



CMD 22-M33.7

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

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

**Regulatory Oversight Report for  
Canadian Nuclear Laboratories  
Sites: 2021**

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**Rapport de surveillance  
réglementaire pour les sites  
des Laboratoires Nucléaires  
Canadiens : 2021**

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Commission Meeting

Réunion de la Commission

November 2, 2022

Le 2 novembre 2022

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October 4, 2022  
(Submitted by Email)

**RE: CLFN Comments on Regulatory Oversight Report for Canadian Nuclear Laboratories Sites for 2021 (CMD: 22-M33)**

Dear Registrar,

On behalf of Chief & Council and our community at Curve Lake First Nation (CLFN), we bring good thoughts to Commission members and staff at CNSC. We hope that you have found rest and recreation throughout the summer months of 2022 and look forward to what the fall may bring to all of us.

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.

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.

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*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 throughout 2022. 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. As demonstrated in 2021, we continue to be optimistic that our Terms of Reference and Work Plan for 2022 and beyond will result in progress and improvements in the coming years.

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.

Our comments, questions, recommendations are contained in the following Appendices. The synthesis of these are a work in progress as we build our internal team; so please excuse the fragmented nature of some of the content of these Appendices.

- Appendix A.1 Curve Lake First Nation – 2021/22 updates
- Appendix A.2 CNL engagement with Curve Lake First Nation in 2021-2022
- Appendix B Review by 4 Directions of Conservation Consulting Services
- Appendix C Additional Comments, Recommendations, Opportunities for Consideration

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

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principles are built upon the respect, care, and nurturing of all life as part of an interconnected whole and necessary for the balance and harmony required for Mino-Bimaadiziwin now and for future generations.

Sincerely,

On behalf of The Curve Lake First Nation Consultation Department

Gary Pritchard  
Representing Curve Lake First Nation  
CEO & Indigenous Conservation Ecologist  
4 Directions of Conservation Consulting Services

Francis Chua  
Support to CLFN Consultation Department

cc:

- Chief Keith Knott, Curve Lake First Nation
- Curve Lake First Nation Chief and Council
- Katie Young-Haddlesey, Chief Operating Officer, CLFN
- Dr. Julie Kapyrka, Lands & Resources Consultation Liaison, CLFN
- Kaitlin Hill, Lands & Resources Consultation Liaison, CLFN

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## **Appendix A.1 Curve Lake First Nation – 2021/22 updates**

We would like to take this opportunity through this written submission, to provide more insightful information about Curve Lake First Nation (CLFN) community.

In 2021, CLFN has worked very hard on many different fronts. First, CLFN celebrated the success of our Vaccination Clinics and offered three doses of vaccine to CLFN members. Our health and family services team, with support from many others from across the administration, has once again gone above and beyond in their support for our members.

The Cultural Center Department was very busy in 2021, striving to promote traditional knowledge workshops, outreach programming, and coordinate special events. The main event was the annual Curve Lake Annual Pow Wow titled 'Healing within the Circle' which was held on September 18. The Cultural Centre team has also partnered with Pinnguaq, an organization that provides STEM experiences nationally in learning and development for diverse communities across Canada, to create an online interactive map for the community based upon traditional land use. Themes include Anishnaabemowin names for the islands and bays, fishing, hunting and medicine grounds, locations of wild berries, manoomin beds, water, and maple syrup production. This online map will be created by youth through GIS mapping, which will produce documented history of traditional land use for our community, but also connect the youth to the land and the stories embedded within the Territory. In 2021, the Cultural Centre was also invited to participate on a board with the Canadian Canoe Museum to discuss their future exhibits, which will have an increased representation of not only Michi Saagiig Anishnaabeg canoes and culture, but also the unique dialect of Anishnaabemowin.

Summer of 2021 was a tragic time for CLFN with the unveiling of the unmarked graves of children that were found in residential school grounds. In June, CLFN held a four-day fire to honour the children, in addition to providing a safe place for membership and allies to come and share their stories, heal, and offer their medicines to the spirit world. Community members paused to think about these children and youth that were stolen from us. These discoveries created an open wound to deal with every day. CLFN has been embracing the teaching of acceptance, love, and bravery during this difficult time.

Summer of 2021 has also been the source of good news. After years-long fight for clean drinking water, CLFN and Canada reached an Agreement in Principle to settle the Water Class Action litigation that CLFN began in October 2019. The settlement agreement we have reached will have the benefit of providing clean drinking water to over 120 communities across Canada. Canada has agreed to specific timelines to fund the complete construction of a water treatment

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plant in the community: the water treatment plant built and servicing homes in the community would be done by the end of 2025.

On consultation matters, the Consultation Department worked in 2021 to create awareness amongst proponents and governments that the original intent of the treaties was to share the land and to have equitable partnerships regarding decisions being made in terms of using and taking resources from the land. A major focus for the Consultation Department has been how the WTFN Settlement Agreement 2018 and the re-affirmation of harvesting rights throughout the pre-confederation treaty territories intersects with land-use planning, policy, regulations, and development activities in the province. We are committed to ensuring that CLFN's harvesting rights are known, upheld, and protected. This also means holding governments to account in upholding their duty as the Crown to ensure that consultation and accommodation are meaningful and appropriate.

Finally, in the fall of 2021, Oshkiigamong Gitigan (Curve Lake Community Garden) had a successful inaugural season of operation. The garden produced fresh vegetables such as tomatoes, lettuce, beets, kale, snap peas, squash, zucchini, and onions. The Curve Lake Food Bank has distributed the vegetables that have been harvested on three separate occasions to the community throughout the season.

CLFN is proud of everything that has been achieved in 2021 and continues to embrace our teachings in every decision we make.

CLFN looks forward to welcoming CNSC and other key proponents to the community this fall of 2022 in order for learning to occur on both sides and move towards co-creating an ethical space to bring forth meaningful relationships.

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## **Appendix A.2 CNL engagement with Curve Lake First Nation in 2021-2022**

In 2021, CNL and the Williams Treaties First Nations (WTFN) have established routine meetings, where AECL joined on a few occasions. These routine meetings allow for information and work planning, communicating technical information, and sequencing the information accordingly. Recurring meetings also allow CLFN to stay up to date on the different CNL projects and maintain predictability of interactions based on a schedule. There are many competing demands on CLFN's time and resources by multiple proponents, projects, and activities across the territory. CLFN appreciates the additional context provided by CNL in the interactions.

In 2021, CNL, AECL, and the WTFN initiated discussions on different subjects during routine meetings. We had the opportunity to present each other, discuss what we do, and identify areas of interest and plans for upcoming meetings. We had an introductory meeting where everyone presented what they do, what our roles are, and that our goal is to get to open discussions instead of one way presentations provided only by CNL.

It is important to understand CNL's company culture, nuclear safety culture, and the various other initiatives and projects undertaken by CNL. The relationship is built with the understanding of the whole and not just isolated parts. These monthly meetings have been an excellent opportunity for learning and letting the relationship grow—in time we will see that translate through the materials submitted by both CNL and CLFN.

At these meetings, we had the opportunity to share about who we are. We communicated that if we want to solve the narrow box, we need to solve the broader box first: that is why these open-ended conversations allows CLFN to share more. For instance, we described our comprehensive approach to the land, water, and the relationship we have with animals, which are part of our families and relational systems.

We noted that CNL is making an attempt at sharing information with CLFN before reports and documentation are submitted to the CNSC, especially on the Port Hope Area Initiative Project. This early engagement on the different steps of a project is important for us, as it allows our staff and supporting team to get involved before a project submission and build trust with CNL.

At the same time, the volume of information being conveyed or needed to be conveyed is often too much to absorb in a single meeting and in real time. Time to absorb the information, to contemplate, to assess impacts, and to then ask questions is a challenge.

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CNL is demonstrating its commitment for Indigenous engagement by hiring a couple more staff to help with Indigenous engagement and requirements. Some great additions to the team during the year has allowed some progress on the relationship building front.

CLFN values the importance of flexibility and observes that despite deadlines imposed by the regulatory process, CNL has demonstrated the willingness to work within the constraints while seeking ways to demonstrate flexibility with the process since this can lead to more fruitful outcomes. The overarching goal is relationship building and not driven only by the completion of project deadlines and milestones.



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## **Appendix B Review by 4 Directions of Conservation Consulting Services**



September 27<sup>th</sup>, 2022

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CC: Francis Chua

RE: Review Comments: CNSC Regulatory Oversight Report for Canadian Nuclear  
Laboratories Sites for 2021

4 Directions File No: 22- 054C

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Dear Dr. Kapyrka and Ms. Hill,

4 Directions of Conservation Consulting Services (4 Directions) is pleased to present our review and recommendations regarding documents presented to Curve Lake First Nation (CLFN) by CNSC under their Duty to Consult and Accommodate. 4 Directions' review of the report, titled Regulatory Oversight Report for Canadian Nuclear Laboratories Sites for 2021, is broken down into three main sections. Relevant statements, questions and concerns are identified in the following document under their respective headings:

- Territorial Acknowledgements
- Rights Holders, Interest Holders, and Stakeholders
- Indigenous Knowledge Systems (IKS) and Ethical Space

Following these sections, 4 Directions has provided a brief summary of identified recommendations for CNSC.

This review further supports the earlier review submitted to CNSC for their report titled Regulatory Oversight Report for Canadian Nuclear Power Generating Stations Sites for 2021. Both reports from CNSC are extremely similar and this review therefore furthers our statements, questions, and recommendations made.





## 1.0 Territorial Acknowledgements

The use of territorial acknowledgements in report writing has become increasingly popular in recent years at the institutional level. As said by Wark (2021),

“Land acknowledgement, or territorial acknowledgement, is the practice of prefacing a presentation or event with a recognition of the Indigenous people or peoples whose land one occupies. Indigenous peoples of Turtle Island (North America) have always engaged in practices of recognizing each other in terms of language, nation, territory, clan, and lineage. While pre-colonial territorial borders may have been fluid and overlapping, there was always an awareness of the demarcation of territory. [...] Depending upon the nation, entering the territory of another people may have entailed thoughtful consideration, permission seeking, or gift giving. Hosting visitors from other nations also implied certain responsibilities, often involving formal words, feasting, and gifting. When Indigenous peoples acknowledge one another, it is both a cultural and political practice that is fundamentally tied to nationhood. While acknowledging the territory of others may be a traditional protocol among Indigenous peoples of Turtle Island, formal land acknowledgements by state institutions appeared [...] as a result of state-led reconciliation efforts. [...]

In their original form, territorial acknowledgements were viewed as a means to educate and build relationships of solidarity with settlers. [...] In their current form, land acknowledgements appear to be firmly embedded in reconciliation politics, often citing ambiguous purposes like demonstrating respect for Indigenous peoples. This shift has seen these practices being increasingly criticized for devolving into box-ticking exercises, strictly symbolic gestures, and moves to settler innocence. They have also been accused of being lacking in critical thought regarding their purpose and as attempts to rewrite Indigenous and settler colonial history.” (Wark, 2021: pp. 193 - 195).

Under the intention of supporting further education and relationship building regarding understandings of Treaties and Indigenous Rights, 4 Directions sees that constructing and ensuring collective understanding of a meaningful land acknowledgement could be a useful starting point. Land acknowledgements, when engaged with meaningfully, can serve as impactful political tools to address and resist dominant narratives that often seek to diminish and/or erase Indigenous presence and colonial violence from the collective storyline (Robinson et al., 2019). As Treaty people, it is imperative that we begin relationship building with contextual understandings that are “accurate representations of Indigenous territorial claims, languages, and governance systems” (Wark, 2021: pp. 202).





Within CNSC's provided report, there are numerous acknowledgements regarding the territory upon which the projects are situated. It is of 4 Directions' opinion that these attempts to acknowledge Indigenous inherent and treaty Rights are well-intentioned but unsatisfactory. Unspecific and non-purposeful territorial acknowledgements that generalize First Nations' inherent and treaty rights risk perpetuating modern-day colonialism through the simplification and erasure of such rights both historically and today.

## 1.1 CNSC Engagement with Curve Lake First Nation

On page 32 of the provided report, it is noted that "CNSC staff have made a number of improvements to reports and documentation based on the feedback, such as including land acknowledgements for each facility and creating a separate Indigenous consultation and engagement section."

### 1.1.1 Statement

The land acknowledgements touched on throughout this report do not meet the expectations of 4 Directions' staff; many of these acknowledgements underplay the Legal Rights and obligations of WTFN. To clarify, the CNSC are within the 1923 Williams Treaty, Clause #2 area.

On November 17, 2018, in Rama, Ontario, the Honourable Carolyn Bennett, Minister of Crown-Indigenous Relations, apologized on behalf of the Government of Canada for the negative impacts of the 1923 Williams Treaties on the Williams Treaties First Nations.

*In that apology minister Bennett stated: "Ninety-five years ago, your ancestors signed treaties with the Crown that became known as the Williams Treaties. The Crown only entered into these treaties after decades of requests by First Nation leaders and community members to address the matter of settlers encroaching on your traditional lands. We are sorry that, even before the Williams Treaties were concluded, your ancestors were unable to fully enjoy the bounty of your traditional lands. We are sorry that these treaties did not resolve your grievances, and that the Crown's actions did not honour the longstanding treaty relationship that already existed, and continues to exist, with your communities. And we are sorry that the Crown failed to recognize and respect your treaty rights.*





*We are sorry that, in not recognizing your rights to harvest in your pre-Confederation treaty areas, your communities faced hardship and hunger, with the bounties of the land being replaced by biscuits and tins of government meat. We are sorry that your people were not able to pursue traditional activities with pride and dignity, but instead were persecuted for exercising their rights. And we are sorry that your grandmothers and grandfathers, mothers and fathers, and aunts and uncles were constrained in their ability to do what their ancestors had always done — to teach younger generations about your communities' traditional lands and waters and pass along Anishinaabe culture and practices. The persistence and resilience of the Williams Treaties First Nations serve as an example for all Canadians. In order to learn, in order to heal, in order to advance reconciliation, we must all acknowledge past wrongs and the multifaceted impacts of colonialism. It is our collective responsibility to continue to educate ourselves on the history of Canada so that we can move toward greater understanding and respect.*

*I pledge that we can, and will, do better.*

*There is no way to undo the past, nor to fully atone for wrongs perpetuated over many decades. In concluding a negotiated settlement that includes compensation to address historic wrongs, the ability to expand your reserve land bases, and the recognition of your pre-Confederation treaty harvesting rights, I believe that we have the opportunity to open a new chapter. A chapter where trust can be rebuilt; Anishinaabe culture, language, and teachings are celebrated; treaty rights are respected; and our relationship is further strengthened for the benefit of the seven generations to come. We are committed to writing this next chapter together, in the spirit of reconciliation and partnership.”*

### 1.1.2 Questions

Are the discussed land acknowledgements for each facility included in this report?

How do these land acknowledgements work towards addressing the apology from Bennett?

### 1.1.3 Recommendation

The supreme court of Canada has stated that it is not up the Nations to educate the Crown on their own responsibilities; it is 4 Directions' recommendation that CNSC critically reflects on how the 2018 apology is being incorporated in identified areas such as:

- a) Report writing;
- b) Project monitoring;





- c) Environmental procedures and assessments; and,
- d) Future project planning.





## 1.2 Vague Acknowledgements

As noted above, it is unclear if the official land acknowledgements for each identified facility were included in this report. Table 1, below, summarizes identified territorial acknowledgements throughout the report and sections

1.2.1 and 1.2.2 offer 4 Directions' questions, comments, and concerns about these remarks.

Table 1: Summary Table of Territorial Acknowledgements within the report titled: CNSC Regulatory Oversight Report for Canadian Nuclear Laboratories Sites for 2021

Quote No.	Pg No.	Quotation
1	2	"The traditional and/or treaty territories of many Indigenous peoples resides on CNL sites"
2	4	"CNSC staff would like to acknowledge the Indigenous Nations and communities (appendix A) who's traditional and/or treaty territories are within proximity to the CNL sites covered by this report."
3	6	"Chalk River Laboratories (CRL) is located in the province of Ontario, 160 kilometers northwest of Ottawa (Figure 2), on the traditional unceded territory of the Algonquin Anishnaabeg people."
4	28	"CNL sites fall within the traditional and treaty territories of many Indigenous Nations and communities, as listed in (appendix A)."





### 1.2.1 Statement

Further research is required to better understand the purpose of a territorial acknowledgement. It is essential that individuals structuring land acknowledgements are purposive with their language and make clear there is an understanding of the specific history and current relation to the discussed land. Specifically, given that the executive summary of this report offers a list of facility sites, and figure one visually depicts this, it is unclear why the subsequent specific treaties for these regions could not be identified.

As noted in earlier sections (1.0 and 1.1.1), meaningful territorial acknowledgements should aim to be specific and purposeful; not generalized or vague. To move forward with a journey of reconciliation, it is important that space is created to come to terms with the truth of why this journey is needed. An effective territorial acknowledgement illustrates authors' understanding of the legacies, and at times unsettling truths, intertwined with the land and peoples being acknowledged.

The provided land acknowledgements (Table 1) lack clarity and/or recognition of Indigenous Inherent and Treaty Rights. Notably, there appear to be generalizations made around Indigenous peoples that blur the lines between Rights holders, interest holders, and stakeholders; delineations which yield specific legal obligations. This topic is discussed further in section 2.0: Rights Holders, Interest Holders, and Stakeholders.

### 1.2.2 Question

The Truth and Reconciliation Commission (TRC) Calls to Action highlight how industry proponents can take responsibility for their Truth and Reconciliation journey. Specifically, Call to Action #92 states that “we call upon the corporate sector in Canada to adopt the United Nations Declaration on the Rights of Indigenous peoples as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources” (Truth and Reconciliation Commission of Canada); how do the above territorial acknowledgements (Table 1) support CNSC's truth and reconciliation journey?

### 1.2.3 Recommendation

It is recommended that further information is provided when offering a territorial acknowledgement.

4 Directions has compiled a (non-exhaustive) list of recommended resources to further contextual understanding for these acknowledgements:

- Curve Lake First Nation Consultation and Accommodation Standards (Curve Lake First Nation, 2013)
- Water Declaration of the First Nations in Ontario (Chiefs of Ontario, 2008)
- Michi Saagig Nishnaabeg: This is our territory (Williams, 2018)







## 2.0 Rights Holders, Interest Holders, and Stakeholders

Consultation refers to the legal obligations of the Crown (Government) when Indigenous interests (rights and title) may be adversely affected by a Crown decision. The consultation process consists of information sharing between the government and affected First Nations and seeks to resolve potential adverse impacts on Indigenous interests. Under these parameters, Indigenous partners are considered Rights Holders, a title with specific and nuanced connotations that differ greatly from those of interest or stakeholders. The Rights of the Williams Treaties First Nations were reaffirmed by section 35 of the Constitution Act (1982).

There are also Indigenous Interest holders, those who have an Archaeological interest in a project but do not maintain the same rights and responsibilities as Rights holders. For example, when looking at development projects in the Williams Treaty Territory, the Huron-Wendat hold Archaeological interests but do not maintain the same rights as the Michi Saagiig. Table 2, below, summarizes selected quotations that raised questions (section 2.1.2) for 4 Directions staff.

### 2.1 Delineation of Standing

Table 2: Summary Table of Quotes regarding Indigenous Rights Holders, Interest Holders, etc. within the report titled: CNSC Regulatory Oversight Report for Canadian Nuclear Laboratories Sites for 2021

Quote No	Pg No	Quotation
1	28	"CNSC staff ensure that all Indigenous Nations and communities with a potential interest in CNL's sites, facilities, and activities, are aware of the CNL ROR process and how they can get involved."
2	29	"CNSC staff have formalized long-term engagement relationships with interested Indigenous Nations and communities through Terms of Reference [23] collaboratively developed with each Nation or community."
3	33	"CNSC staff remain committed to continuing building relationships with all interested Indigenous Nations and communities for all CNL sites."





4	34	<p>“For the Chalk River Laboratories site, CNL continued to work on long-term relationship agreements in 2021, signing a Memorandum of Understanding with the Algonquins of Ontario, another with the Métis Nation of Ontario (MNO) Regions 5 and 6, and a Contribution Agreement with Curve Lake First Nation (CLFN).”</p>
5	34	<p>“CNL has noted that Indigenous Nations and communities expressed interest in biodiversity and cultural heritage studies, as well as future site use. In response, CNL invited interested Indigenous community members to participate in archaeological assessment field studies.”</p>
6	35	<p>“CNL worked to establish an Indigenous Advisory Committee as well as relationship agreements with key Indigenous Nations.”</p>
7	35	<p>“CNSC staff encourages CNL to continue to remain flexible and responsive to the requests and needs of the Indigenous Nations and communities that have an interest in its sites, facilities, and proposed projects.”</p>





### 2.1.1 Statement

Indigenous rights holders should not be grouped together with public stakeholders. Indigenous rights holders have specific legal obligations that differ greatly from those of interest or stakeholders and should be consulted and accommodated separately. This consultation procedure is different from the public/ stakeholder process.

Generalization of Indigenous groups throughout this report does not allow CNSC to appropriately identify rights holders and subsequent legal obligations for D2C. Specific identification and delineation of Indigenous Rights holders, Indigenous Interest holders, and Indigenous stakeholders is required.

Some identified groups do not have equal consultation requirements compared to those protected by WTFN treaty rights. By grouping all interest and Rights holders together, proponents risk questioning established rights by suggesting interest or stakeholders are Rights holders (or vice versa).

### 2.1.2 Questions

How are Rights holders delineated from interest or stakeholders throughout this report? Which of these identified groups are considered Rights holders?

Which of these identified groups are considered Interest holders?

Please clarify that CLFN is a rights holder; what does this mean for CNSC and its d2c?

### 2.1.3 Recommendations

Clearly define the above terms in the provided report and outline how expectations for engagement are met for these respective categories; further clarification regarding who is considered a Rights holder for these projects could be beneficial.





### 3.0 Indigenous Knowledge Systems and the Ethical Space

“The “ethical space” is formed when two societies, with disparate worldviews, are poised to engage each other. It is the thought about diverse societies and the space in between them that contributes to the development of a framework for dialogue between human communities. The ethical space of engagement proposes a framework as a way of examining the diversity and positioning of Indigenous peoples and Western society in the pursuit of a relevant discussion on Indigenous legal issues and particularly to the fragile intersection of Indigenous law and Canadian legal systems. Ethical standards and the emergence of new rules of engagement through recent Supreme Court rulings call for a new approach to Indigenous-Western dealings. The new partnership model of the ethical space, in a cooperative spirit between Indigenous peoples and Western institutions, will create new currents of thought that flow in different directions of legal discourse and overrun the archaic ways of interaction” (Ermine, 2007: pp. 193 – 194).

Gary Pritchard also notes in his presentation on [Indigenous Place Making & Ethical Space](#) that, “Ethical Space cannot be cultivated without Two-Eyed Seeing, which is the practice of learning to see using two knowledge systems, drawing on both to guide discovery and problem solving. It is within this Ethical Space that all collaboration, mutual support, and multi-directional knowledge sharing occurs” (Pritchard, 2020: slide 10).

For further context regarding the concept of Two-Eyed Seeing, see:

- [Institute for Integrative Science & Health Webpage](#)
- Bartlett et al., 2018; and,
- Pritchard, 2020.

### 3.1 CNSC & Ethical Space

“CLFN and CNSC staff will also continue to foster and create a safe ethical space for Indigenous knowledge to be collected and shared” (Page 32)





### 3.1.1 Statement

As described by Willie Ermine (2007), an important aspect of the Ethical Space is that it is formed “between peoples and cultures, and in particular whenever and wherever the physical and philosophical encounter of Indigenous and Western worlds takes place. At the superficial level of encounter, the two entities may indeed acknowledge each other but there is a clear lack of substance or depth to the encounter. What remains hidden and enfolded are the deeper level thoughts, interests and assumptions that will inevitably influence and animate the kind of relationship the two can have. It is the deeper level force, the underflow-become-influential, the enfolded dimensions that needs to be acknowledged and brought to bear in the complex situation produced by confronting knowledge and legal systems” (Ermine, 2007; pp. 195).

On a related note, it is also important to note the terms used when approaching an ethical engagement with IKS. When discussing Indigenous Knowledge, using terms such as “collected” do not align with the concepts of Two-Eyed Seeing and Ethical Space. Elder Murdena Marshall (co-author in Bartlett et al., 2018) describes “knowledge as a verb instead of a noun. Understanding Indigenous Knowledge as verbs similar to “constantly becoming” or as “ways of being” is then, as Murdena [...] explains, not an object of discovery as it cannot be ‘gained’ or ‘transferred’” (Joudry, 2016; pp. 30).

### 3.1.2 Questions

How, exactly, is an Ethical Space being fostered?

How are concepts of Two-Eyed seeing being utilized when approaching engagement with Indigenous Knowledge Systems?

### 3.1.3 Recommendation

Further evidence that the philosophy of Ethical Space is truly understood and fostered will support CNSC’s quoted claim.

## 3.2 Environmental Assessments and Indigenous Knowledge Systems

Table 3, provided on the following page, highlights a few environmental matters discussed throughout CNSC’s report. 4 Directions’ statement and questions regarding these quotations can be found in sections 3.2.1 and 3.2.2, respectively.





Table 3: Summary Table of Quotes regarding environmental assessment within the report titled: CNSC Regulatory Oversight Report for Canadian Nuclear Laboratories Sites for 2021

Quote No	Pg No	Quotation
1	22	“As per the licence condition handbooks (LCH), only CRL, WL and DPWF sites are required to have ERAs [Environmental Risk Assessment]. CNSC staff reviewed the submitted ERAs for these sites and have determined that they were compliant with the guidance provided in CSA standard N288.6-12, Environmental risk assessments at class I nuclear facilities and uranium mines and mills.”
2	34	“CNL engagement with respect to Chalk River Laboratories, the Douglas Point Waste Facility, and the Whiteshell Laboratories site in 2021 generally focused on project-specific environmental assessments”

### 3.2.1 Statement

To ensure relational effects are understood at a system level, it is important to consider impacts on Indigenous Rights and Values at all project points. This includes any impacts that could infringe upon the 2008 Water Declaration, or other standards outlined in section 1.2.3.

### 3.2.2 Questions

How are Indigenous rights and interests included in these assessments?

How, exactly, are Indigenous Nations and communities being engaged in the creation of these ERAs? How was IK engaged with to understand the effects and compliance from the CSA standards?

How are culturally appropriate means of sharing knowledge utilized within these studies?

### 3.2.3 Recommendations

Projects that limit the environment's integrity directly infringe on section 35 of the Constitution Act by not allowing Rights holders to exercise their rights in such diminished or decimated environments. It is recommended that further evidence is provided to highlight how impacts to Indigenous Inherent and Treaty Rights have been assessed and addressed.





### 3.3 CNSC Indigenous Engagement

“CNSC staff is satisfied with the level and quality of Indigenous engagement conducted by CNL with regards to its operations and proposed projects at its different sites.” (Page 35)

#### 3.3.1 Statement

The level and quality of Indigenous engagement should be jointly confirmed between CNSC and the Indigenous Rights holders, since this is a cooperative relationship.

#### 3.3.2 Questions

CNSC staff are satisfied with the level and quality of Indigenous engagement conducted by the NPP and WMF licensees regarding their operations in 2021, but are the Indigenous Rights holders satisfied?

#### 3.3.3 Recommendation

To confirm that all Nations are satisfied with the level of engagement and/or consultation provided by CNSC, 4 Directions recommends clearly outlining how and when CNSC has undertaken meetings to ensure that the level and quality of Indigenous engagement is up to partners’ expectations.





## Summary of Recommendations

- It is recommended that further information is provided when offering a territorial acknowledgement.
- 4 Directions has compiled a (non-exhaustive) list of recommended resources to further contextual understanding for these acknowledgements:
  - Curve Lake First Nation Consultation and Accommodation Standards (Curve Lake First Nation, 2013)
  - Water Declaration of the First Nations in Ontario (Chiefs of Ontario, 2008)
  - Michi Saagig Nishnaabeg: This is our territory (Williams, 2018)
- Clearly define the terms Rights Holder, Interest Holder, and Stakeholder in the provided report and outline how expectations for engagement are met for these respective categories; further clarification regarding who is considered a Rights holder for these projects could be beneficial.
- For further context regarding the concept of Two-Eyed Seeing, see:
  - Institute for Integrative Science & Health Webpage
  - Bartlett et al., 2018; and,
  - Pritchard, 2020.
- Further evidence that the philosophy of Ethical Space is truly understood and fostered will support CNSC's  
quoted claim
- Projects that limit the environment's integrity directly infringe on section 35 of the Constitution Act by not allowing Rights holders to exercise their rights in such diminished or decimated environments. It is recommended that further evidence is provided to highlight how impacts to Indigenous Inherent and Treaty Rights have been assessed and addressed.
- To confirm that all Nations are satisfied with the level of engagement and/or consultation provided by CNSC, 4 Directions recommends clearly outlining how and when CNSC has undertaken meetings to ensure that the level and quality of Indigenous engagement is up to partners' expectations.







## Closing Remarks

The provided document reviewed offers good potential for moving forward with Indigenous engagements in a good way. To ensure the foundation of this plan is formed ethically, it is recommended that further understandings regarding methods for meaningful territorial acknowledgements, as well as co-production of knowledge, are demonstrated.

I trust that this information aids in your engagement process and the next steps forward. If you have any questions, please do not hesitate to contact us.

Miigwetch,

A handwritten signature in blue ink that reads "Brodie Schmidt".

**Brodie Schmidt, BAH, MA.**  
Operations Manager

A handwritten signature in blue ink that reads "Hannah Tosello".

**Hannah Tosello, BSc., MEnvSc.**  
Aquatic Ecologist

A handwritten signature in blue ink that reads "Gary Pritchard".

**Gary Pritchard, BSc., EP., CERP.**  
Principal, Indigenous Conservation Ecologist





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## **Appendix C Additional Comments, Recommendations, Opportunities for Consideration**

We noticed that some of the comments raised last year have been integrated into this year's ROR, such as having a specific section on Indigenous engagement, using 'Indigenous Nations' instead of 'groups', and having a land acknowledgement for each facility. We also noticed that there are still some outstanding concerns from last year that have not been responded to, as well as new ones that we would like to highlight.

### **General comments, questions and recommendations**

#### **Comment 1:**

In last year's ROR, CLFN mentioned that in the introduction CNSC acknowledged Indigenous communities and groups as an Appendix. The document then proceeded to list all the CNL site location names. CNSC took the time to list all the CNL sites but omitted doing the same for Indigenous communities – whose lands and constitutionally protected rights are impacted by these very sites.

This year, the report contains the exact same information in the introduction: 'The CNL sites covered by this report are located in many different parts of the country (Figure 1). CNSC staff would like to acknowledge the Indigenous Nations and communities (Appendix A) who's traditional and/or treaty territories are within proximity to the CNL sites covered by this report.' In addition, in last year's intervention, CLFN mentioned that the map displaying the CNL sites omitted the presence of First Nations Peoples, lands, and rights, and that this perpetrates the diminishment of the significance of the roles and responsibilities of the Crown in relation to Indigenous Peoples. It also serves to erase First Nations cultures and histories from the land in a narrative form.

**Recommendation 1:** We would like to understand why CLFN recommendation from last year's ROR was not implemented, which was: List the First Nations communities as the site locations are listed, and not simply as an Appendix. Provide a map alongside the site map showing First Nations communities in proximity to the site locations. A more thorough and accurate acknowledgement section is needed that states the relevant indigenous communities that have territorial 'rights' to the land as well as the communities that have 'interests' to the land.

#### **Comment 2:**

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In last year's intervention to the Commission, CLFN described that meaningful participation not only includes being able to actively influence outcomes, but also seeing oneself reflected in the process and within regulatory activities. This includes being represented in the reporting narrative and documentation. CLFN does not see themselves or any Indigenous Peoples, lands, or knowledge, included within the pages of this submission – either through visual mapping and/or written reporting – beyond a small section.

In this year's ROR, CLFN is still not represented elsewhere than in the Indigenous engagement section, which we do not consider as being meaningful participation. Meaningful engagement, a key aspect of reconciliation, should be the focus of CNL and CNSC.

**Recommendation 2:** This recommendation is the same as last year: We recommend CNSC staff to make space for Indigenous inclusion, contexts, and knowledges within regulatory oversight documents with a more balanced approach, such as including Indigenous perspective in section 4.9 Environmental Protection.

**Comment 3:**

In last year's intervention, CLFN recommended that CNSC staff remove or replace the terms "that have an interest" or "other interested groups". This kind of terminology sets a standard that espouses an inaccurate representation of how consultation and engagement activities should be applied to nuclear projects in the context of the duty to consult. This year, the vocabulary did not change. Please see pages 2, 28, 29, 33, 34 and 35.

**Recommendation 3:** The terminology groups "that have an interest" or "other interested groups" should be removed or revised.

**Comment 4:**

CLFN had also recommended in last year's intervention to include information about the Duty to Consult and Accommodate, constitutionally protected rights and the Honour of the Crown. The CNL ROR omits to explain the methodology by which the CNSC, or CNL has identified the Indigenous communities it must engage with regarding any specific site location activities.

**Recommendation 4:** We recommend CNSC staff to explain how they identify the Indigenous communities they engage with regarding any specific site location activities.

**Comment 5:**



In the CNL ROR overall conclusion of 2020, CLFN had mentioned in last year's submission that there is no mention of First Nations, in any context. Would not compliance activities include a certitude that Indigenous rights are upheld and protected? Why is the Indigenous engagement section taking almost a third of the report, whereas do not even appearing in the conclusion?

**Recommendation 5:** Include a bullet in the conclusion to acknowledge Indigenous Peoples, lands, and rights and how they are protected and respected throughout the various processes and programs at CNL sites.

**Comment 6:**

CLFN has noticed that there is a disconnect between intentions and commitments. Throughout in-person meetings with proponents or regulators, awareness is expressed in the use of terminology, but this is not reflected in the language used within reporting format. Staff who write documentation are often even unaware of CLFN concerns related to the appropriate use of language.

**Recommendation 6:** Translate the awareness about the use of appropriate terminology that is demonstrated during meetings by:

- Inviting staff who write reports and their managers to a meeting with CLFN to discuss best practices for integrating Indigenous perspectives in reports, and
- Allowing CLFN to participate in the review of documentation while it is drafted, especially sections that are important to CLFN, not only Indigenous engagement and consultation section, but also sections that discuss potential impacts to the environment, and conclusions.

**Comment 7:**

There is no mention of AECL's roles and responsibilities with regards to the CNL sites and Indigenous engagement.

**Recommendation 7:** CLFN recommends CNSC staff to identify early in the report what are the different roles and responsibilities with regards to the Duty to Consult between CNL, AECL and CNSC. Understanding who is doing what in a particular project will help CLFN submit more specific and valuable interventions to the Commission.

**Comment 8:**

After CLFN submits comments through an intervention to the Commission, or a review to CNL, feedback on how our comments were taken into consideration is not clearly articulated. CLFN is often having to repeat the same concerns and questions, as there is not a proper feedback loop

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from the CNSC and/or CNL. Implementing a better process for presenting how comments are addressed or dispositioned would be helpful in making appropriate adjustments in the regulations and/or reports.

**Recommendation 8:**

- CNSC and CNL to put in place a process for reporting back to CLFN about their intervention and how CLFN comments will be taken into consideration.
- The CNSC report back to us on whether the information provided in our intervention brought any value to CNSC staff, and how CLFN HFN could improve their next intervention.