



**Final submission from the  
Algonquins of Pikwàkanagàn  
First Nation**

**Mémoire définitif de la  
Première Nation des Algonquins  
de Pikwàkanagàn**

In the Matter of the

À l'égard des

**Canadian Nuclear Laboratories (CNL)**

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**Laboratoires Nucléaires Canadiens (LNC)**

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Application from the CNL to amend its  
Chalk River Laboratories site licence to  
authorize the construction of a near surface  
disposal facility

Demande des LNC visant à modifier le permis  
du site des Laboratoires de Chalk River pour  
autoriser la construction d'une installation de  
gestion des déchets près de la surface

**Commission Public Hearing  
Part 2**

**Audience publique de la Commission  
Partie 2**

**May and June 2022**

**Mai et juin 2022**



*Algonquins of Pikwàkanagàn  
First Nation*

## **AOPFN Final Written Submission on**

Canadian Nuclear Laboratories' Proposed Near Surface Disposal Facility

**Date Submitted:** May 31, 2023

# **CNSC Public Hearing on the Proposed Near Surface Disposal Facility**

Public Hearing

Scheduled for:

June 27, 2023

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Regarding: Final Written Submission from Intervenors for Canadian Nuclear Laboratories Proposed  
Near Surface Disposal Facility at Chalk River Laboratories

Submitted by:

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# 1. INTRODUCTION

The Algonquins of Pikwàkanagàn First Nation (AOPFN) are pleased to provide this final written submission to the Canadian Nuclear Safety Commission (CNSC or the Commission) in relation to the environmental assessment and licence request for Canadian Nuclear Laboratories' (CNL or the Proponent) proposed Near Surface Disposal Facility (NSDF or the Project) at the Chalk River Laboratories (CRL) owned by Atomic Energy of Canada Limited (AECL), which is wholly located in unceded Algonquin territory.

The AOPFN provided a written submission to the CNSC on April 11, 2022, in relation to the NSDF Project, and followed that with a verbal presentation at the public hearing in Pembroke in June, 2022. Those documents and supporting evidence associated with them are already in possession of the Commission and will not be extensively reiterated here.

The AOPFN provides this submission to update the Commission on the AOPFN's involvement in the environmental assessment of the proposed NSDF, and to update our recommendations relevant to the Commission's decision-making scope to determine, from a federal Crown perspective, whether the NSDF should be allowed to proceed and under what licence conditions.

Since 2022, the AOPFN has been meaningfully consulted by CNL and AECL, culminating with the signing of a Long-Term Relationship Agreement (LTRA) in May, 2023. This LTRA, along with NSDF Project-specific commitments made by CNL, provides mitigation, monitoring and accommodation measures that give AOPFN adequate confidence to now provide its consent for the proposed NSDF Project to proceed. This consent is provided on the basis that the commitments made and measures undertaken by CNL and AECL are fully and properly implemented.

## 1.1 ABOUT THE ALGONQUINS OF PIKWÀKANAGÀN

The AOPFN are Algonquin peoples of the Ottawa River (Kichi-Sibi) Valley. Algonquin people have lived in the Ottawa River Valley for at least 10,000 years before Europeans arrived in North America.

The AOPFN has never ceded any of our traditional Algonquin territory in Treaty with the Crown. AOPFN members have, since time immemorial, exercised their rights to hunt, trap, fish, gather, and perform other activities integral to their culture and way of life throughout our unceded traditional territory, including in the area where CRL is now situated. Members of the AOPFN have long exercised governance and stewardship activities in Algonquin territory.

The AOPFN continues to exercise Algonquin aboriginal title and aboriginal rights to and in all parts of AOPFN unceded traditional territory, including lands under water. The AOPFN has an obligation to our members to plan for the future and to ensure self-determination, self-reliance, and self-governance. The AOPFN is committed to respecting and protecting our unceded traditional territory and the rights and interests of our members.

We rely on the health of the environment in our territory for our survival. The health of the lands and waters is essential to the continued existence of the AOPFN as a people and our members' health, culture, laws, livelihood, and economy. The AOPFN must be recognized as a rightful, respected, and principled steward of the environment.

## 2. CONSULTATION AND ENGAGEMENT OF AECL, CNL, AND CNSC WITH AOPFN

### 2.1 ENGAGEMENT WITH CNL AND CONSULTATION WITH AECL

The AOPFN noted in its 2022 written submission that CNL did not seriously or consistently engage the AOPFN directly on this file until 2020, and only then at the AOPFN's prompting. However, since 2020, CNL has improved its practices of engaging with and providing capacity to the AOPFN to engage. CNL has provided capacity funding, supporting multiple AOPFN studies and community engagement activities in relation to the NSDF Project, made several important commitments material to the Algonquin-led monitoring and management of the NSDF Project, and in May 2023, finalizing a Long-Term Relationship Agreement between the parties.

Overall, the AOPFN confirms that it has now been meaningfully engaged by CNL with respect to the NSDF Project and the concerns and objections raised by the AOPFN in the NSDF Project licence proceeding have now been addressed.

As a result, AOPFN is now providing its free, prior and informed consent to the NSDF Project, in accordance with AOPFN's inherent right to control and govern its territory, and its rights pursuant to the *United Nations Declaration on the Rights of Indigenous Peoples*. This statement is made subject to the following:

- The AOPFN's consent for NSDF does not imply the AOPFN's support for the importation of radioactive waste (including but not limited to low-level waste) to the NSDF Project from off-site sources, and the AOPFN continues to encourage CNL, AECL and the CNSC to work with the AOPFN to remove or reduce the amount of low-level waste imported to the NSDF from off-site sources.
- The AOPFN's consent for the NSDF Project is predicated on the full and timely implementation of:
  - All commitments made by CNL in relation to the NSDF Project (see below); and
  - All mitigation, monitoring and accommodation provisions in the confidential LTRA between CNL, AECL and the AOPFN.

Should these commitments and measures not be fully implemented in a timely fashion (and as required by the LTRA), the AOPFN reserves the right to revisit its consent decision.

### 2.2 CONSULTATION BY CNSC STAFF WITH THE AOPFN

Consultation efforts by CNSC staff with the AOPFN in relation to the NSDF Project increased in 2020, and since then can be labeled as improved. Since 2020, CNSC staff have done a reasonable job engaging with the AOPFN in the following ways: by setting up a Working Group that meets monthly on this and other files, providing participant funding to the AOPFN to engage in the environmental assessment process, working with the AOPFN to develop the Rights Impact Assessment, and funding the AOPFN AKLUS. More recently, the CNSC entered into a Long-Term Relationship Terms of Reference with the AOPFN.

Several challenges that during consultations with CNSC staff were identified in our April 2022 written submission, including unilateral and unacceptable re-interpretation by CNSC staff of the findings of the Rights Impact Assessment in the CNSC staff Commission Members Documents (CMD). Overall, however, the AOPFN would characterize engagement by CNSC staff as improved since 2020.

**AOPFN NEW Recommendation #28: The Commission to develop a policy that in future assessment processes, CNSC staff ensure that any Indigenous Nation it has engaged in an RIA with have advance access to the CMD materials that refer to the findings of said RIAs, prior to their issuance to the Commission, and the right to flag any potential inaccuracies.**

### **3. NEW INFORMATION BROUGHT FORWARD SINCE JUNE 2022**

The AOPFN has reviewed new evidence brought forward by Kebaowek and Kitigan Zibi Nations in May 2023. We respect, support, and appreciate the efforts made by our Algonquin neighbours and relatives.

#### **3.1 BEAR DENNING ON NSDF FOOTPRINT**

Of particular interest to the AOPFN was the finding of active black bear denning habitat at the NSDF Footprint by Kebaowek's fieldwork. Upon seeing this information, the AOPFN conducted a site visit and met with CNL on this issue, flagging the protection of bears/bear habitat as a critical issue. **AOPFN has requested that CNL identify in – or prior to - CNL's Final Written Submission, additional commitments to protect black bears and their habitat.**

### **4. FACTORS INFLUENCING AOPFN POSITION ON THE NSDF PROJECT**

#### **4.1 COMMITMENTS MADE BY CNL IN RELATION TO NSDF**

In its Final NSDF EIS, CNL included a number of commitments made in response to commitments sought by the AOPFN. CNL's commitments' ability to reduce, monitor and compensate for adverse effects from the Project were and remain material to AOPFN's consideration of whether to provide consent for the proposed NSDF. It is critical that all of them be implemented fully and transparently, should the Project proceed.

The AOPFN has reviewed the implementation status of those commitments and notes that a substantial number of them have yet to be properly implemented as of the filing of this final written submission. As AOPFN's consent is predicated on the full and timely implementation of these commitments, it is important for the AOPFN to reiterate them herein and for CNL to speak to their implementation status in its Final Written. The relevant commitments are:

- AOPFN 0 to 4, 6, 7, 10 to 15, 19, 21, 24, 29, 31, 32, 38, 39, 41 to 44, 47, 51 and 53

AOPFN has provided CNL with our perspective on the implementation status of each of the above-noted commitments and encourages CNL to update the CNSC and the AOPFN on its commitment implementation in CNL's Final Written Submission.

The importance of commitment implementation is one of the reasons that the AOPFN continues to recommend that the CNSC require, as a licence condition, CNL to report annually on its commitment implementation (AOPFN Recommendation #27 below).

## **4.2 PURPOSE OF NSDF AND ENVIRONMENTAL EFFECTS EVIDENCE**

CNL's stated purpose for the NSDF Project is to provide the permanent safe disposal of current and future low-level waste at the CRL site in a manner that is protective of both the public and the environment. The AOPFN's consent for the NSDF Project is based in part on the scientific evidence that: a. The NSDF site is unlikely to have significant adverse effects on the environment at and around the CRL site; and b. The NSDF site will likely improve environmental conditions long-term at the CRL site through proper management of historic, current and future low level waste generated at the site.

## **4.3 LONG-TERM RELATIONSHIP AGREEMENT**

In May 2023, CNL, AECL, and the AOPFN signed a Long-Term Relationship Agreement that provides the AOPFN with increased oversight over monitoring, waste management, and future project planning, along with economic and cultural protection opportunities in relation to the CRL site and the NSDF. The provisions of this LTRA are confidential but the AOPFN can state confidently that if they are all implemented in a timely and fulsome manner, the impacts of the NSDF Project on AOPFN's Aboriginal rights will have been accommodated through the principles of prevention, mitigation, and compensation.

## **4.4 AOPFN POSITION RE: IMPORTATION OF WASTE**

The AOPFN and CNL/AECL both acknowledge that AOPFN does not endorse the importation of any radioactive waste into AOPFN's unceded Algonquin territory. This includes importation of low-level radioactive waste from outside the site into the NSDF. Notwithstanding this, AOPFN acknowledges without endorsement that CNL and AECL may in some circumstances be obligated to import limited amounts of low-level radiological waste for disposal at the NSDF site. AOPFN acknowledges that if the NSDF proceeds, the low-level waste imports to the NSDF as per the Project Description in the EIS cannot exceed 100,000 cubic metres, and expects both that CNL and AECL will commit to not exceed this cap and that a CNSC licence condition will guarantee this cap.

**AOPFN NEW Recommendation #29: CNL to commit not to exceed the importation of 100,000 cubic metres of low-level waste to be disposed of at the NSDF.**

**AOPFN NEW Recommendation #30: CNSC to include a licence condition capping the amount of low-level waste that can be imported to the NSDF at 100,000 cubic metres.**

Notwithstanding AOPFN's overall consent to the NSDF Project (see below), we recommend the following:

**AOPFN NEW Recommendation #31: CNL, AECL, and the CNSC to work together and with affected Indigenous parties to find alternative solutions to the importation of low-level waste into AOPFN's unceded Algonquin territory.**

## 5. REVISITING AOPFN'S 2022 NSDF PROJECT RECOMMENDATIONS

In our April 11, 2022, Written Submission, AOPFN identified 27 recommendations for CNL, AECL, and the CNSC. In the interim, CNL, AECL and AOPFN have made substantial progress in dealing with AOPFN's outstanding issues, concerns, and recommendations in relation to the Project, and an AOPFN update on those recommendations is provided below.

### 5.1 UPDATED STATUS OF AOPFN'S RECOMMENDATIONS

**#1: The Commission should require AECL and CNL to file an update, post-hearing, illustrating where and how AECL and CNL have substantively identified and accommodated for Project-specific impacts of the proposed NSDF on AOPFN rights and interests, prior to closing the public record and making a decision on the proposed NSDF.**

UPDATE: This recommendation is no longer required. The LTRA and NSDF Project-specific commitment implementation will now adequately accommodate for NSDF Project-specific impacts on AOPFN rights.

**#2: Should it approve the NSDF to proceed, the Commission require CNSC Staff to conduct additional consultation with the AOPFN with a focus on identifying and implementing complementary accommodation measures re: impacts on AOPFN rights.**

UPDATE: This recommendation is no longer required. The LTRA and NSDF Project-specific commitment implementation will now adequately accommodate for NSDF Project-specific impacts on AOPFN rights.

**#3: The Commission to consider cumulative effects as presented herein in making its NSDF decision, and describe in its reasons for decision how that consideration factored into the decision.**

UPDATE: The AOPFN continues to recommend that the Commission consider cumulative effects in its NSDF decision and provide fulsome reasons for decision.

**#4: CNSC require CNL to reconsider alternative locations and means of disposing of all LLW waste at the CRL site, including evidence that CNL meaningfully engaged Indigenous parties in this process, prior to approving of the current NSDF proposal.**

UPDATE: This recommendation is no longer required. With the evidence provided by CNL, the mitigation, monitoring and accommodation measures identified in the LTRA, and provided that CNL fully implement all commitments made in relation to the NSDF Project, the AOPFN now supports the proposed location of the NSDF Project, in light of the fact that at least 90% of the low-level waste originates from CRL.

**#5: AECL and CNL to engage AOPFN in a planning process regarding the desired end land use state for the CRL as a whole, prior to making determinations on where and how to permanently dispose of radioactive wastes currently at the site.**



UPDATE: This recommendation is no longer required. CNL's Project-specific commitments and measures in the LTRA, provided both are fully implemented, will now engage AOPFN in end land state planning processes.

**#6: AOPFN requests that CNL, AECL and the CNSC all respect and adhere to AOPFN's Free, Prior and Informed Consent decision on the NSDF Project proposal.**

UPDATE: This recommendation is no longer required. CNL and AECL have sought and received the AOPFN's free, prior and informed consent for the NSDF Project as of May, 2023. The AOPFN notes that this consent does not imply that the AOPFN is in favour of the 10% off-site low level waste stream CNL proposes to bring in to the NSDF, and encourages CNL, AECL and CNSC to work with the AOPFN to find alternative waste management plans for that stream of waste that does not require importing it into AOPFN territory (see AOPFN NEW Recommendation #31).

**#7: CNL and AECL are requested to work with the AOPFN, prior to the hearing, to identify a process that will be implemented should AOPFN's Free, Prior and Informed Consent be withheld for the NSDF Project.**

UPDATE: This recommendation is no longer required. CNL and AECL have sought and received the AOPFN's free, prior and informed consent for the NSDF Project as of May 2023, with provisos as noted in this final written submission.

**#8: CNL proactively remove the 10% of potential "off-site" waste from its proposed NSDF waste stream.**

UPDATE: This recommendation is replaced by AOPFN's NEW Recommendation #31. AOPFN's consent for the NSDF Project is notwithstanding AOPFN's continued opposition to the importation of waste into AOPFN territory, and the AOPFN continues to encourage CNL, AECL and CNSC to work with the AOPFN to find alternative waste management plans for that stream of waste that does not require importing it into AOPFN territory.

**#9: CNL commit to not contemplate importing any wastes from outside AOPFN territory to the NSDF without written AOPFN permission.**

UPDATE: See #8 above.

**#10: If the CNSC issues permission for the NSDF to be developed, these permissions be made contingent on the 10% of off-site waste being removed from the NSDF Project stream. The CNSC should further identify that it will not allow for the importation of off-site wastes in any operations stage licence for the NSDF without evidence of Indigenous support for these off-site waste streams.**

UPDATE: See #8 above.

**#11: CNL and AECL to proactively, or in the absence of this, the Commission to require these parties, to conduct an engagement/consultation exercise with impacted Indigenous groups, where all known and suspected locations at the Chalk River Laboratories where radioactive waste is currently housed, and the nature, current storage, and proposed future storage, transportation, and disposal plans for those wastes, are transparently communicated. In addition, the CNSC should require that a report of this consultation**

**process, verified by the Indigenous groups and showing their recommendations and associated CNL and AECL commitments, be filed with the CNSC within the next two years.**

UPDATE: The LTRA defines an appropriate radioactive waste monitoring, management and communication process between CNL, AECL and the AOPFN and as such, AOPFN does not require a condition to this effect. The AOPFN continues to encourage the CNSC to support better communication, consultation and engagement between CNL, AECL and Indigenous groups (including the AOPFN), through conditions and initiatives like that noted in our original recommendation.

**#12: The Commission build discrete “Indigenous Knowledge” settings into future hearing processes, where panels from Indigenous Nations can present their Indigenous Knowledge, findings and recommendations to the Commissioners in an Indigenous-appropriate, welcoming setting.**

UPDATE: The AOPFN continues to recommend the Commission adopt this recommendation in future hearing processes, and recommends the Commission identify in its NSDF decision statement whether and how it is going to act on this recommendation.

**#13: CNL recognize on the basis of the evidence filed by the AOPFN that measurable adverse residual effects on AOPFN traditional land and resource use are likely from the NSDF Project, and as a result, that a proper cumulative effects assessment is required and will be conducted by CNL in collaboration with impacted Indigenous groups.**

UPDATE: This recommendation is no longer required. With the mitigation, monitoring and accommodation measures identified in the LTRA and provided that CNL implement all commitments made in relation to the NSDF Project, the AOPFN now consents to the NSDF Project. These measures will likely adequately remove, reduce or compensate/accommodate for the identified impacts from the NSDF Project on AOPFN traditional land and resource use. The AOPFN continues to strongly encourage the CNSC to increase the level of effort and focus on cumulative effects on valued components in future assessment processes.

**#14: Should CNL not adhere to AOPFN Recommendation #13, the Commission is requested to find that measurable adverse impacts on AOPFN traditional land and resource use are likely from the NSDF Project, and require CNL to conduct a proper cumulative effects assessment on traditional land and resource use in collaboration with impacted Indigenous groups.**

UPDATE: See #13 above.

**#15: Should it allow the NSDF to proceed, CNSC to implement specific traditional land and resource use-related conditions into the Project licence, and/or require a formal traditional land and resource use effects consultation and accommodation identification process prior to final permissions to construct.**

UPDATE: This recommendation is replaced by AOPFN's NEW Recommendation # 32. With the mitigation, monitoring and accommodation measures identified in the LTRA and provided that CNL implement all commitments made in relation to the NSDF Project, the AOPFN now consents to the NSDF Project. These measures will likely adequately remove, reduce or compensate/accommodate for the identified impacts from the NSDF Project on AOPFN

traditional land and resource use. The AOPFN continues to encourage CNL and the CNSC to include a requirement for traditional land and resource use monitoring parameters to be built into the Environmental Assessment Follow-up Monitoring Plan for the NSDF Project.

**AOPFN NEW Recommendation #32 (replacing #15): CNSC to include an NSDF licence condition requiring traditional land and resource use monitoring objectives, indicators, thresholds and responses be built into the NSDF Project-specific Environmental Assessment Follow-up Monitoring Plan.**

**#16: CNL recognize on the basis of the evidence filed by the AOPFN that measurable adverse residual impacts on AOPFN culture and well-being are likely from the NSDF and conduct a cumulative effects assessment on these valued components prior to the completion of this CNSC process.**

UPDATE: This recommendation is no longer required. With the mitigation, monitoring and accommodation measures identified in the LTRA and provided that CNL implement all commitments made in relation to the NSDF Project, the AOPFN now consents to the NSDF Project. These measures will adequately remove, reduce or compensate/accommodate for the identified impacts from the NSDF Project on AOPFN culture and well-being. The AOPFN continues to strongly encourages the CNSC to increase the level of effort and focus on cumulative effects on valued components in future assessment processes.

**#17: If CNL refuses to act on Recommendation #16, the Commission is requested to find that measurable adverse residual impacts on AOPFN culture and well-being are likely from the NSDF, and require CNL to conduct a cumulative effects assessment on these valued components prior to making its required environmental assessment and licensing decision.**

UPDATE: See #16 above.

**#18: Should it allow the NSDF to proceed, CNSC is requested to implement specific Indigenous culture and well-being-related conditions and/or require a formal consultation and accommodation identification process for these valued components prior to final permissions to construct.**

UPDATE: This recommendation is no longer required. With the mitigation, monitoring and accommodation measures identified in the LTRA and provided that CNL implement all commitments made in relation to the NSDF Project, the AOPFN now consents to the NSDF Project. These measures will likely adequately remove, reduce or compensate/accommodate for the identified impacts from the NSDF Project on AOPFN traditional land and resource use.

**#19: CNL and AECL engage/consult with the AOPFN prior to the Public Hearing, re: the implications of the AOPFN-CNSC Rights Impact Assessment, and report back to the Commission at the hearing on any additional committed-to accommodation measures.**

UPDATE: This recommendation is no longer required. The LTRA and NSDF Project-specific commitment implementation will adequately accommodate for NSDF Project-specific impacts on AOPFN rights.

**#20: The Commission is requested to find that measurable adverse residual impacts on AOPFN rights are likely in the Project Case, and should it allow the NSDF to proceed,**

**require a formal accommodation identification process prior to final permissions to construct.**

UPDATE: This recommendation is no longer required. The LTRA and NSDF Project-specific commitment implementation will adequately accommodate for NSDF Project-specific impacts on AOPFN rights.

**#21: The Commission identify in its decision statement that there has yet to be a formal process by the Crown for identifying cumulative harms on Indigenous peoples from the Chalk River Laboratories, and that establishing these harms and reconciling for them should be a high priority for the federal government.**

UPDATE: The AOPFN continues to recommend the Commission adopt this recommendation in its decision statement and communicate this to other agents of the federal Crown. This issue remains outstanding and represents 80 years now of Canada shirking its duties and responsibilities to the AOPFN re: cumulative harms. For the record, neither the LTRA nor NSDF Project-specific commitments include measures for Canada to reconcile these cumulative harms; this remains an outstanding issue that goes beyond the NSDF Project.

**#22: The Commission consider total cumulative effects on the valued components of Indigenous traditional land and resource use, Indigenous culture, and Indigenous well-being in its deliberations, and describe in its decision statement both its considerations and findings on this topic.**

UPDATE: The AOPFN continues to recommend the Commission act on this recommendation in preparing its decision statement on the NSDF Project.

**#23: The CNSC find that the NSDF Project is likely to add additional measurable adverse residual effects on Indigenous traditional land and resource use, Indigenous culture, Indigenous well-being, and Indigenous rights on top of pre-existing significant adverse cumulative effects on these valued components, and that therefore the Project is contributing to significant total cumulative effects on these valued components.**

UPDATE: In the NSDF Project-specific context, this recommendation is no longer required. The position of the AOPFN is now that the LTRA and NSDF Project-specific commitment implementation will adequately mitigate and accommodate for NSDF Project-specific impacts on AOPFN traditional land and resource use, AOPFN culture, AOPFN well-being, and AOPFN rights and, as a result, the NSDF is not likely – provided full and timely implementation of LTRA requirements and NSDF Project-specific commitments – to contribute additional adverse effects on these valued components and rights of AOPFN. The AOPFN still holds that there are historic harms that need to be reconciled between Canada and the AOPFN outside of this Project-specific context. And, as a matter of good practice, the AOPFN continues to recommend that the CNSC consider total cumulative effects loading in all of its licensing decisions.

**#24: The CNSC is recommended to increase the frequency of, level of effort conducting, and degree of Algonquin Knowledge embedded in its Indigenous Environmental Monitoring Plan for the area around Chalk River Laboratories.**

UPDATE: The AOPFN continues to support this recommendation as a licence condition. The AOPFN and the CNSC signed a Long-Term Relationship Terms of Reference in 2022. It includes provisions, yet to be fully implemented, that are intended to meet the spirit and intent of

this recommendation. That said, the AOPFN continues to recommend that the CNSC explicitly recognize, in a condition to the NSDF Project licence, the need for Indigenous Knowledge to be integrated into any future NSDF (or CRL-level) IEMP in a more dedicated fashion.

**#25: Should the NSDF Project proceed, the CNSC is recommended to require CNL to report annually on how it has integrated Algonquin Knowledge and Algonquin peoples into its Project monitoring and management system.**

UPDATE: The AOPFN continues to support this recommendation as a licence condition.

**#26: The CNSC is recommended to require CNL to provide further concrete evidence of the benefits that are likely to accrue to impacted Indigenous groups, prior to the CNSC making its required decision on the NSDF Project.**

UPDATE: For the record, between the LTRA provisions and NSDF Project-specific commitments, and predicated on their being fully implemented in a timely fashion, the AOPFN's position now is that CNL has identified adequate benefits to offset remaining residual NSDF Project-specific adverse impacts to the AOPFN. Note that we speak only for the AOPFN and not for other Indigenous Nations and groups on this topic.

**#27: Should the Project proceed, the Commission include a condition requiring the Proponent to report annually on the implementation of its Near Surface Disposal Facility commitments, and support a public review and comment process, facilitated by the CNSC, of this annual reporting.**

UPDATE: As AOPFN's consent for the NSDF Project is in part predicated on the full and timely implementation of CNL's NSDF Project-specific commitments, the AOPFN continues to support this recommendation.

## **5.2 REITERATION OF RELEVANT AOPFN RECOMMENDATIONS**

For greater clarity, the AOPFN reiterates to the CNSC that the following recommendations should be integrated into licence conditions should the NSDF Project be approved:

- Recommendation #11 re: radioactive waste management communication with Indigenous groups;
- Recommendation #24 re: an enhanced Indigenous role in the IEMP for NSDF/CRL;
- Recommendation #25 re: annual reporting by CNL on Algonquin Knowledge integration; and
- Recommendation #27 re: annual reporting by CNL on commitment implementation.

In addition, AOPFN provides the following additional recommendations to the CNSC in relation to the NSDF Project Licence:

**AOPFN NEW Recommendation #29: CNL to commit not to exceed the importation of 100,000 cubic metres of low-level waste to be disposed of at the NSDF.**

**AOPFN NEW Recommendation #30: CNSC to include a licence condition capping the amount of low-level waste that can be imported to the NSDF at 100,000 cubic metres.**

**AOPFN NEW Recommendation #32 (replacing #15): CNSC to include an NSDF licence condition requiring traditional land and resource use monitoring objectives, indicators, thresholds and responses be built into the NSDF Project-specific Environmental Assessment Follow-up Monitoring Plan.**

The AOPFN also notes that our recommendations #3, #12, #21, #22, and #23 – and AOPFN’s NEW Recommendations #28 and #31 - remain wholly or partially in place but refer to actions the Commission should consider now and in the future that do not require NSDF-specific licence conditions.

## **6. AOPFN’S POSITION RE: NSDF PROJECT**

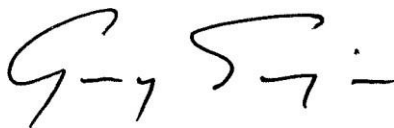
On balance, given the NSDF’s overall contribution to CRL low-level waste consolidation in a safer, modern engineered facility, and provisions for environmental protection, AOPFN monitoring and management, and capacity building enshrined in NSDF Project-specific CNL and AECL commitments to AOPFN and in the LTRA, and dependent on the full and timely implementation of those commitments and that LTRA, AOPFN has withdrawn its opposition to the NSDF as proposed, notwithstanding AOPFN’s previously noted opposition to the importation of low level waste as proposed by CNL and AECL in the Project proposal. On balance and with the above-noted provisions in place and subject to their implementation, AOPFN hereby provides its consent and support for the NSDF to proceed.

## **7. CLOSURE**

As the priority Constitutional rights-holding First Nation located closest to the proposed NSDF Project, the AOPFN has been committed from the outset to working with CNL, AECL and the CNSC to ensure a meaningful assessment of effects was undertaken, and adequate mitigation and accommodation measures adopted that ensure the protection of our rights, traditional use, and interests. This meaningful assessment has now occurred and the AOPFN has provided its consent for the NSDF Project to proceed, provided commitments and measures made by CNL and AECL are implemented in a full and timely manner.

We sincerely appreciate the opportunity provided by the CNSC process to present our issues, concerns, and recommendations. We expect that the CNSC will act on our remaining outstanding recommendations and implement them into its decision process and licence conditions should the NSDF Project proceed., and future environmental assessment practices.

Meegwetch,



Chief Greg Sarazin

On behalf of the Council, Algonquins of Pikwakanagan First Nation