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Edward Birnbaum:

On September 18, 2023, I received a request to designate the Ontario Place Spa Complex Project (the Project) under subsection 9(1) of the *Impact Assessment Act*, SC 2019, c 28, s 1 (IAA). A review of whether a designation would have been warranted had commenced prior to the Supreme Court of Canada's (SCC) issuance of its opinion on the constitutionality of the IAA.

Following the SCC's issuance of its opinion, the Government of Canada issued the Statement on the Interim Administration of the IAA Pending Legislative Amendments on October 26, 2023 (Interim Statement).¹ The guidance set out in the Interim Statement will be followed until amendments come into force to address the issues in the IAA identified by the SCC.

With respect to designation requests, the Interim Statement provides that no decisions to designate projects will be taken under section 9 of the IAA and that consideration of any new designation requests will only resume, as appropriate, once amended legislation is in force. To this end, no designation decision will be made with respect to the Project under section 9 of the IAA. Consideration of any new designation requests will take place as appropriate, once amended legislation is in force.

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¹ <https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/practitioners-guide-impact-assessment-act/statement-interim-administration-impact-assessment-act-pending-legislative-amendments.html>



The Interim Statement further sets out that, where I am of the opinion that designation of a project under section 9 of the IAA would not have been warranted, I would communicate that information to proponents.

After careful consideration of the information provided by Therme Canada and Infrastructure Ontario; advice from federal authorities; input from provincial ministries, the City of Toronto, and the Toronto and Region Conservation Authority; the concerns expressed in the requester's letter; comments from Indigenous communities and the public; and the Analysis Report prepared by the Impact Assessment Agency of Canada (the Agency), I am of the view that a designation of the Project under section 9 of the IAA would not have been warranted in any event.

The Agency's Analysis Report (enclosed), the request to designate, and this correspondence will be made available on the Canadian Impact Assessment Registry Internet site (Reference number 85951):
<https://iaac-aeic.gc.ca/050/evaluations/proj/85951>.

Further questions can be directed to Amy Sen, Acting Director of Ontario Region at the Agency, by email at ontarioregion-regiondontario@iaac-aeic.gc.ca.

Sincerely,

<Original signed by>

The Honourable Steven Guilbeault, P.C., M.P. (il/lui/he/him)

Enclosure

c.c.: Robert Hanea, Therme Group Canada
Carrie Sheaffer, Infrastructure Ontario