



**Presentation from the
Kebaowek First Nation and
the Kitigan Zibi Anishinabeg**

**Présentation par la
Première Nation Kebaowek
et Kitigan Zibi Anishinabeg**

In the Matter of the

À l'égard des

**Canadian Nuclear Laboratories,
Chalk River Laboratories**

**Laboratoires Nucléaires Canadiens,
Laboratoires de Chalk River**

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

Demande 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 30 to June 3, 2022

30 mai au 3 juin 2022



ASSESSMENT of the CANADIAN NUCLEAR
LABORATORIES NEAR SURFACE DISPOSAL FACILITY
and LEGACY CONTAMINATION of ALGONQUIN AKI SIBI.



Intervention by Kitigan Zibi Anishinabeg and Kebaowek First Nation
to the Canadian Nuclear Safety Commission

August 10, 2023

Kwey Kakina

Opening
Prayer



STRONGER TOGETHER

Chiefs Statements

CHIEF DYLAN WHITEDUCK
KITIGAN ZIBI ANISHINABEG



CHIEF LANCE HAYMOND
KEBAOWEK FIRST NATION



OUR LAND OUR RESEARCH

Indigenous Led Assessment



Keenan chief and Perry Mongrain proposed NSDF site

ALGONQUIN

Chalk River Site Historical Impacts

- Alienation from unceded lands
- Disruption of water and land based livelihoods
- Loss of sense of place and spiritual connection to Pointe au Baptheme and Kineew Kiishkaabikaan (Bird Rock)
- Loss of sacred places and rituals
- Erosion of customary governance and inherent management systems
- Degradation of lands and waters, sacred sites
- Erosion of cultural identity
- Disruption of land based activities
- Decline in access to Indigenous food
- Increases in income inequality
- Nuclear contamination impacts
- Reduction in food availability
- Negative impacts on the mental health and spiritual well being
- Loss of accumulated Indigenous knowledge and eco-friendly practices
- **PROPOSED NSDF LAND DEGRADATION INCREASES HISTORICAL IMPACTS**

The Procedural Order

EFFORTS OF COLLABORATION

- KFN and KZA, are independent Algonquin First Nations that had different interactions with Staff and the CNL in the past several months. We are both part of the broader Algonquin Nation, and we continue to share similar interests and serious concerns about the NSDF and its impacts on our rights and interests. Namely:
- the duty to consult has not been fulfilled;
- there is insufficient information to assess the NSDF's environmental effects or, in the alternative, the NSDF is likely to cause significant adverse environmental effects. JUSTIFICATION must be referred to the Lieutenant Governor in Council as required under the Canadian Environmental Assessment Act, 2012 ("CEAA 2012")
- insufficient information to determine that CNL will "**make adequate provision for the protection of the environment, the health and safety of persons and the maintenance of national security and measures required to implement international obligations to which Canada has agreed**", as required under the Nuclear Safety and Control Act ("NSCA");
- Obligations under UNDRIP and UNDA 2021 have not been fulfilled

PROPOSED NSDF

IMPACTS ON COMMUNITY RIGHTS

Kebaowek First Nation

- Rights to harvest
- Rights to govern and protect the territory
- Rights to maintain a cultural and spiritual relationship with the territory

Kitigan Zibi Anishinabeg

- Rights to harvest
- Right to a safe and healthy environment
- Rights to access and occupy traditional territory
- Rights to dignity of culture

POTENTIAL IMPACTS



Mother Bear in the proposed NSDF footprint

A SACRED LANDSCAPE

- PERMANENT, IRREVERSIBLE LOSS OF HABITAT AND BIODIVERSITY
- CONTAMINATION OF THE ENVIRONMENT
- INCREASED AVOIDANCE
- CUMULATIVE EFFECTS



PROPOSED NSDF SITE

GROUND TRUTHING



- Introduction to Algonquin Inherent High Value Relations in the Proposed NSDF
- Failure of CNL and CNSC to Assess Forest and Wildlife Habitats including Species at Risk
- Failure of CNL to Provide Estimates of Animal Mortality
- Failure of CNL and CNSC to recognize implications of Clearcutting NSDF Site in Sustainable Forest Management Planning
- CNL and CNSC Capacity Issues (lack of DFO and ECCC oversight)
- KFN DIRECT TO DIGITAL FINDINGS HUB
<https://arcg.is/90GzD0>

International Commitments

TARGET 22 CALL FOR COMPLIANCE

**Promoting sustainable development
requires consideration of biodiversity**

- **Among the purposes of CEAA 2012 is to “take actions that promote sustainable development.” Mounting evidence of biodiversity’s persistent degradation around the world, as well as its critical role for humanity, makes biodiversity a key element of sustainability.**
- **Recommendation:** The Kunming-Montreal Global Biodiversity Framework (“Biodiversity Framework”), as agreed to at the 15th meeting of the Conference of the Parties to the *United Nations Convention on Biological Diversity*, ought to inform the Commission’s environmental assessment decision, including the principle of ‘mainstreaming,’ which posits biodiversity, and the services it provides be appropriately and adequately integrated in decision-making, where a decision stands to have an impact on biodiversity.
- **Recommendation:** Target 22 of the Biodiversity Framework, which requires the full, equitable and inclusive participation of Indigenous peoples in decision-making ought to be upheld by the Commission in making an EA decision, recognizing the dependency of Indigenous peoples and local communities on biological diversity and their unique role in conserving life on Earth.

ALGONQUIN LAND BACK

**INDIGENOUS
PROTECTED
CONSERVATION
AREA**

**OTTAWA RIVER LAND BACK AND
WATER GOVERNANCE**



FITZPATRICK ISLAND DOWNSTREAM OF CHALK RIVER

ALGONQUIN

Redress

2015 TRC Calls to Action
UNDRIP 2007 Articles
UNDA 2021 Action Plan



LEGAL

**The duty to
consult: a
refresher**

- **Content of the duty falls on a spectrum**
- **Consultation must occur early in the process**
- **The Crown must keep an open mind and engage in good faith**

LEGAL

**The duty to
consult has not
been fulfilled**

- **Consultation occurred too late**
- **Consultation assumed project approval**
- **Insufficient record to make a decision**

LEGAL

Failure to fulfill
comply with
legislation

- s. 5(c) of the *Canadian Environmental Assessment Act* – environmental effects that must be considered in this assessment

(c) with respect to aboriginal peoples, an effect occurring in Canada of any change that may be caused to the environment on

- (i) health and socio-economic conditions,
- (ii) physical and cultural heritage,
- (iii) the current use of lands and resources for traditional purposes, or
- (iv) any structure, site or thing that is of historical, archaeological, paleontological or architectural significance.

LEGAL

Failure to fulfill
comply with
legislation

- s. 24(4) of *Nuclear Safety and Control Act* – no licence amended unless, in the Commission’s opinion, the applicant:

(a) is qualified to carry on the activity that the licence will authorize the licensee to carry on; and

(b) will, in carrying on that activity, make adequate provision for the protection of the environment, the health and safety of persons and the maintenance of national security and measures required to implement international obligations to which Canada has agreed.

LEGAL

An approval
would violate
UNDRIP

- UNDA 2021 Federal legislation affirms UNDRIP “as a universal international human rights instrument with application in Canadian law”
- UNDRIP recognizes and protects various Indigenous people’s rights

UNDRIP ARTICLES

FPIC and willing hosts

ARTICLE 19

“States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and

ARTICLE 29.2

“States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.”

Closing Prayer

