



**Written submission from the
Mississaugas of Scugog Island
First Nation**

**Mémoire de la
Première Nation des Mississaugas
de Scugog Island**

In the Matter of the

À l'égard de

Canadian Nuclear Laboratories

Laboratoires Nucléaires Canadiens

Application to renew its waste nuclear
substance licence for the Port Hope Project

Demande concernant le renouvellement du
permis de déchets de substances nucléaires
pour le projet de Port Hope

Commission Public Hearing

Audience publique de la Commission

November 22, 2022

22 novembre 2022

Intervenor Submission: Canadian Nuclear Laboratories' Port Hope Project Licence Renewal



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Consultation Office

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1.0 Introduction

1.1 Background

MSIFN understands that Canadian Nuclear Laboratories (CNL) currently has a Waste Nuclear Substance Licence (WNSL) for the Port Hope Long-Term Low-Level Radioactive Waste Management Project (Port Hope Project, or PHP). The Port Hope Project includes the construction of a new long-term waste management facility, the relocation of the historic waste located at the former waste facility, and the excavation, transport, and restoration of various sites within the Municipality of Port Hope. CNL is requesting a 10-year license renewal of the PHP WNSL, as well as a consolidation of three other WNSLs which are part of the Port Hope Area Initiative (PHAI). The outcome would be a single WNSL consisting of the PHP license, the Port Granby Long-Term Low-Level Radioactive Waste Management Project licence, the Pine Street Extension Temporary Storage Site licence, and the Port Hope Radioactive Waste Management Facility licence.

MSIFN has completed a review of the CNL and CNSC Commission Member Documents and understands that both documents are in support of the 10-year license renewal application and consolidation of the four licences into a single WNSL. We have also reviewed ecological databases and other background documentation, summarized in Section 2, to help inform our comments and requested conditions for license renewal (Section 3).



1.2 Highlights

If the license renewal and/or consolidation requests are approved, MSIFN requests that CNL, via the PHP and PHAI, proceed with the following activities. These are consistent with the activities requested by MSIFN of other nuclear proponents in recent CNSC proceedings, and MSIFN asks for all nuclear proponents within the Williams Treaties area to collaborate on these matters when possible.

1. **Collaborative Planning:** To ensure meaningful communication and engagement is not impacted as a result of consolidating the four WNSLs and/or the PHP license renewal, MSIFN requests that CNL work together with MSIFN and other interested Williams Treaties First Nations (WTFNs) to design and implement a collaborative planning process for CNL's PHP and PHAI sites and facilities. This should be supported by adequate capacity funding to cover the costs of MSIFN's participation through staff, advisors, and leadership. In Sections 2 and 3 we outline how this could touch on the following concerns:
 - a. Safety, Security & Communication
 - b. Lands & Waters
2. **Offsite Ecological Restoration Fund:** To work towards the restoration and stewardship of the landscape around PHP/PHAI facilities, MSIFN requests that CNL establish an ecological restoration fund that would facilitate projects on lands outside of CNL's site control in collaboration with First Nations, other governments (e.g., municipalities), and local environmental groups. Funding should be able to sustain projects proposed over the medium to long term, differentiating the funding from government grants typically offered with short cycles (i.e., 1 – 3 years). MSIFN expects that continued relocation of historic waste will lead to significant long-term and cumulative ecological impacts to ecologically functioning resources that are fundamental to MSIFN's treaty rights. An adequate and collaboratively managed ecological restoration fund may provide appropriate accommodation for these impacts.



2.0 Background Review

2.1 Safety & Communication

MSIFN is a small First Nation community in one of the fastest growing regions of Ontario, where every part of the nuclear sector is within our territory, save for current uranium mining. MSIFN's reserve community is just over 50 km from the PHP area, and members have expressed concerns related to the safety and security of long-term nuclear waste management in Port Hope. A safe and sustainable future for our community is of highest importance to MSIFN, as we have been, and will continue to be, impacted by nuclear activities occurring since colonization. The responsibility of the CNL and Port Hope Project to keep our community members safe during the cleanup and long-term management of nuclear waste in our territory must not be taken lightly.

We request that CNL proceed with activities that would reflect a collaborative planning process with MSIFN and other interested Williams Treaties First Nations, surrounding both safety/communications and environmental considerations. This request is outlined further in Section 3.1. Such a process would help to ensure that interested First Nations are regularly involved in CNL's planning and safety audit activities and are engaged regularly during all stages of the cleanup and long-term management process.

It is appreciated that CNL is implementing a PHAI Indigenous Communications and Engagement Program this year, as mentioned in CMD 22-H13.1. MSIFN is interested in learning more about the plans for this engagement program, and the potential to incorporate collaborative planning practices with our support. As an example of the need for this collaborative process, CNL's submission touches on certain safety plans and assessments that MSIFN is not fully aware of. Section 6.4.2 'Future Plans' discusses the Safety Case, which is "a body of evidence supporting the disposal or long-term management of radioactive waste. Primary inputs to the Safety Case include the safety assessments, which are typically broken down into an operational safety assessment and a post-closure safety assessment." Given the importance of safety to MSIFN and other First Nation communities, documents such as safety cases and assessments should be shared and communicated regularly. Implementing a collaborative planning process would make sharing easier and allow for increased communications between CNL and WTFN communities.



2.2 Ecology and Natural Areas

MSIFN recognizes that the overall goal of the PHP and PHAI is to continue the cleanup and long-term management of historic low-level nuclear waste in the municipalities of Port Hope and Clarington, and that the PHAI falls under CNL's strategic priority to restore and protect Canada's environment. This initiative is appreciated and can only be improved by incorporating traditional Indigenous knowledge, priorities, and concerns of local First Nation communities. As mentioned, CNL's Historic Waste Program Management Office and the Port Hope Area Initiative projects are situated on the treaty lands of the Williams Treaties First Nations. Within these treaty territories, a priority in terms of MSIFN's treaty rights is the protection and preservation of lands, waters, wildlife, and fisheries.

The sites associated with the PHP and PHAI cover a large geographic area that spans the municipalities of Port Hope and Clarington. Within this area there are a number of significant ecological features, watercourses, waterbodies, and Species At Risk. For example, the Ganaraska River, which is a tributary of Lake Ontario, runs through Port Hope and is subject to significant environmental impacts from cleanup activities and dredging. The CNL Commission Member Document mentions dust and effluent discharge as concerns impacting water quality for local residents and Indigenous communities, however attention should also be paid to the riparian corridor surrounding the river. Watercourses and riparian corridors contain unique communities of species that are sensitive to human disturbances and accidental introduction of invasive species. MSIFN would appreciate the opportunity to discuss restoration and protection of both the Ganaraska River and Lake Ontario as part of the aforementioned collaborative planning approach. A "robust monitoring program" has been implemented to ensure the protection of the aquatic environment while dredging activities continue at the Port Hope Harbour. MSIFN would appreciate receiving briefings of these monitoring reports on an ongoing basis, and opportunities to collaboratively take part in adaptive management where monitoring signals the need for adapting mitigation measures or changing monitoring regimes.

A search of the Natural Heritage Information Centre (NHIC) database for the Port Hope Project area turned up the following threatened and/or endangered species: Eastern Meadowlark (*Sturnella magna*), Bobolink (*Dolichonyx oryzivorus*), Henslow's Sparrow (*Ammodramus henslowii*), Least Bittern (*Ixobrychus exilis*), and a number of restricted species listed as Endangered. MSIFN is interested in discussing Species at Risk management and CNL's protocols for encountering these species during project cleanup work.



MSIFN has also been actively engaged on the Port Granby Project and proposed Nature Reserve on site, which is a good example of both collaborative planning and a funded project that facilitates collaboration amongst CNL/AECL and interested WTFNs. Planning for the nature reserve could continue as part of the collaborative planning approach in order to capture all concerns, opportunities, and interests surrounding PHAI sites.

3.0 Requested Conditions of Approval

3.1 Collaborative Planning

If the proposed license renewal is issued, including the consolidation of the four licenses into one, a potential issue is that fewer individual licenses could lead to reduced communication opportunities around the PHP and PHAI. We recommend that communication is enhanced through the creation of a collaborative planning process for lands within CNL Port Hope Project's site control. This would be co-led by CNL, MSIFN, and other interested Williams Treaties First Nations. It is critical that CNL and/or AECL provides capacity funding to involved First Nations that will cover the participation, preparation, and follow up activities carried out by our staff, advisors, and Council members. MSIFN recommends that preliminary topics for this collaborative planning process include safety and on-site environmental restoration.

3.2 Offsite Restoration Fund

As mentioned, MSIFN's reserve community is just over 50 km from the PHP area and every part of the nuclear sector is within our traditional territory, aside for current uranium mining. The legacy of this industry, including historic uranium mining, Canada's contributions to the Manhattan Project to produce nuclear weapons, two of the largest operating nuclear reactor sites in the world, and two of the largest high-level nuclear waste used fuel storage sites in the world, have had vast impacts on the lands and waters within our treaty lands, and many proponents are beginning to take steps towards ecological rehabilitation and restoration within the area to recognize this. However, a more coordinated approach between the various proponents taking a treaty lands focus would be most beneficial.

To further extend benefits of restoration activities, including both natural and cultural heritage projects, MSIFN asks CNL to support the creation of an ecological restoration fund for lands and waters outside of PHP and PHAI site control. This could include funding projects that support the restoration of shorelines along Lake Ontario in partnership with First Nations, other governments, and local environmental groups, and could extend to support for First Nation led projects on lands beyond nuclear facilities.



This fund should be created with capacity building at the forefront by providing long term funding for projects, not only on a short-term grant cycle. With a preliminary commitment from CNL and/or AECL on this item, we can help to co-design this fund through the previously outlined collaborative planning process. MSIFN can bring this fund to the attention of other nuclear proponents to potentially create a coordinated ecological restoration program in the regions in the vicinity of historic, current and future nuclear activities for the benefit of future generations.

4.0 Conclusion

MSIFN emphasizes that the health and safety of our community members must be a key consideration if the Port Hope Project Waste Nuclear Substance License is to be renewed and consolidated. Impacts on the ecology of the immediate and connected areas must also be a priority, and we encourage CNL to look at ways that they can give back to the lands and waters that have supported historic nuclear activities, and will continue to support nuclear activities for the foreseeable future.

To ensure that communication and collaboration is maintained and enhanced throughout the proposed license renewal period, we ask that CNL proceed with the creation of a collaborative planning process for lands within PHP and PHAI's site control, and the creation of a restoration fund for other lands. We encourage CNL to continue improving their communication of safety measures taken on their sites to our leadership, staff, and members, and look towards strengthening these measures. Communication also extends to CNL staff training surrounding Indigenous cultures and treaties, and we look forward to discussions on this as part of the collaborative planning process outlined within this intervention.



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