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**Written submission from the
Curve Lake First Nation**

**Mémoire de la Première
Nation de Curve Lake**

**Regulatory Oversight Report for
Uranium and Nuclear Substance
Processing Facilities and Research
Reactors in Canada: 2020**

**Rapport de surveillance
réglementaire des installations
de traitement de l'uranium et des
substances nucléaires ainsi que
des réacteurs de recherche au
Canada : 2020**

Commission Meeting

Réunion de la Commission

December 16, 2021

Le 16 décembre 2021



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November 1, 2021 (Submitted by Email)

RE: Regulatory Oversight Reports: 2020

CMD: 21-M33 Regulatory Oversight Report for Uranium and Nuclear Substance Processing Facilities and Research Reactors in Canada: 2020

CMD: 21-M34 Regulatory Oversight Report for Uranium Mines, Mills, Historic, and Decommissioned Sites in Canada: 2020

CMD: 21-M36 Regulatory Oversight Report for Canadian Nuclear Power Generating Sites for 2020

Dear Secretariat,

On behalf of Chief & Council and our community at Curve Lake First Nation (CLFN), we hope that this written submission finds you safe and healthy during this where we sustain our efforts to keep our community, our friends, our family and our loved ones safe, healthy, and cared for. We hope that members and staff at CNSC are taking care of each other in this phase.

This written submission represents the views of CLFN only. In our assessment, CLFN has made great strides in the last few years to build relationships and engage in open dialogue on a government to government and government to corporation basis as it relates to processes of consultation. Consultation and accommodation are critical in ensuring that the rights and interests of the Mississauga Anishinabek Nation are prioritized regarding projects in our territory.



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Our Consultation Department has emphasized that environmental protection and sustainability is an integral component of the future of the Curve Lake First Nation. Working with Curve Lake to develop project concept, design, planning, assessment, potential and actual impacts, monitoring, etc. are necessary steps in our process. All plans and activities must be viewed through the lens of environmental protection and sustainability. These requirements ensure that Curve Lake First Nation's interests and rights are being protected within our territory; that we are able to protect the ability to exercise our rights as a people – physically, culturally, and spiritually; that we are able to foster sovereignty, cultural identity, and sustainable succession. This is central to all relationships being progressed with various regulators and proponents.

Curve Lake First Nation is the steward and caretaker of the lands and waters within our territory in perpetuity, as we have been for thousands of years, and we have an obligation to continue to steadfastly maintain this responsibility to ensure their health and integrity for generations to come. Protection, conservation, and sustainable collaborative management are priorities for Curve Lake First Nation.

Curve Lake's vision statement must be central to development in the territory: "Upon the foundation of community values and vision that promotes and preserves our relationship with mother earth, which has defined and will continue to define our identity and culture as Anishnaabe People, the Consultation Department will build and secure the framework for our First Nation lands by putting into place ways and laws that will provide both the protection and the freedom for each person, their family, and the whole community to fulfill their potential. Each way and law will be given the consideration to its importance for our next seven generations."

We would like to acknowledge CNSC staff in their dialogue and work with our Consultation Department since 2020 and into 2021. There are many topics and projects that have been covered; as everyone can appreciate, meaningfully consulting on and addressing each topic or project takes time, commitment, and focus. We are optimistic that our Terms of Reference and Work Plan for 2021 and beyond will result in progress and improvements in the coming years.

We would like to acknowledge BWXT, Cameco and OPG staff in their similar dialogue and routine interactions with our Consultation Department at various stages of progression throughout 2021. We note that this Regulatory Oversight Report is backwards looking and covers the period of 2020 where much of the content would have pre-dated the establishment of our routine meetings, our interactions in 2021 will certainly help the next review period.



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Our Consultation Department is progressively building capacity to be able to match the various consultation needs in the nuclear sector. We view this submission process merely as a formal check-in point and we look forward to continuing dialogue and consultation beyond the confines of this process and lead to decision points and decision making that includes Curve Lake First Nation. Last but not least, we would like to thank CNSC staff for working with us on our Participant Funding Application; this has assisted in making a submission like this possible.

This portion of our covering letter is adopted from our previous written submission regarding the ROR for CNL since the themes that were uncovered are quite similar in nature.

The greatest take-away from reviewing this document can be framed within the context of the following question: How are Indigenous Nations represented within this document? The answer to that question is: as an after thought, as an “other,” and as an appendix. Herein lies our greatest criticism of the RORs: First Nations are not represented in a way that demonstrates acknowledgement of inherent and/or Treaty rights. This serves to create perceived distance between the Honour of the Crown and its duty to consult with First Nations communities; and perhaps more importantly, why the duty exists. This is of particular concern, as the protection of Indigenous rights seems to be a top priority of CNSC regulatory oversight, yet the level of prominence this topic possesses is diminished in the reporting and submission of documents.

The way in which information is conveyed is important as it promotes a larger contextual understanding of its content and purpose. The way in which the document is written is one of consistent exclusion and omission of First Nations in general. This occurs through neglecting to acknowledge the lands upon which CNL operates its facilities. This occurs through neglecting to identify Indigenous peoples beyond their First Nation name. This occurs through neglecting to include Indigenous epistemologies and ontologies (perspectives, understandings, and relationship to land) in the dissemination of information. This occurs through neglecting to use inclusive and balanced words, which results in a one-sided narrative that ultimately inadvertently precludes the existence of Indigenous Peoples and Indigenous knowledge systems.

There is a framework that supports a wider vision of what the nuclear industry means within Indigenous knowledge systems. These principles form some of the underpinnings of how baseline information is gathered and understood. To create a compatible space of interaction and positive relationship building, both parties must see themselves in the collective narratives created about regulatory methodologies – including in the overall wording and contextual lens of reporting.



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Although we acknowledge that the CNSC has expressed an awareness in their use of terminology throughout our in-person regular meetings, this is not yet reflected in the language used within reporting formats. While we also acknowledge that this process will take time, and that we are at the very early stages, some simple immediate actions can be taken to ameliorate current practices in reporting and providing written applications and documentation.

BWXT, Cameco and OPG operates various nuclear operations and activities within the treaty and traditional territories of many First Nations. These projects will continue to have a lasting effect upon the lands, waters, and airs that house the nuclear industry. This industry is characterized as having “legacy contamination” issues that need to be addressed, alongside risk longevity challenges for waste management. The nuclear industry is inherently generational, and its activities and operations will have impacts to the Earth and her children thousands of years into the future. This includes All our Relations - including animals, plants, the earth, and other humans.

Some of BWXT, Cameco and OPG site locations are within the treaty and traditional territories of the Michi Saagiig, and Chippewa Nations who were historically run off these lands and denied access to fishing and hunting territories for hundreds of years. As a result, our Peoples were reduced to invisibility on our own lands. This invisibility also negated an understanding of our connection and relationships to the lands, waters, and spirits of these territories. This extended to an invisibility of our inherent rights and then to the invisibility of our treaties. **These treaties are the original relationship framework agreements between our Peoples and cultures must have a space within our current contexts of relationship building.**

Our First Nation presence, our knowledges, our cultures, and our languages are virtually invisible across many sectors of society – this also includes in the written narratives of standardized reporting in the nuclear industry. While this may seem like a subtle omission, it has wider implications as part of the cumulative narrative that has become standardized in regulatory reporting processes – ultimately, it operationalizes the erasure of our Peoples from the record.

Our Nations should be visible within the operational methodologies of the nuclear industrial sector. We should be able to see ourselves reflected in the regulatory process, included within the documents, and required reporting. Not as an “event or other matter of interest” or as an “Appendix” but within a respected context of treaty responsibilities and nation to nation relationship building.



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The exclusionary nature of the reporting style in this submission by the CNSC does not seem to reflect our current collaborative efforts of positive relationship building. Nor does it seem to acknowledge our collective work in this area over the last few years. There seems to be a disconnect between intentions and commitments to this work when the reporting style of regulatory review documentation omits and diminishes the rights and histories of First Nations communities.

We hope that the recommendations provided throughout this submission are helpful and serve to heighten awareness and understanding in terms of how regulatory reporting processes can be more inclusive, respectful, and representative of current contexts.

There are two portions in the details of this submission.

Appendix A – CLFN’s Perspectives as it pertains to CNSC Documents and Redefining Meaningful Environmental Monitoring

Appendix B – Further Document Specific Examples as Opportunities for Improvement

Appendix A contains CLFN’s perspectives as a result of our detailed review of the documents made available by CNSC and a method for redefining meaningful environmental monitoring.

Compared to previous written submissions, we would normally have an additional Appendix that would provide opportunities for improvement where elaboration and communication of concepts, processes, requirements could be considered to help those who are not fully versed in the nuclear industry. Appendix B is not included in this written submission because it represents approximately 35 pages of examples that could be better synthesized and then discussed in another phase of engagement.

It is our hope that the contents of this covering letter and Appendix A, B, will help guide the dialogue between CNSC staff, BWXT staff, Cameco staff, OPG staff, and CLFN Consultation Department staff to make progress from information sharing, to engagement, all the way to meaningful consultation as we all continue our work in 2021 and make progress in 2022.

We do this work to uphold our responsibilities to care for the earth and waters, for our people, our nation, and for all our relations. Our foundational belief is balance; our values and principles are built upon the respect, care, and nurturing of all life as part of an interconnected whole and



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necessary for the balance and harmony required for Mino-Bimaadiziwin now and for future generations.

Sincerely,

The Curve Lake First Nation Consultation Department

Gary Pritchard
Principal, Indigenous Conservation Ecologist
4 Directions of Conservation Consulting Services

Julie Kapyrka
Lands & Resources Consultation Liaison
Curve Lake First Nation

Kaitlin Hill
Lands & Resources Consultation Liaison
Curve Lake First Nation

Francis Chua and Support Team
Support to Curve Lake First Nation Consultation Department

cc:

- Chief Emily Whetung, Curve Lake First Nation
- Curve Lake First Nation Chief and Council
- Katie Young-Haddlesey, Acting Chief Operating Officer, CLFN



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Appendix A – CLFN’s Perspectives as it pertains to CNSC Documents and Redefining Meaningful Environmental Monitoring

Prepared by:

Gary Pritchard

Principal, Indigenous Conservation Ecologist

4 Directions of Conservation Consulting Services

4 Directions of Conservation Consulting Services (4 Directions) was engaged by CLFN in the review of documents provided by the CNSC. 4 Directions routinely educates proponents on how to define meaningful engagement within their assessment process. This method follows the principles set forth in the IAP2 Canada Practices for Public Participation. 4 Directions founder Mr. Gary Pritchard routinely advises the IAP2 Canadian Council on how to better foster relationship with the Indigenous community.

Canadian Nuclear Safety Commission Regulatory Oversight Report for Uranium and Nuclear Substance Processing Facilities and Research Reactors in Canada: 2020. August 30, 2021. 142 pp.

Page 1: Indigenous groups and their traditional and/or treaty territories are acknowledged at the beginning of the ROR and presentation.

Correction: Rights holders, their territory and treaty are acknowledged- consider wordsmithing.

Page 7: There is an acknowledgement of Mississauga First Nation #8, is this because of the proximity of the site to the First Nation community?

Perhaps section 2- Uranium Processing Facilities, all facilities should note the Treaty and the Rights Holders of which the lands they operator on be included. Since their operations could not exist without the Treaty making process and these processes have the ability to directly impact the Rights of those communities.

Page 29: Please provide more details about the mitigations on protecting fish and fish barriers.



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Page 31 (Exceedances- March 13th and March 17th, 2020): The Michi Saagiig have the Treaty Rights to the water that flows through the municipalities, aquifers, and watercourses of where these environmental occurrences took place.

When there is a release, there is an infringement on the Treaty Rights by these operators. How is this being communicated to these operations and what retribution is being enacted to the Indigenous Rights holding communities? How does CNSC account for this in their regulatory oversight?

Page 31: Environmental management system- should have the inclusion of Indigenous Rights.

Page 40: Reportable occurrences of any matter should be briefed to Rights holders for further discussion in regard to impacts.

Page 45: Public Engagement- Metis Nation- This community does not have rights to the Peterborough and surrounding area. Any concerns raised by Metis Nation to CNSC in this area should be vetted through the signatories of the Treaty.

Page 46: CLFN are not public. Please move to appropriated section of report.

Page 46: Rights holders need to appear prior to the public/stakeholder group or “other interested parties.”

Page 47: Indigenous peoples are not groups. Engagement happens prior to consultation. Consider re-wording.



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Canadian Nuclear Safety Commission Regulatory Oversight Report for Canadian Nuclear Power Generating Site for 2020. September 1, 2021. 238 pp.

Page 21: Licensing- Fisheries Act Authorizations. It is noted that CNSC has a MOU with the DFO. CNSC must ensure that the requirement for a meaningful consultation is happening with all affected Rights Holders to the same degree as DFO would be. Can CNSC describe in detail their procedure or intended outcomes from this engagement/consultation in items of sensitivity like Fisheries Act Authorizations? What aquatic monitoring initiatives are occurring at each facility? How are Indigenous expertise being utilized in their design and implementation? How does input from DFO or other experts feed into these monitoring programs? It is suggested that CNSC look at a round table of experts to ensure all Rights are protected and the environment is monitored in a way to ensure the next seven generations of all beings.

Page 56-58: Indigenous Engagement and Consultation are legally obligations and not matters of "other regulatory interest." Indigenous engagement and consultation supersede stakeholder participation and engagement thus need to appear prior to these individuals not after. This is a form of colonial dominance and needs correction.

Page 59: Metis Nation has no rights within the Treaty lands occupied by the Williams Treaty First Nations thus they cannot comment on lands they have no rights too.

Page 60: CNSC must put the signatories of Treaty before Indigenous interest groups. Please place SON in front of MNO. This is insulting to the ancestors and members of the SON community and shows the inability of CNSC to conduct meaningful relationship building.

Page 97: Fisheries Act Authorization Review. CNSC checked for the PNGS impact to species at risk but failed to acknowledge impacts to the Indigenous fishery of Lake Ontario. How was this considered in the authorization?

Page 97: Thermal Plume Monitoring- Define how CNSC concluded that round whitefish were not impacted. How did baseline data play into this decision?

Page 113: How are OPG's non-compliance performances being communicated to Rights holder as observed in section 3.3.9?



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Canadian Nuclear Safety Commission Regulatory Oversight Report for Uranium Mines, Mills, Historic and Decommissioned Sites in Canada: 2020. September 10, 2021. 222 pp.

Page 10- Independent Environmental Monitoring Program

It appears that Indigenous knowledge systems were considered within Cameco-Cigar Lake IEMP. How can CNSC learn from this example and create a more holistic well balanced two-eyed seeing approach to their methodology?

Redefining meaningful environmental monitoring

Review of technical documents is just one small component of the engagement process. This process needs to understand and adhere not only to the commitments made in the treaty making process as well as the Section 35 of the Canadian Constitution. It our recommendation that to create a space of meaningful participation the following objectives need to be understood and implemented at a co-governance level:

1. Use of Indigenous knowledge systems, ethical space and two-eyes seeing practices.
2. Indigenous participation in the planning stages of project.
3. Indigenous participation at the environmental compliance reporting (impact stage) phase of the project.
4. Indigenous participation in the impact review phase.
5. Indigenous participation in the decision-making phase, and
6. Indigenous participation in the follow-up, monitoring, compliance, and enforcement phase.

Page 11- Engagement goes before Consultation.

Page 13- Define MNO involvement on Southern Ontario sites.

Page 160 – Bicroft Site

A site inspection should be carried out on site by CLFN to determine the implications of the operation(s) and remediation(s) to the surrounding ecological landscape and cultural keystone species. Is there a type of biological performance matrix that could be included within their environmental compliance monitoring and scoring? Such as a site biodiversity index or aquatic biota index?

How does the dam operation affect fish and fish habitat?



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Page 162 – Dyno Site

Further meetings are required about this site to understand the implications of the Rights held to the area by CLFN.

Page 171 – Deloro Site

Further meetings are required about this site to understand the implications of the Rights held to the area by CLFN as well as inter-tribal conversations with Indigenous communities who are reporting health concerns directly downstream of the surface water runoff and harvesters in the area.



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Appendix A – Continued

Prepared by:

Kaitlin Hill

Lands & Resources Consultation Liaison

Curve Lake First Nation

Regulatory Oversight Report for Uranium and Nuclear Substance Processing Facilities and Research Reactors in Canada: 2020

Estimated dose to the public

Page 39:

To what degree is it considered: the potential human exposure through the uptake of plants and/or animal/fish species that may be exposed to the contaminants.

Packaging and Transport:

It would be beneficial to know where areas of transport are going through our treaty territory in case of any kind of emergency or accident that could occur.

Reportable Events:

First Nations that request being notified of reportable events should be. Because First Nations are not the general public, First Nations have a right to know and shouldn't find out through the news. There is always higher concern when we are not notified directly.

Page 47:

"CNSC staff are committed to building long-term relationships with Indigenous groups (see Appendix M) who have interest in CNSC-regulated facilities within their traditional and/or treaty territories." Some of the Nations on that list do NOT have territory here and there needs to be a distinction between rights holders and interest holders as it comes to consultation with indigenous communities.

Page 48:

The UNSPF in Canada fall within the traditional and/or treaty territories of many Indigenous communities (see Appendix M). Again, this is incorrect because some, like the Metis don't have traditional lands or treaties in Southern ON.



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There doesn't seem to be anything throughout the document that differentiates CLFN or the WTFN from being recognized separate from the public.

Regulatory Oversight Report for Canadian Nuclear Power Generating Sites for 2020

Right at the beginning, there is no acknowledgement of First Nations or the land in which their facilities are on.

Under indigenous consultation it is acknowledged that the MNO have territory here. This is untrue and the MNO do not have the same treaty rights as CLFN.



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Appendix B – Further Document Specific Examples as Opportunities for Improvement

Compiled by:
Curve Lake First Nation Consultation Department Support Team

Regulatory Oversight Report for Canadian Nuclear Power Generating Sites for 2020 (M-36)

Regulatory Oversight Report for Uranium Mines, Mills, Historic, and Decommissioned Sites in Canada: 2020 (M-34)

Regulatory Oversight Report for Uranium and Nuclear Substance Processing Facilities and Research Reactors in Canada: 2020 (M-33)

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