THE PATH TO "JIIBEGMEGOONG": LESSONS LEARNED IN WORKING WITH ABORIGINAL PEOPLE ON ARCHAEOLOGICAL ASSESSMENT OF THE BRUCE NUCLEAR POWER DEVELOPMENT SITE *

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ABSTRACT

This paper reviews recent Ontario Hydro experience in planning a nuclear waste management project, which illustrates how proponents may be able to work with sceptical public groups in addressing special issues identified during the planning and environmental assessment stages of any proposed project.

The specific lessons presented at the end of the paper relate to three basic guidelines derived from past Ontario Hydro experience in working with Aboriginal people: the need for a trusting working relationship, investment of time and energy, and sufficient resources to permit the Aboriginal people involved to do what they consider essential for trust and mutual respect to be established.

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1. INTRODUCTION

This paper reviews part of the environmental assessment process for a proposed Ontario Hydro nuclear waste management project to illustrate how proponents can work successfully with sceptical public groups in scoping and investigating special issues which can arise during the development of projects. The case reviewed here involves local Aboriginal concerns about potential effects of the proposed project on Aboriginal heritage resources, particularly burial sites, within the boundaries of Ontario Hydro's Bruce Nuclear Power Development (BNPD) site on the shores of Lake Huron. This concern came to light during the early stages of regulatory review of Ontario Hydro's proposal to build a used fuel storage facility within the BNPD site. The purpose of Ontario Hydro's proposal is to expand the capacity for on-site storage of used fuel arising from ongoing operation of the existing Bruce A and Bruce B nuclear generating stations. The proposal is referred to as the Bruce Used Fuel Dry Storage Project (BUFDSP).

2. SETTING OF THE PROPOSED PROJECT

2.1 Overview of the BNPD Site and Region

Ontario Hydro's Bruce Nuclear Power Development (BNPD) site is located on the eastern shore of Lake Huron, in the county of Bruce, roughly midway between the towns of Kincardine to the south and Port Elgin to the north (see Figure 1). Other communities within 25 km of the site include the town of Southampton and the villages of Paisley and Tiverton. The closest settlement is the hamlet of Inverhuron, located approximately 4 km south of BNPD. The closest Aboriginal communities are those of the Chippewas of Saugeen and Nawash First Nations, both located more than 25 km north of BNPD. The Saugeen reserve is also located on the east shore of Lake Huron, approximately 7 km northeast of Port Elgin, while the Nawash reserve (also referred to as "Cape Croker") is located 35 km north of Owen Sound on the west shore of Georgian Bay. Inverhuron Provincial Park is located immediately south of the BNPD site.

The BNPD site is a large nuclear energy complex, covering an area of approximately 930 hectares (2300 acres). The main facilities presently located within the site include the Bruce Generating Stations A (Units 1-4, presently in a temporary lay-up state, planned for return to service over the period 2003-2009 subject to load and economic conditions) and B (units 5-8) with a combined capacity of over 6800 MWe; the shut-down Douglas Point Generating Station (the first commercial scale nuclear power plant in Canada at 200 MWe capacity, owned by Atomic Energy of Canada Limited, operated by Ontario Hydro until it was permanently shut down by AECL in 1984) and associated Douglas Point Waste Management Facility (for storage of the used fuel from the Douglas Point reactor); two radioactive waste management sites (currently being consolidated at one site, Radioactive Waste Operations Site 2); the remaining components of the Bruce Heavy Water Plant complex (permanently shut down, partly dismantled); as well as a range of other ancillary facilities such as training, central maintenance, bulk steam supply, sewage treatment, conventional landfill, roads and other transportation facilities, administration offices, and security.

2.2 The Ontario Hydro Project

Ontario Hydro is planning to construct an additional facility at BNPD for dry storage of used nuclear fuel. This storage facility is needed to allow the Bruce A and Bruce B generating stations to continue operating as planned and approved. The facility will be located within the BNPD site, just east of the existing Radioactive Waste Operations Site 2 (RWOS2), as shown in Figure 2.

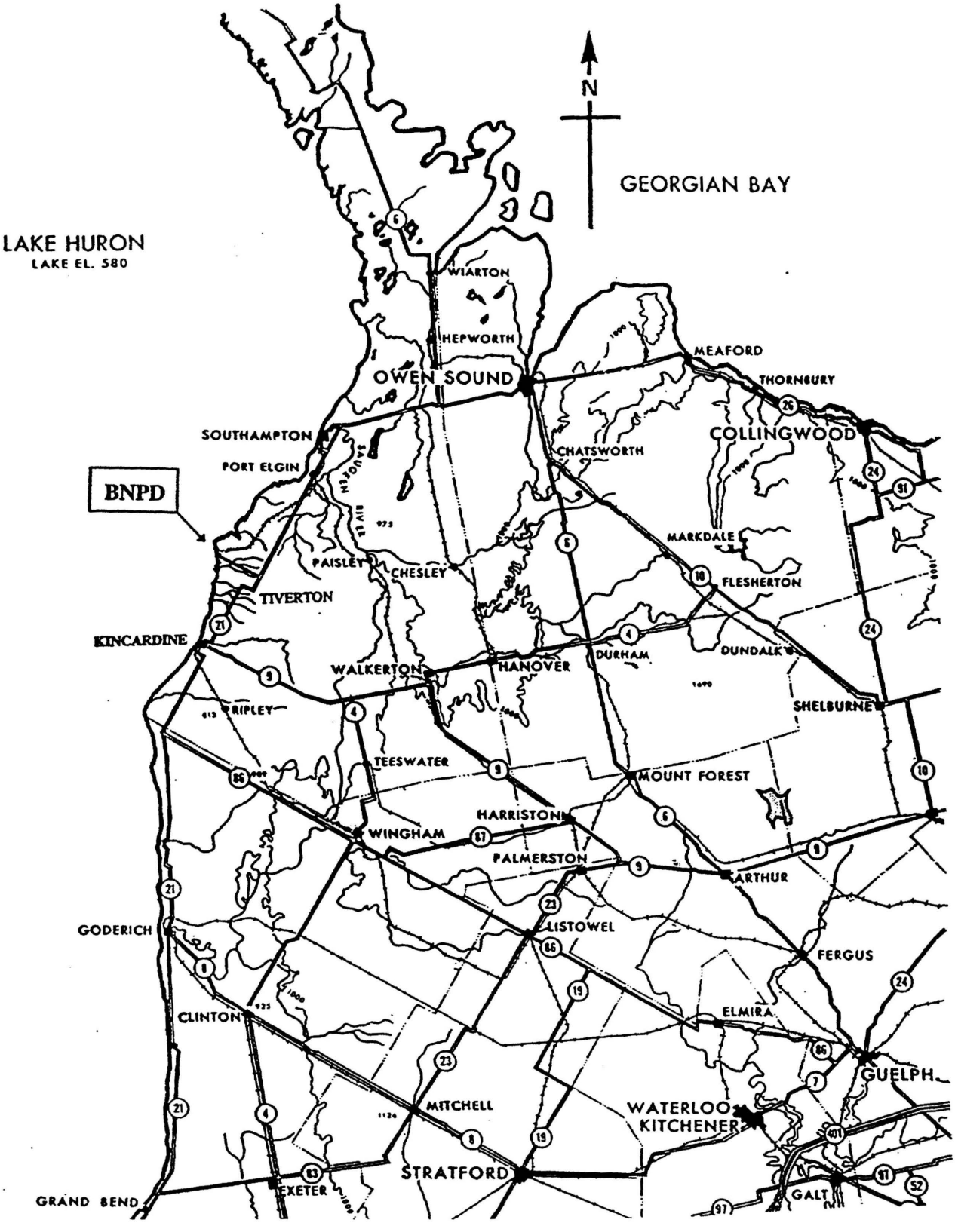
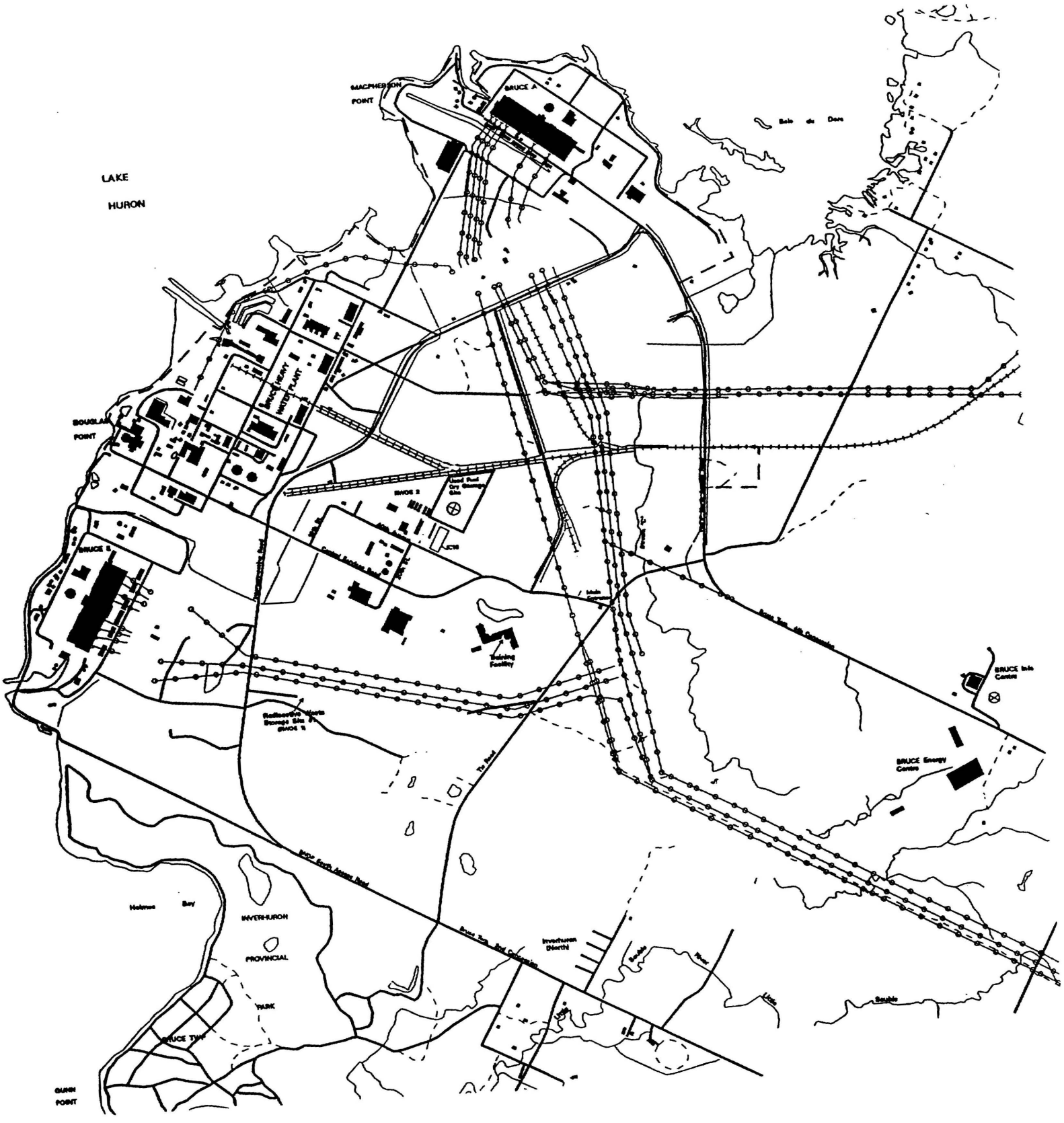


Figure 1 BNPD Site Location



⊕ Proposed project site

Figure 2 BNPD Site Layout

2.3 Existing Aboriginal Heritage Resources in the Project Vicinity

BNPD is located within the area of the "Sauking Territory", the traditional territory of the Nawash and Saugeen First Nations. The Chippewas of Nawash First Nation are Algonkian (Ojibway) speaking peoples that are known to have resided in this area from the time of European contact. They have described their traditional territory to include the lands and waters surrounding the BNPD site and extending in both directions along the Lake Huron shoreline, out into the lake, and inland.

Past archaeological findings (including pottery, tools and burial sites) near the shore of Inverhuron Bay and the Little Sauble River indicate that the area was settled at least 2000 years ago. Other archaeological investigations have established that, as early as the mid-14th century, an Aboriginal settlement of approximately 500 people existed where Port Elgin is located today. The lands in the vicinity of the present BNPD site were generally occupied by the Algonkian Nation, including Ottawa, Chippewa and Potawatomi members, when the European pioneers began to settle in the harbour area in the early 1800s. This area became part of the District of Wellington, later known as the District of Huron. Surveying, land clearing and settlement by immigrant European farmers commenced in 1847 and Aboriginal settlements in turn became concentrated on reserve lands, well removed from the area which eventually became the BNPD site.

In the early 1970's, in the process of baseline studies and consultation for environmental assessment of the then proposed Bruce NGS B project, Ontario Hydro identified an area within the BNPD site, approximately 1100 m SSW of the now proposed used fuel storage project site, which unofficial information suggested might be an Aboriginal burial ground. Although Ontario Hydro had no official documentation to prove that it actually was a burial ground, Hydro marked it with signs and has preserved it as such since then.

2.4 Project Environmental Assessment Background

Prior to beginning the environmental assessment (EA) for the proposed used fuel storage project, Ontario Hydro consulted both federal and provincial government agencies to determine the level and scope of EA required. It was readily determined that an application for AECB approval in this case would trigger the EA requirement under the Canadian Environmental Assessment Act (CEAA). Hydro consulted the Ontario Ministry of the Environment to determine any additional requirements under the provincial Environmental Assessment Act. In general, the Ontario government supports the principle of one assessment for one project. Regarding the proposed storage project specifically, the Environmental Assessment Branch of the Ministry agreed that the project is covered by existing Exemption Orders OH-14 and OH-15 issued previously under the provincial EA Act, following Ontario Hydro's pre-legislation EA submissions for provincial approval of the Bruce B Nuclear Generating Station and Bruce Heavy Water Plant expansion. Thus, it was determined that only a federal EA submission was required for the proposed used fuel storage project.

Initial EA Submission

AECB staff initially directed Ontario Hydro to submit a screening-level EA, similar to the EA level previously required for the dry storage facility at Pickering. Accordingly, Hydro submitted a screening-level EA to the AECB in January 1997, together with a Safety Report. More than a year prior to this submission, Hydro initiated an external relations and outreach program to identify and attempt to resolve any concerns among stakeholders, interested groups or individuals in the Bruce communities. In the summer of 1996, during preparation of the screening EA, Ontario Hydro engaged a consultant to carry

out a preliminary (Stage 1) archaeological assessment of the proposed BUFDSP site (Archaeological Services Inc. 1996). The consultant concluded that the potential for finding archaeological resources on the proposed project site was only "moderately low", based on his evaluation of the site terrain as "unsuitable for (past) local habitation", although he noted that the potential of other locations in the vicinity was probably higher. Figure 3, adapted from the consultant's Stage 1 assessment report (derived in turn from files and maps at the Ontario Ministry of Citizenship, Culture and Recreation) illustrates the general location of documented archaeological sites in the BNPD vicinity. While two sites were indicated within BNPD, considerable distance from the proposed project site, numerous sites are indicated south of BNPD, particularly within the boundaries of the Inverhuron Provincial Park.

In February 1997, following further considerations, AECB staff informed Ontario Hydro that the project would be subject to a more detailed EA requirement ("comprehensive study") under CEAA. In March 1997, AECB staff specified the additional information, further to that already submitted in the screening-level EA report, which they considered necessary to fulfil the comprehensive study requirements. In April 1997, Ontario Hydro submitted the additional information to AECB in the form of an "Addendum". Although Ontario Hydro was unaware at this time of CEAA's emerging reference guide on "Assessing Environmental Effects on Physical and Cultural Heritage Resources" (CEAA 1996), the screening EA and Addendum together did meet the essential requirements of the Canadian Environmental Assessment Act and most of the intent of the key principles in the CEAA guide. This guide is discussed further in section 3.1 of this paper.

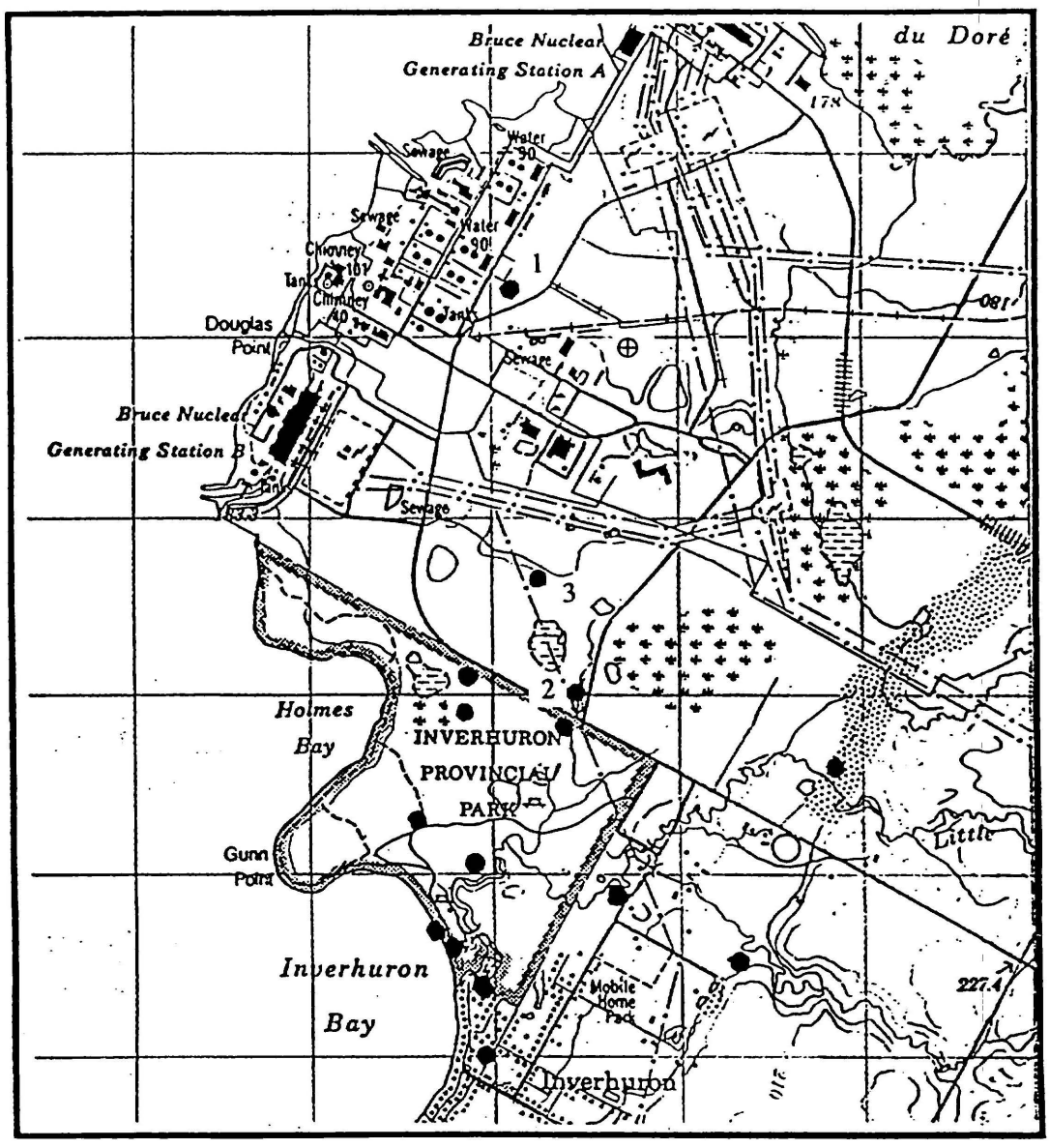
Aboriginal Concerns

As indicated above, Ontario Hydro had previously carried out a preliminary Stage 1 archaeological assessment of the proposed BUFDSP site in 1996, during preparation of the screening EA. However, during initial AECB review of Ontario Hydro's initial EA submissions (January 1997 screening EA and April 1997 Addendum), representatives of Aboriginal First Nations in the region (the Chippewas of Nawash initially, and later the Chippewas of Saugeen also) expressed doubts to the AECB in May 1997 about the thoroughness of Hydro's preliminary archaeological assessment.

A key event on the path to resolving this issue was a meeting in June 1997 between senior Ontario Hydro Nuclear management and leaders of the concerned First Nations. This meeting resulted in agreement that Hydro technical staff would work with representatives of the First Nations to jointly plan and undertake a more detailed and mutually acceptable archaeological assessment of the proposed project site and vicinity within BNPD boundaries. The ensuing cooperative assessment process is discussed further in section 4.

Updated Comprehensive Study EA Submission

In July 1997, Ontario Hydro decided to delay the in-service date of the proposed BUFDS Project. In addition to announcing this decision to the AECB and the Ontario Ministry of the Environment, Hydro communicated it to the local public via media releases and discussions with some interest groups. While this delay allowed Hydro to carry out additional project design studies, the delay and potential changes in project design made it necessary to update the EA submission prior to commencement of public review under the CEAA process. The decision to update the EA, further to the project delay decision, was communicated to the AECB in late August, and to public stakeholders in September 1997. Accordingly, an updated EA was submitted to the AECB in December 1997 and a further Addendum was submitted in July 1998. Both submissions address in more detail than the initial EA submissions the local Aboriginal concerns about potential effects of the proposed project on Aboriginal heritage resources believed to exist



1 "Dickie Lake" site presumed location (documented)
2 "Upper Mackenzie" site location (documented)
3 Aboriginal Burial Ground location (presumed undocumented)
⊕ Proposed project site location

Figure 3 Location of Known Archaeological Sites in BNPD Vicinity
(Adapted from Archaeological Services Inc. 1996)

within the BNPD site, based on the cooperative assessment process described in section 4, thus more than meeting the key principles in the CEAA guide (CEAA 1996).

3. GUIDELINES FROM CEAA & PREVIOUS ONTARIO HYDRO EXPERIENCE

3.1 CEAA Reference Guide

The Canadian Environmental Assessment Act implies that heritage resources must be addressed in federal EAs through its definition of "environmental effect":

> *any change that the project may cause in the environment, including any effects of such change..., on physical and cultural heritage, on the current use of lands and resources for traditional purposes by aboriginal persons, or on any structure, site or thing that is of historical, archaeological, paleontological or architectural significance* (Section 2 (1))

The Canadian Environmental Assessment Agency issued a reference guide in 1996 for "Assessing Environmental Effects on Physical and Cultural Heritage Resources" (CEAA 1996). Consistent with the requirements of the Act, the guide focuses on assessment of "tangible" cultural resources. Although the Act does not require assessment of potential changes to physical or cultural resources that do not result from a change in the natural environment caused by the proposed project, the guide indicates that Responsible Authorities (eg. AECB in our case) may choose to include heritage effects that do not result from a change in the environment caused by the project. Apart from a general assessment framework related to physical and cultural heritage resources, consistent with that in other CEAA reference guides, this particular guide sets out three key principles to be considered in planning for assessment of cultural heritage resources:

- Cultural heritage resources should be examined from a broad perspective. Such resources may not appear significant on their own, but when historical and physical context, cultural significance and other factors are examined, greater insight into their value may be obtained.

- Designated protected heritage sites should be assessed in relation to the mandates, objectives and intents of existing legislation and policies on heritage found at the various government levels, including any related international obligations.

- The concerns of the local governments, property owners and others affected by the project should be considered, including concerns of Aboriginal, ethnic or cultural groups whose heritage is involved, all being important sources of local or traditional knowledge.

Many heritage sites have not been clearly identified or formally recognized. There are sites where archaeological evidence exists but is not readily visible on the surface or not well recorded, eg. sacred Aboriginal grounds. Appropriate local stakeholders, professional experts, organizations dealing with cultural heritage matters may be important sources of information for evaluating such sites.

3.2 Previous Ontario Hydro Experience

Background

Ontario Hydro, like others in Canada, has become increasingly aware of the distinct legal, historical, and cultural status of Aboriginal people. Our efforts to incorporate their unique perspectives and insights and

expand economic opportunities began in the mid 1980's. Much of our initial effort was related to specific power generation and transmission projects through the Environmental Assessment processes for new facilities. Ontario Hydro now undertakes to involve Aboriginal communities in many aspects of our business that could affect these communities. We have made commitments to ongoing consultation with affected First Nations to exchange information on the issues in which it is considered that we have a mutual interest. The work we have done with First Nations to date has led Ontario Hydro to establish policies, principles and guidelines that have cemented and formalized the commitments that were made on a project-by-project basis and these have grown over time into a substantive program.

In 1990, the first initiative was the establishment of "Guidelines for Aboriginal Relations" which was a direct response to the lessons learned in the 1980's from our Environmental Assessment experiences. These Guidelines include directions for staff planning new facilities such as to "consult with Aboriginal communities at the earliest stages of project planning .....encourage participation .....and seek joint resolution of issues".

In 1991, Ontario Hydro expanded its ability to respond to Aboriginal communities by establishing, under a Vice President, the Aboriginal & Northern Affairs Branch. This Branch became a focal point for Hydro's commitment to work to build relationships with the Aboriginal people of Ontario that are healing, enduring, and mutually beneficial to all parties. The programs that the Branch has developed include Past Grievance Resolution, Community Consultation, Business Development, Education and Work Force initiatives.

In 1993, Ontario Hydro's Board of Directors approved a "Policy For Aboriginal Relations" as an umbrella policy aimed at shaping and directing all the activities of Ontario Hydro as they pertain to Aboriginal people. This policy specifically identified our commitment to work with selected First Nations to review their historical grievances and seek mutually acceptable solutions; to achieving long term benefits for Aboriginal communities whose traditional lands are affected by Hydro's projects and facilities; and to seek First Nations' concurrence as a critically important part of the process of obtaining EA approval of new facilities which might impact on their lands or livelihood.

In 1994, as a result of our experience in working with First Nations to review their historical grievances, a set of principles for the resolution of past grievances was adopted to ensure a workable resolution process, a compensation package that considers all legal and fairness issues, and that addresses the ongoing relationships with First Nations, consistently and comprehensively.

Beginning in 1996, with the restructuring of Ontario Hydro, individual business units have begun to develop their own Aboriginal relations programs suited to specific business needs.

Ontario Hydro Principles for Developing a Working Relationship with Aboriginal People

Against the above background, we will now outline the major principles that Ontario Hydro has developed over the years through working with Aboriginal communities on a range of projects, principles which influenced our response to the First Nations' concerns about our 1996 preliminary BNPD archaeological assessment.

- Recognition of the distinct legal, historical and cultural status of Aboriginal People;
- Consultation with First Nations as governments;
- Provision for participation of Aboriginal communities in the EA process;
- Addressing past and present issues in a joint planning process;

- Agreement to work together according to documented terms of reference, not assuming automatic endorsement of the EA or related study involved;
- Acknowledgement that First Nations may wish to control their own data; and
- Sharing of results to permit independent analysis and reporting.

The first two principles are related. Ontario Hydro undertakes to notify, consult and consider the advice of First Nations as we do other government entities in Ontario. This has meant that notification to First Nations of project proposals is undertaken as we notify other politicians, government agencies, etc, and that the notification is early and specific and often followed up with direct contacts.

The third and fourth principles reflect our commitment to consider many questions related to the involvement of Aboriginal communities, including type of involvement, consultation methods, timing, data collection, etc, in planning for new facilities.

The last three principles address the nature of the working relationship, and the need to make commitments that build trust, mutual respect, and sharing as the working relationship develops, and to specifically counteract the suspicion, mistrust and exploitive relationships that have coloured First Nations' experiences in the past.

In summary, our approach to working with the First Nations regarding the BNPD archaeological assessment issue followed three basic guidelines (or requirements) derived from working with Aboriginal communities on a range of previous projects:

- **Trusting Working Relationship:** The successes of our past planning and assessment processes have been a function of the ability of the planning teams to develop a trusting working relationship with the many Aboriginal people they have worked with;

- **Investment of Time and Energy:** The planning teams have needed to make a commitment of sufficient time and energy to develop a working relationship based on mutual respect; and

- **Sufficient Resources:** The teams have needed sufficient resources (time, funding, support) to permit First Nations to undertake the work necessary for the trust and mutual respect to be achieved.

4. COOPERATIVE PROCESS DEVELOPED FOR ARCHAEOLOGICAL ASSESSMENT OF THE PROPOSED BRUCE USED FUEL DRY STORAGE PROJECT

As indicated under section 2.4, the key to addressing local concerns about potential project effects on Aboriginal heritage resources was a meeting in June 1997 between senior Ontario Hydro Nuclear management and leaders of the concerned First Nations, the Chippewas of Saugeen and Nawash (reserve locations described in section 2.1). This meeting resulted in agreement (inter alia) that Hydro technical staff would work with representatives of the First Nations:

- to jointly plan and undertake a more detailed and mutually acceptable archaeological assessment of the proposed project site and vicinity within BNPD boundaries; and later

- to jointly develop a method for monitoring any archaeological effects during BUFDSP site preparation and facility construction.

This agreement was communicated to the AECB, the Responsible Authority in this case.

4.1 Joint Scoping of Issues and Assessment Approach

In August 1997, an initial meeting with the designated research coordinator for both Nawash and Saugeen First Nations, and certain Nawash council members (Saugeen council members unable to attend), took place at the office of the Nawash First Nation (Cape Croker). The purpose was to begin discussion of background information, issues and approach to scoping of further archaeological assessment of the proposed BUFDSP site and vicinity within BNPD.

Sharing of Background Information

Prior to the meeting, the Nawash/Saugeen research coordinator had requested, and OHN staff undertook to assemble and provide, available background information which might indicate how Ontario Hydro originally determined and marked the perimeter of a so-called "Indian Burial Ground" located within the BNPD site (which had been described in the supplementary baseline information in the April 1997 EA Addendum). A binder containing the requested information, plus other background information which we considered useful for jointly planning the archaeological survey and later construction monitoring process, was tabled at the meeting. The Nawash/Saugeen research coordinator contributed both scientific literature and anecdotal information to this binder. Considerable information sharing and discussion ensued, including the following key issues:

- Questions about the actual location and origin of the documented "Dickie Lake" archaeological site which, according to the official archaeological site database administered by the Ontario Ministry of Citizenship, Culture and Recreation (MCzCR), was believed to be located just east of the Heavy Water Plant within BNPD (earlier Ontario Hydro field investigation had failed to find any evidence of an archaeological site in this area);

- Questions about documentation of the then-called "Indian Burial Ground" known to be located within the BNPD site, more than 1 km SSW of the proposed project site (The possibility of the area being a burial ground was brought to Ontario Hydro's attention in the mid 1970's during the EA process for the Bruce B nuclear generating station. Although Ontario Hydro had no formal documentation linked to this area at the time, Hydro marked it as a burial ground in the early 1980's and has preserved it since then.); and

- Concerns about the probability that human remains identified in the so-called "Knechtel Collection" at the Bruce County Museum, labelled as originating from locations within BNPD and Inverhuron Park, belong to ancestors of the Saugeen and Nawash people and should be repatriated and reinterred at the BNPD burial ground.

Need for Further Archaeological Assessment of the Proposed Project Site

Based on review of the background information, noting that several of the over 20 archaeological sites identified in the BNPD / Inverhuron Park area have a burial association, and also noting that the ridge (an ancient post-glacial shoreline) which crosses the proposed project site can be traced to the vicinity of burial sites identified elsewher in the area, it was agreed that further archaeological assessment of the project site (ie. in addition to the Stage 1 screening assessment Ontario Hydro had commissioned in 1996) was reasonable.

Approach to Scoping of Further Archaeological Assessment

In general, it was agreed that the scope and methods of the archaeological assessment should be consistent with the "Archaeological Assessment Technical Guidelines" administered by the Ontario Ministry of Citizenship, Culture and Recreation (MCzCR 1993), as applicable for a Stage 2 assessment, and would take into account the "background" issues related to archaeological sites elsewhere within the overall BNPD site. More specifically, it was agreed that the approach to joint development of Terms of Reference for the assessment would include the following elements:

Process Requirements:

- First Nations involvement in developing and accepting the terms of reference, although Ontario Hydro would prepare a first draft for joint review (see section 4.2);
- Use of a mutually acceptable consultant, paid for by Ontario Hydro, and joint acceptance of the consultant's proposal (see sections 4.3-4.4);
- First Nations expectation to have at least one representative from each community, Nawash and Saugeen, observe the methods used by the consultant during key steps in the assessment, ie. analysis of archaeological collections at the Bruce County Museum and the field survey at BNPD;
- Reimbursement of reasonable travel expenses for Aboriginal observers was requested and agreed to later, following the meeting (see section 4.5).

Technical Requirements:

- The consultant would be directed to inspect the project site before undertaking any other field work and recommend which areas of the site should be surveyed using a standard grid method;
- Survey grid spacing in those areas thus recommended would be 5 m, consistent with a hypothesis of high archaeological potential and the MCzCR technical guideline;
- The research component of the assessment would include interviews with Aboriginal Elders, relatives and associates of amateur and professional archaeologists who had investigated the BNPD area beginning in the 1950s;
- A copy of the background information binder, including the information contributed by the Nawash/Saugeen research coordinator, would be provided to the consultant.

Schedule Requirements:

- The field survey part of the assessment at least should be completed before snow and freeze-up.
- Assessment results ideally would be available in time for inclusion in a planned update of Ontario Hydro's EA for the proposed project, subsequently scheduled for submission to the AECB by end of 1997 (refer to section 2.4 of this paper).
- Thus, it was understood, Ontario Hydro needed the consultant selection, terms of reference and study mobilization to proceed with some priority.

Access to and Ongoing Protection of Archaeological Sites within BNPD

As they had explained at the June 1997 meeting with senior Ontario Hydro Nuclear management, the First Nations were also interested in obtaining regular access to archaeological sites within BNPD, particularly any burial sites, for ceremonial and monitoring purposes. This interest was raised again at the August scoping meeting and Ontario Hydro agreed in principle, subject to development of a

procedure or "protocol" to meet security and public safety requirements. This issue, and the earlier issue related to recovery and reinterment of human remains from the county museum, are discussed further under "Follow-Up" (section 4.7).

4.2 Joint Terms of Reference for Assessment

Within a week following the scoping meeting, Ontario Hydro staff prepared draft Terms of Reference for a Stage 2 archaeological assessment of the proposed project site and vicinity within BNPD, based on the general approach and special requirements agreed to with the First Nations' representatives, and forwarded it to the Nawash/Saugeen research coordinator for review. The Nawash/Saugeen research coordinator in turn requested confirmation in the Terms of Reference that Ontario Hydro would use the results in the ongoing EA process for the proposed used fuel storage project. Ontario Hydro staff confirmed that this was the intent and forwarded a revised version of the Terms of Reference to the Nawash/Saugeen research coordinator for official acceptance by the two First Nations. The Nawash and Saugeen band councils accepted the Terms of Reference by formal resolutions at separate meetings in early September 1997, only three weeks after the initial scoping meeting. In our view, this expedient turn-around was largely due to the availability, credibility and effort of the Nawash/Saugeen research coordinator.

4.3 Mutually Acceptable Consultant to Conduct Assessment

At the scoping meeting, it had been agreed that the consultant who did the Stage 1 assessment (documented in the initial project EA) would not be used for the Stage 2 assessment. Although Ontario Hydro could have recommended other competent archaeological consultants, we suggested that the selection process should begin with consideration of a consultant recommended by the Nawash/Saugeen research coordinator. If acceptable to Ontario Hydro, this consultant would be selected. The intent of this selection approach was to maximize the First Nations' confidence in the consultant selected, so that the eventual results of the assessment in turn would have maximum credibility from their perspective. The Nawash/Saugeen research coordinator arranged for the recommended consultant (Dr. Fitzgerald, Wilfrid Laurier University, co-author of this paper) to forward a resume to Ontario Hydro the day after the scoping meeting. Ontario Hydro communicated general acceptance of the Nawash/Saugeen recommended consultant in early September 1997, subject to later acceptance of a specific proposal from him responding to the accepted Terms of Reference.

4.4 Joint Acceptance of Consultant's Proposal

The consultant forwarded a specific proposal by mid-September 1997 and supplementary information about a week later. Following written acceptance from the Nawash/Saugeen research coordinator, Ontario Hydro completed its internal approval process and awarded a contract to the consultant in early October 1997 to carry out the Stage 2 archaeological assessment.

4.5 Reimbursement of Expenses for First Nations' Representatives to Observe Key Steps

At the scoping meeting in August, it had been agreed that Nawash and Saugeen would have at least one representative from each community observe the methods used by the consultant during key steps in the assessment, ie. analysis of archaeological collections at the Bruce County Museum and the field survey at BNPD. The issue of reimbursement of reasonable travel expenses for the Nawash and Saugeen observers was deferred for later resolution, subject to Ontario Hydro project management approval. The Nawash/Saugeen research coordinator's written acceptance of the consultant's proposal had included a reasonable estimate of expenses for the "Aboriginal monitors". The coordinator indicated that the band

offices of both First Nations were willing to advance expense money to the monitors conditional on written confirmation from Ontario Hydro that it would later reimburse the funds upon receipt of invoices. This reimbursement proposal was approved by Ontario Hydro management immediately after the assessment contract was awarded to the consultant and confirmed in writing to the Nawash/Saugeen research coordinator. The path was now clear for the consultant, who had already begun the background research, to proceed with the field investigation component of the Stage 2 archaeological assessment.

4.6 Joint Acceptance of Consultant's Report

Synopsis of Assessment Results

It is not the intent of this paper to present the methods and results of the consultant's assessment in any detail. The emphasis of this paper is intended to be on the cooperative process through which the assessment was scoped, resourced, monitored and finally accepted. However, the paper would seem incomplete without noting the following key findings (Fitzgerald 1998):

- No evidence of past habitation or burial sites was found within the proposed project site.

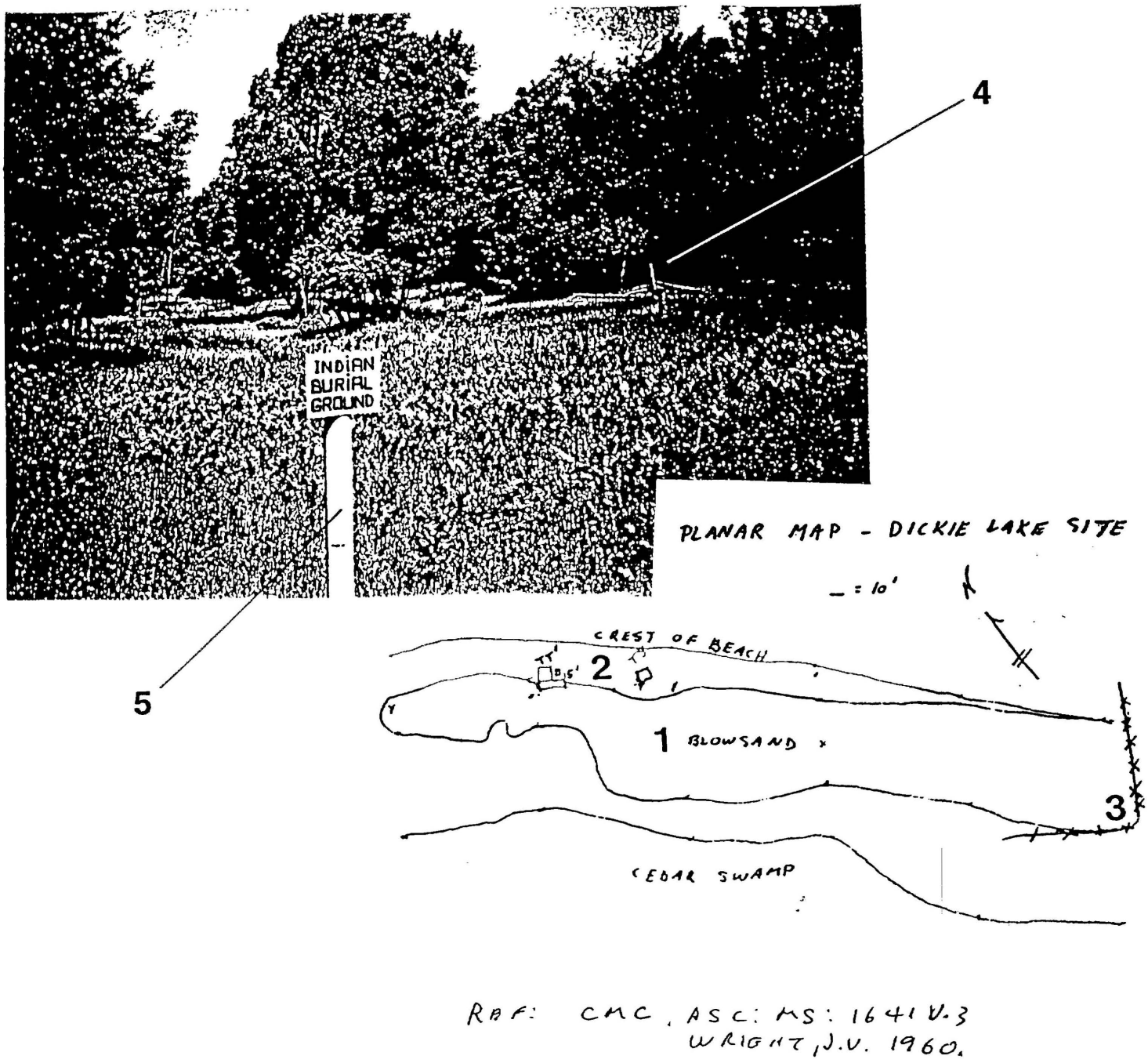
- However, the consultant recommended that the "upland portion" of the project site be monitored during the site preparation stage of project implementation, in case any deeply buried archaeological remains were found despite this Stage 2 assessment (consistent with the general agreement in June 1997 between senior Ontario Hydro Nuclear management and First Nation leaders).

- The Aboriginal burial ground located approximately 1 km south of the proposed project site, identified by Ontario Hydro in the 1970s, is in fact the archaeological site which was investigated by archaeologists beginning back in the 1950's and subsequently listed in the national archaeological database as the "Dickie Lake" site. The coordinates originally entered into the national database for the "Dickie Lake" site were incorrect, leading investigators subsequently (until now) to assume that it was located just west of the Bruce Heavy Water Plant. There is no archaeological site west of the Bruce Heavy Water Plant. Figure 4 illustrates part of the evidence linking the "Dickie Lake" site documentation in the national database to the area which Ontario Hydro had earlier marked as the "Indian Burial Ground". This and other visual evidence, together with local interviews and other research carried out in the Stage 2 assessment, has established beyond any reasonable doubt that this is a legitimate Aboriginal burial ground.

The Stage 2 assessment also provided information on another known archaeological site ("Upper Mackenzie") located at the very SE corner of the BNPD site, but it was agreed to be of relatively little relevance to the environmental assessment of the proposed project.

Joint Review and Acceptance of Consultant's Draft Report

The consultant completed a draft report in mid-November 1997, documenting the methods and results of the Stage 2 archaeological assessment. Copies of the draft report were reviewed in parallel by Ontario Hydro technical staff and by members of the two First Nations assisted by their research coordinator. Two meetings (involving First Nations' representatives, Ontario Hydro staff and the consultant) were held to present and discuss the draft report, one in early December 1997 and one in mid-February 1998, both at the Saugeen band office. Other issues were raised at these meetings by the First Nations representatives (some of which had been raised at earlier meetings with Ontario Hydro) related to the confirmed burial ground (see under "Follow-Up" section below), but it was agreed that these other issues



1 Estimated location of burial exposure discovered in 1957
2 Archaeological excavation areas 1960
3 Cedar rail fence marked by archaeologist for location reference
4 Same cedar rail fence remains today as evident in 1997 photo
5 One of some 20 markers installed by Ontario Hydro in the early 1980s Defining the Periphery of the Burial Ground

Figure 4 Visual Linkage between Archaeologist's Field Notes from 1960 and Earlier Investigation of "Dickie Lake" Site and Photo of Marked Burial Ground at BNPD in 1997 (Adapted from Fitzgerald 1998)

should not deter acceptance of the consultant's draft report. In fact, it was agreed that the consultant's report was an important part of the resolution of the other issues.

Based on feedback at the December meeting, Ontario Hydro became sufficiently confident of the mutual acceptability of the consultant's findings to include them in the updated project Environmental Assessment which was submitted to the AECB later in December 1997.

Finally, in mid-March 1998, the Nawash/Saugeen research coordinator issued written confirmation to Ontario Hydro that a joint meeting of the chiefs and councils of both First Nations involved had accepted the consultant's draft report. The report was subsequently finalized by the consultant and copies provided to the First Nations, the AECB and the provincial Ministry of Citizenship, Culture and Recreation.

4.7 Follow-Up

At the June 1997 meeting with senior Ontario Hydro Nuclear management, in addition to their archaeological assessment concerns about the proposed project, the First Nations expressed interest in obtaining regular access to known archaeological sites within BNPD, particularly sites believed to have a burial association, for ceremonial and monitoring purposes. This interest was raised again at the August 1997 scoping meeting. Related issues raised in meetings and correspondence since then include:

- A formally agreed protocol to be developed for ongoing periodic First Nations access to the confirmed burial ground and other areas within BNPD which may have Aboriginal heritage significance, subject to security and safety requirements;

- Provision to be included in the access protocol for periodic joint monitoring of a specified "high potential" area south of the known burial ground, as recommended by the archaeological consultant, to identify any other shallow burial sites which might become exposed over time due to natural erosion effects (the effects which had led to the discovery of human remains in the 1950s-60s within the now-known burial ground);

- Recovery of burial remains from the county museum and formal reinterment of these remains at the burial ground from which they originated;

- Cleanup with minimum disturbance of the burial ground (to remove a few items remaining from pre-Ontario Hydro land use); and

- Renovation / repositioning of peripheral marker posts, to include new signs with a culturally appropriate name and design.

In March 1998, Ontario Hydro's Executive Vice President and Chief Nuclear Officer confirmed in writing to the chiefs of the Nawash and Saugeen First Nations that Ontario Hydro would continue to work with them and their representatives "until all the issues have been addressed". Progress since then has included a joint visit to the burial ground at BNPD, including both chiefs, for all parties to see the situation first-hand and jointly determine how these issues might reasonably be addressed.

An important milestone near the end of the path to joint acceptance of the archaeological consultant's Stage 2 assessment report was the official renaming, by the First Nations, of the burial ground confirmed through the assessment. They had raised a concern at the meeting in December 1997, and Ontario Hydro

staff agreed, that the name "Indian Burial Ground" which Ontario Hydro had placed on the peripheral marker posts in the early 1980s was not culturally appropriate. It was agreed that the First Nations would select a name and communicate it to Ontario Hydro, so that it could be reflected in (a) the final version of the consultant's report, (b) related input to MCzCR for correction and updating of the national archaeological database, and (c) the new signs being jointly designed for the peripheral marker posts at the burial ground. The new name selected in early March 1998, by resolution of a joint council for the two First Nations, was "*Chiibegmegoong*" (an Ojibway term meaning Spirit Place). The council subsequently decided to revise the spelling of the new name to "*Jiibegmegoong*", as communicated to Ontario Hydro in mid April 1998 by the Chief of the Nawash First Nation.

4.8 Summary of Process Steps and Time Required

For the information of others who may wish to use this cooperative process experience, we summarize the key steps and milestones in the process, and the time actually required for each step and in total to date, in the following table:

Summary of Process Steps and Time Required			
Key Steps / Milestones	Dates	Time Duration (Days)	Cumulative Time (Days)
Meeting of OHN and First Nations leaders	26 Jun 97	-	-
Initial joint scoping meeting	21 Aug 97	56	56
Selection of mutually acceptable consultant	3 Sep 97	13	69
First Nations formal acceptance of Terms of Reference for Stage 2 arch'l assessment	11 Sep 97	8	77
Joint acceptance of consultant's proposal	1 Oct 97	20	97
OHN award of contract to consultant	6 Oct 97	5	102
OHN written commitment to reimburse expenses of First Nations observers	10 Oct 97	4	106
Draft report from consultant	17 Nov 97	38	144
Joint review & First Nations formal acceptance of consultant's draft report	10 Mar 98	113	257
Final report from consultant	17 Mar 98	7	264
OHN written commitment to continue working with First Nations on other related issues (Follow-Up)	31 Mar 98	14	278
Official First Nations renaming of Aboriginal burial ground at BNPD to *Jiibegmegoong*	17 Apr 98	17	295
Follow-Up	Ongoing	-	-

5. SUMMARY OF LESSONS LEARNED

In closing, we summarize some key lessons learned so far in this particular process, building on other Ontario Hydro experiences from working with Aboriginal people, which may be instructive to others. We believe they are applicable to planning and carrying out environmental assessment studies for any major project. The specific lessons listed below relate to the general guidelines suggested at the end of section 3.2 (ie., the need for a trusting working relationship, investment of time and energy, and sufficient resources):

- Early involvement and commitment of senior management for the proponent;
- Early involvement of key stakeholders in identifying issues or areas of concern to be addressed in the assessment process;
- Scope sufficiently broad to allow consideration of concerns which are clearly important to the stakeholders, even if the area of concern does not appear to be within the likely zone of influence of the proposed project;
- Involvement of key stakeholders and their officials in developing and formally accepting the terms of reference for assessment of a proposed project regarding the identified areas of concern;
- Selection of a mutually acceptable individual or group to carry out the assessment study, eg. a consultant;
- Joint acceptance of the specific assessment study proposal;
- Payment by the proponent of reasonable expenses for stakeholder representatives to observe the methods used at key stages in the study (eg. field survey stage) in addition to paying for the normal costs of the study;
- Joint review and acceptance of a draft report, documenting the results and recommendations of the study, before the report is finalized.

6. REFERENCES

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