chief McKay, two members of the band council, two OPG staff, two MNR representatives as well as SENES Consultants Limited. The meeting involved a presentation as well as a questions and answers period.

- SENES indicated at the meeting that Chris McKay of Mattagami First Nation had been retained to assist in consultation and assess whether there were any Mattagami FN values that may be at or near any of these sites.
- One of the Councillors asked if there will be any changes to river flows and levels. OPG explained that there will be no changes to river flows and levels and OPG is committed to the operating regime set out in the Mattagami River System Water Management Plan.
- One of the Councillors mentioned that he was glad that concern was being paid to the different aspects of the environment including the fisheries.
- Two of the Councillors inquired as to whether it would be possible to tour the facilities. OPG explained that Standing Advisory Committee members were going to be given a tour and members of the Mattagami First Nation could participate if interested. This is proposed for June 6th, 2006, but a separate tour could also be possible.
- It was agreed that perhaps a community meeting should be held to explain the Project to the community (this community meeting took place in June 2006 see below).

The meeting with Mattagami First Nation was very constructive, no negative issues or concerns were raised. Both Council members indicated an interest in learning more about the Project and participating in any tours.

5.0 COMMUNITY MEETING – MATTAGAMI FIRST NATION

The Mattagami Consultation meeting was held on June 27, 2006 in the community centre adjacent to the Band office on the Mattagami First Nation. Eight community members participated in the opening prayer and smudge, which was led by a community elder. The agenda for this event was as follows: Open House, Introductions, Presentation and Discussion, Video Presentation for School Children and Lunch.



The presentation boards were available for the community members to peruse and SENES and OPG staff were available to answer any question which may have arisen. The presentation and discussion commenced at 11 am with a power point slide show. Questions that arose as a result were:

Question/Comment	Response
With regards to the Wawaitin site - Is the discharge going to effect the bank i.e. erosion?	We don't believe so because the velocity is expected to be the same. However, this will be looked at and it is expected that this should be monitored.
What is the timing for the project?	The EA process will continue through until December, the plan is to initiate construction in April 2007
Of the three phases which is the biggest/ longest phase, what is studied during each phase?	<p>Phase 1- Assessment of Alternatives which is essentially done.</p> <p>Phase 2- Environmental field work, research, permits,</p> <p>Phase 3 – Is the building phase</p>
This was a good presentation; I hope we do not have the problems that currently exist – i.e. blackouts from storms for 3 – 4 hours or a day	OPG – Hydro one deals with these issues – Ontario has a very stable electricity in comparison to nearby areas – OPG looking for more renewable sources – this dam regeneration will not alter the risk of blackouts. OPG creates and sell to wholesalers who sell (makes hydro). Hydro one owns the wires

Following the presentation and discussion, the children from the Mattagami FN primary school joined the presentation and watched a DVD created for OPG “Stay Clear Stay Safe” while enjoying lunch.

SENES and OPG staff was available to address any issues for the next hour prior to the close of the meeting.

A community member commented to Phil Shantz that he was pleased that SENES Consultants Limited was working with Chris McKay on interpreting if there were any Mattagami First Nation values be affected by the redevelopment of the hydroelectric facilities.

6.0 FACILITY TOUR – MATTAGAMI FIRST NATION

On October 20th, 2006, a tour of the Wawaitin and Sandy Falls Generating Stations was held for interested Mattagami First Nation members. Approximately 15 individuals attended. The main purpose of this session was to provide an opportunity for community members to better understand the components of and how a small hydro-electric generating station works. There were no questions of the proposed projects but were a number of questions about how the facilities operate at various times of year.



7.0 OPPORTUNITIES FOR FIRST NATIONS CONSULTATION

Until the Environmental Assessment is submitted, OPG will be open to any further comments from First Nations.

8.0 SUMMARY/CONCLUSIONS

Based on the assessment of the project's impact and the potential impact on First Nations rights, values and interests it was determined that a combination of notice, direct and separate consultation with First Nations (from the general public) and an honest dissemination and exchange of information of interest to the First Nations would form an appropriate platform for First Nations consultation on the project and be consistent with Supreme Court of Canada Decisions on consultation requirements with Aboriginal peoples.

An offer to consult was placed to four First Nations; Mattagami, Matachewan, Taykwa Tagamou and Flying Post. Only the Mattagami First Nation indicated an interest on being consulted on the project and meetings were held with them on three separate occasions. Contact was established during the process with the Chiefs of the other three First Nations and the opportunity for them to meet with the Project Manager to discuss the Project was offered to them. It is the opinion of OPG and SENES that the consultation was open, inclusive and meaningful.

As planned, OPG retained both John Pollock a licenced archaeologist from New Liskeard to assess archaeological resources and cultural values and Chris McKay, a First Nations values expert from Mattagami First Nation to determine if any Mattagami First Nations values were impacted by the Project. Studies were conducted by both and it was determined that no Mattagami First Nations values would be impacted by the Project and that no cultural heritage values or archaeological heritage sites (buried sites and ruins) were located within the proposed development areas.

It is the view of OPG that the First Nations consultation program was thorough, appropriate, well documented and consistent with the First Nations rights, values and interests and the proposed project's impacts. MNR has been involved at key stages of the process and was consulted on the overall First Nations consultation plan, attended First Nations meeting and was apprised of progress throughout the Project.

OPG recognizes that the ultimate duty to consult with First Nations lies on the Crown and that the Crown has potentially a wide array of approval points associated with the project. While broad approval is sought with the environmental assessment other approvals that will need to be obtained down the road include approvals under the Lakes and Rivers Improvements Act or Certificate of Approvals under the Environmental Protection Act. It is the view of OPG that the environmental assessment is the appropriate decision-point for the Crown to consult with First Nations as it is the only decision point that integrates overall project impacts with an assessment of potentially affected First Nations rights, values, interests and resources.

9.0 REFERENCES

Issac, Thomas F. and *D. Anthony Knox*. Supreme Court of Canada Decision in *Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage)* – Crown's Duty to Consult and Treaty Rights. 2005.

Appendix A

Letters to First Nations (confidential)

Appendix B

Presentations to Mattagami First Nation (confidential)