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## **Oral presentation**

## **Exposé oral**

**Written submission from the  
Algonquins of Pikwakanagan  
First Nation**

**Mémoire de la  
Première Nation des  
Algonquins de Pikwakanagan**

**Regulatory Oversight Report for  
Uranium and Nuclear Substance  
Processing Facilities in Canada: 2021**

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**Rapport de surveillance  
réglementaire des installations de  
traitement de l'uranium et des  
substances nucléaires au  
Canada :2021**

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Commission Meeting

Réunion de la Commission

**December 15/16, 2022**

**15/16 décembre 2022**

# The Algonquins of Pikwakanagan First Nation's Submission on the Regulatory Oversight Report for Uranium and Nuclear Substance Processing Facilities in Canada: 2021

October 31, 2022

Prepared by the Algonquins of Pikwakanagan First Nation. This submission was funded by the Canadian Nuclear Safety Commission's Participant Funding Program.

**In addition to the following written submission, AOPFN also wishes to intervene by way of oral presentation at the Commission Meeting on December 16<sup>th</sup>, 2022.**

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# The Algonquins of Pikwakanagan First Nation’s Submission on the Regulatory Oversight Report for Uranium and Nuclear Substance Processing Facilities in Canada: 2021

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## List of Acronyms

Acronym	Definition
AOPFN	Algonquins of Pikwakanagan First Nation
AAC	AOPFN Advisory Committee
BTL	Best Theratronics Ltd. (BTL)
BWXT	BWXT Medical Ltd. (BWXT)
CNL	Canadian Nuclear Laboratories
CNSC	The Canadian Nuclear Safety Commission
FPIC	Free, Prior and Informed Consent
IAEA	International Atomic Energy Association
IEMP	Independent Environmental Monitoring Program
LTRA	Long-term Relationship Arrangement
Nordion	Nordion (Canada) Inc.
NWMO	Nuclear Waste Management Organization
PFP	The CNSC's Participant Funding Program
PHCF	Port Hope Conversion Facility (PHCF)
ROR	Regulatory Oversight Report
SCA	Safety and Control Area
SRBT	SRB Technologies (Canada) Inc.
UNSPFs	Uranium and Nuclear Substance Processing Facilities
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples

# The Algonquins of Pikwakanagan First Nation's Submission on the Regulatory Oversight Report for Uranium and Nuclear Substance Processing Facilities in Canada: 2021

## Introduction

This submission provides comments from the Algonquins of Pikwakanagan First Nation (AOPFN) on the Canadian Nuclear Safety Commission's (CNSC) Regulatory Oversight Report (ROR) for Uranium and Nuclear Substance Processing Facilities (UNSPFs) in Canada: 2021<sup>1</sup>. The facilities reviewed in the ROR that fall in AOPFN territory are:

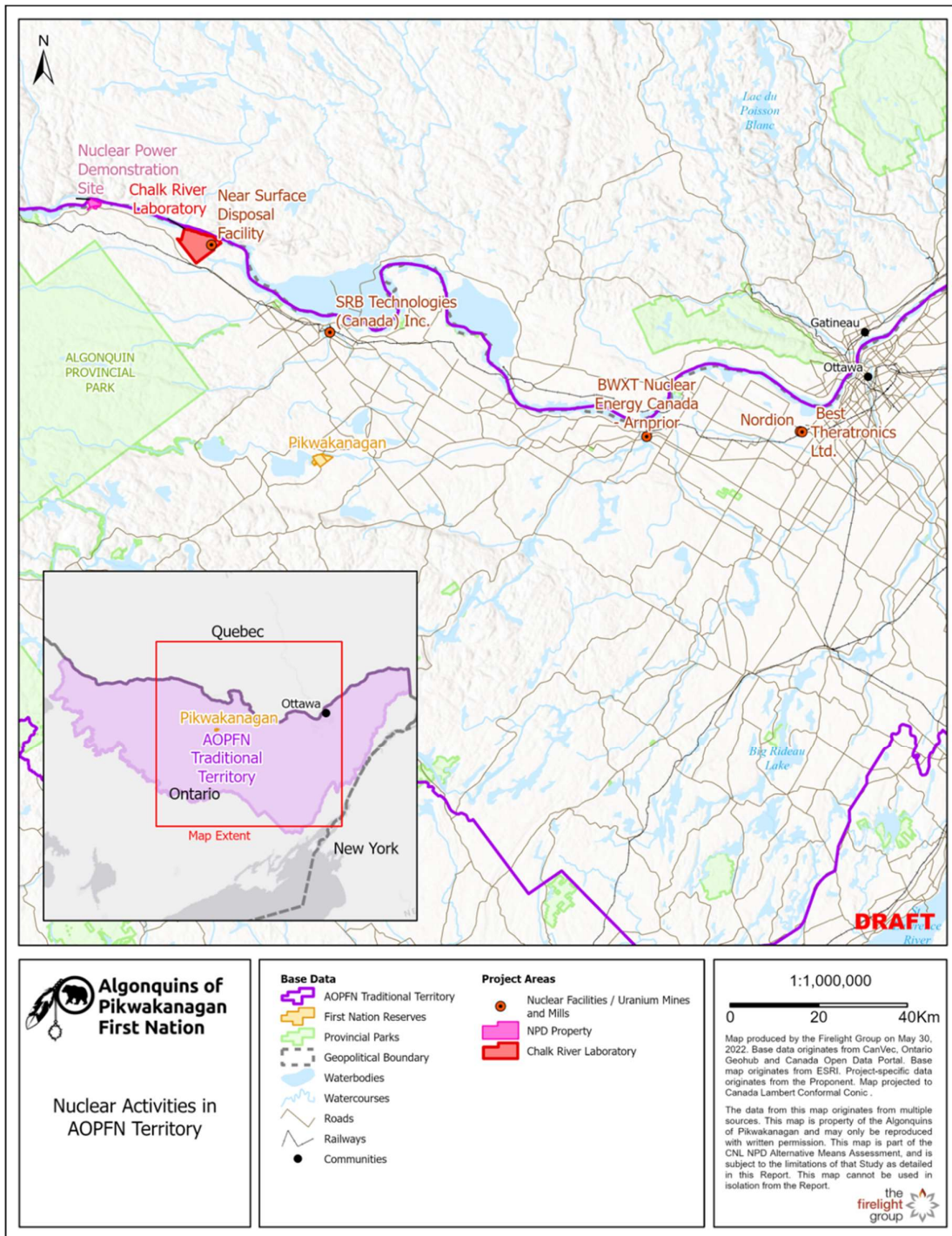
- Best Theratronics Ltd. (BTL)
- BWXT Medical Ltd. (BWXT)
- Nordion (Canada) Inc. (Nordion) (Class 1b facility license now under BWXT)
- SRB Technologies (Canada) Inc. (SRBT)

These facilities will be referred to collectively as “the UNSPFs” throughout this submission. See Figure 1 for a map of the different nuclear facilities in our territory (including Canadian Nuclear Laboratories (CNL) facilities).

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<sup>1</sup> Canadian Nuclear Safety Commission. 2022. *Regulatory Oversight Report for Uranium and Nuclear Substance Processing Facilities in Canada: 2021*.

**Figure 1: Nuclear Activities in AOPFN Territory**



The submission has two parts. Part one, provides detailed comments on the content of the ROR and AOPFN's some of experiences with the CNSC in 2021. Part two, provides the recommendations for Aboriginal rights-based criteria developed jointly by AOPFN and Sagkeeng Anicinabe First Nation in relation to the CNSC's *Regulatory Oversight Report for Canadian Nuclear Laboratories Sites: 2021*<sup>2</sup>, as well as a review of each facility's performance in 2021 based on these new criteria. It is AOPFN's expectation that these new criteria will be integrated into all future RORs.

We want to start by recognizing the steps that the CNSC is making to strengthen relations with AOPFN since 2021. AOPFN submitted comments<sup>3</sup> to the CNSC in 2020 in a submission response on the ROR for UNSPF: 2019<sup>4</sup>. The CNSC responded to each comment in 2020 and based on this information we will review how those comments were implemented in 2021. There were seven comments in total, and they covered topics such as:

- Improving the inclusion of Indigenous Knowledge<sup>5</sup> in regulatory oversight processes.
- More frequent, meaningful, and funded engagement opportunities for nuclear substance processing facilities within AOPFN territory.
- Co-development of metrics to review Indigenous engagement in future RORs.
- Increased funding, transparency, and opportunities for AOPFN to be involved in the IEMP.
- Funded, meaningful roles for Indigenous monitors in the CNSC's compliance and verification monitoring.

CNSC staff responded to these comments and agreed that the meaningful inclusion of Indigenous Knowledge is important, and so the CNSC funded Indigenous Knowledge studies to support that. These types of studies are important to meaningfully integrate culturally appropriate recommendations and findings, as well as increasing trust, transparency and capacity.

The CNSC also committed to further involvement of AOPFN in the IEMP and stated that the CNSC would encourage the licensees to work with AOPFN to develop mutually acceptable engagement strategies. The CNSC planned on reviewing the REGDOC-3.2.2 Indigenous Engagement<sup>6</sup> in the next year and would make the draft available for public and Indigenous comment.

AOPFN and the CNSC are currently developing a Long-term Relationship Arrangement (LTRA), and it is our hope that this will go a long way to resolving many of our past and present concerns. The LTRA is meant to outline a relationship between AOPFN and the CNSC through on-going, respectful, and open dialogue regarding areas of interest and issues or concerns related to nuclear

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<sup>2</sup> Canadian Nuclear Safety Commission. 2022. *Annual program report: Canadian Nuclear Laboratories Regulatory Oversight Report for Canadian Nuclear Laboratories Sites: 2021*.

<sup>3</sup> Algonquins of Pikwakanagan First Nation (AOPFN). 2022. The Algonquins of Pikwakanagan First Nation's submission on Regulatory Oversight Report for Canadian Nuclear Laboratories Sites: 2021, submitted October 3, 2022.

<sup>4</sup> Canadian Nuclear Safety Commission. 2020. *Regulatory Oversight Report for Uranium and Nuclear Substance Processing Facilities in Canada: 2019*.

<sup>5</sup> AOPFN prefer the term "Algonquin Knowledge" when it applies to their knowledge but acknowledge "Indigenous Knowledge" as a broader term.

<sup>6</sup>Canadian Nuclear Safety Commission. 2022. *REGDOC-3.2.2, Indigenous Engagement, Version 1.2*.

facilities regulated by the CNSC, and activities of interest to AOPFN. The LTRA is meant to emphasize AOPN’s right to be involved in decisions made on AOPFN territory, especially when those decisions may impact existing rights, laws, and concerns. It is also means to protect AOPFN’s right to be involved in any monitoring of effects from nuclear projects or activities on AOPFN territory. As of the filing of this report, the LTRA has not been completed or signed between the parties and so AOPFN cannot speak to it as an agent of improved efficacy in the relationship between AOPFN and the CNSC. We will update the commission in our verbal submission on any progress made after the filing of our written submission

While we are encouraged by the progress being made, there is still room for improvement. We have developed a series of recommendations to help the CNSC and the UNSPFs improve their collaboration and relationships with our Nation (Table 1). **A central component to achieving each of these recommendations is ensuring capacity funding is made available by the Government of Canada and the CNSC. None of AOPFN’s recommendations, as well as the CNSC’s goal to improve relations with Indigenous people, will be possible without adequate funding and capacity building support. Therefore, when responding to our recommendations, we ask that the CNSC identify how each of the actions associated with the recommendations below will be funded to ensure their success. Additionally, we ask that the CNSC encourages all the UNSPFs to enter into LTRAs with AOPFN and provide funding for the work associated with the UNSPF’s operations.**

*Table 1: Recommendations for improvement*

Recommendation Topics	Relevant in-text recommendations
<p><b>CNSC to consult with AOPFN prior to the ROR being published to receive our feedback on AOPFN’s perspectives and experiences regarding how the UNSPFs are operating in AOPFN territory and regarding our progressing relationship with CNSC. Funding will be required to ensure AOPFN has the capacity to participate.</b></p>	<p>See Recommendations <a href="#">7</a>, <a href="#">8</a> and <a href="#">9</a></p>
<p><b>The CNSC must report to AOPFN to explain how our reviews, comments and feedback are incorporated into RORs, reviews of annual work activities, and permit reviews and decisions. Funding will be required to ensure AOPFN has the capacity to participate.</b></p>	<p>See Recommendations <a href="#">1</a>, <a href="#">10</a>, and <a href="#">13</a></p>
<p><b>The CNSC and the UNSPFs must commit to further transparency and communication. This includes more active engagement with our Nation prior to decisions being made on what is planned for facilities and activities, regular communications on any events that take place, and a focus on plain language and dialogue rather than monologue.</b></p>	<p>See Recommendations <a href="#">1</a>, <a href="#">2</a>, <a href="#">3</a>, <a href="#">5</a>, <a href="#">10</a>, and <a href="#">11</a></p>
<p><b>The CNSC and the UNSPFs must commit to more opportunities for sharing information with our community members in a way that is collaborative, understandable, and culturally appropriate (such as community feasts, community monitoring outreach, school</b></p>	<p>See Recommendations <a href="#">3</a>, <a href="#">4</a>, <a href="#">6</a>, and <a href="#">11</a></p>



Recommendation Topics	Relevant in-text recommendations
<p>outreach programs, monitoring training initiatives, and more). This will require an additional communication budget.</p>	
<p>The CNSC must incorporate Indigenous observations, findings and perspectives on wellness and health into the ROR and monitoring including adopting additional risk assessment parameters. This can only be achieved with support from Indigenous groups; the CNSC will need to ensure funds are available to support AOPFN's time and efforts.</p> <p>CNSC should also encourage the UNSPFs to incorporate Indigenous perspectives on wellness and health into engagement activities and monitoring activities. This can only be achieved with support from, and funding for, Indigenous participation.</p>	<p>See Recommendations <a href="#">3</a>, <a href="#">4</a>, <a href="#">6</a>, and <a href="#">8</a></p>
<p>The CNSC and the UNSPFs must recognize that nuclear project developments in our territories contributes to, and exacerbates, cumulative impacts to the environment and our Aboriginal rights. Those cumulative effects (both the additive additional effect from each project/facility, and the total cumulative effect load after the addition of these additive effects) should be considered and accounted for in future RORs. This should also be considered when assessing impacts to our wellness and health. This will need to be achieved with support from AOPFN; the CNSC will need to ensure funds are available to support AOPFN's time and efforts.</p>	<p>See Recommendations <a href="#">3</a>, <a href="#">7</a> and <a href="#">8</a></p>
<p>The CNSC must incorporate findings from AOPFN's Neya Wabun Guardian Program into the annual RORs.</p> <p>The CNSC and the UNSPFs must seek to further integrate our Neya Wabun Guardian Program into the monitoring activities of the CNSC's and UNSPFs. This must be done in a way that is culturally appropriate and follows cultural protocols and collaboration with our Neya Wabun Guardian Program. This will require additional funding to the guardian program from CNSC.</p>	<p>See Recommendation <a href="#">12</a></p>
<p>The CNSC and the UNSPFs must commit to further communication, collaboration, and co-approval with AOPFN for the import and transport of any off-site radioactive materials into and through AOPFN traditional territory. Funding will be required to ensure AOPFN has the capacity to participate.</p>	<p>See Recommendations <a href="#">10</a> and <a href="#">15</a></p>
<p>The CNSC and the UNSPFs must commit to more Nation-specific cultural awareness training for all CNSC staff and all staff of the UNSPFs. This must include demonstrating how the teachings will be incorporated into working with Indigenous communities and</p>	<p>See Recommendation <a href="#">14</a></p>

Recommendation Topics	Relevant in-text recommendations
<p><b>ongoing monitoring activities. This can only be achieved with support from AOPFN and the CNSC and the UNSPFs will need to pay for AOPFN’s time and efforts.</b></p>	
<p><b>The CNSC must collaborate with AOPFN to include AOPFN’s Aboriginal rights Criteria into future drafts of RORs and ensure they AOPFN co-approve the outcomes. This can only be achieved with support from AOPFN, and the CNSC will need to ensure funds are available to support AOPFN’s time and efforts.</b></p>	<p>See Recommendations <a href="#">6</a>, <a href="#">8</a>, <a href="#">13</a>, and <a href="#">16</a></p>

These recommendations are aligned with the recommendations from the CNL ROR submission<sup>7</sup>. We ask that the CNSC provide us with written feedback on the contents of this submission and those from the CNL ROR submission. AOPFN’s Algonquin Advisory Committee (the AAC) members have noted on a number of occasions that they feel like they have been repeating themselves to different companies and government agencies (including the CNSC), and they are not seeing how their input and knowledge is being incorporated in a meaningful way. We are mindful that consultation in Canada is not accepted as meaningful if it only allows Indigenous peoples to “blow off steam”<sup>8</sup>; It must lead to substantive and meaningful change that supports reconciliation between Canada and Indigenous peoples.

As a partial contribution to resolving this issue, we recommend the following:

**Recommendation 1. The CNSC to provide a written response to our comments and recommendations provided in this submission and the CNL ROR submission. We ask that the CNSC explain how our comments will: 1) be reflected in CNSC’s 2023 work activities; and 2) shape future RORs. AOPFN also requests that the CNSC provide explanation and justification regarding how and whether our Algonquin Knowledge was used in ROR findings, the CNSC’s 2023 work, and in any decisions made. This would be in alignment with the Government of Canada’s Indigenous Knowledge Policy Framework.**

<sup>7</sup> Algonquins of Pikwakanagan First Nation (AOPFN). 2022. The Algonquins of Pikwakanagan First Nation’s Submission on Regulatory Oversight Report for Canadian Nuclear Laboratories Sites: 2021, submitted October 3, 2022.

<sup>8</sup> *Mikisew Cree First Nation v Canada*. 2005. SCC 69 at para 54. <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2251/index.do>

## Part 1. AOPFN's Review of the Regulatory Oversight Report

### Introduction

Based on the information presented by the CNSC in the 2021 ROR, AOPFN identified no major concerns with the overall environmental performance being measured through existing Safety and Control Areas (SCAs). That said, there are specific areas that require more consideration. These are:

- 1. Transparency and information sharing, especially details on findings of ratings including for Reportable Events and Security;**
- 2. Indigenous Findings, Observations, and Perspectives on the Environment and Wellness; and**
- 3. Engagement and Consultation from the CNSC and UNSPFs with Indigenous groups.**

These are discussed further below.

Additionally, AOPFN has applied criteria to this submission to strengthen how the CNSC assesses the performance of the UNSPFs from an Aboriginal rights-based perspective (discussed in Part 2) in a manner consistent with the United Nations Declaration on the Rights of Indigenous Peoples<sup>9</sup> (UNDRIP) and the Government of Canada's Indigenous Knowledge Policy Framework<sup>10</sup>. Our expectation is that the CNSC will use these additional criteria in all future RORs that concern nuclear activities on AOPFN land.

### Areas for Improvement in Future RORs

#### ***1. Transparency and Information sharing***

AOPFN has identified gaps in the ROR with respect to transparency and information sharing, and believes there are further opportunities for the CNSC to improve its transparency and communication with Indigenous Nations. It is important that the CNSC provide clear and understandable results in an accessible manner that will help offset any concerns from AOPFN membership. For example, the ROR explains that an environmental action level was exceeded in 2021 at the Port Hope Conversion Facility (PHCF). While PHCF is not on AOPFN lands, this is still relevant and something that could be alarming for AOPFN to hear of without context and explanation for why the CNSC states that this issue was not significant. On page 27, the ROR states that:

daily action level exceedances above 100 µg/L for the daily composite sample uranium result from the combined facility discharge in 2021 (October 31, November 7, 17, 18, 25, 27, and 28). These occurrences were attributed to groundwater infiltration from heavy precipitation events.<sup>11</sup>

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<sup>9</sup> United Nations (UN). 2007. *United Nations Declaration on the Rights of Indigenous Peoples*.

<sup>10</sup> Government of Canada. 2022. *Indigenous Knowledge Policy Framework for Project Reviews and Regulatory Decisions*. While AOPFN acknowledges that the Indigenous Knowledge Policy Framework does not expressly apply to decisions of the CNSC, it undeniably represents what the Government of Canada understands to be 'best practice' in this area, and CNSC should voluntarily adopt and apply it to its own decisions.

<sup>11</sup> Canadian Nuclear Safety Commission. 2022. *Regulatory Oversight Report for Uranium and Nuclear Substance Processing Facilities in Canada: 2021. Page 27*.

This excerpt highlights that the soil around nuclear processing facilities has a potential to be contaminated, and that the contaminants will end up in the groundwater from precipitation. This is type of information that needs to be communicated with AOPFN. Not sharing this sort of information results in AOPFN members feeling like the CNSC is withholding information. The CNSC must invest in day-to-day communication with AOPFN staff and provide reports to ensure it is providing complete transparency. Information sharing needs to be collaborative, understandable, and culturally appropriate (see Recommendations 2, 3 and 5).

**Recommendation 2. The CNSC must more clearly communicate the criteria for its significance and satisfaction ratings with AOPFN so we can better understand how those ratings are reached and applied.**

**Recommendation 3. The CNSC must provide further information on findings in the ROR regarding whether the deficiencies have a potential to cause impacts to the residents and environment within their traditional territories from the perspective of the impacted Nation, this includes impacts to rights, wellness, cumulative effects, and risk perception. This will need to be produced with input from the impacted Nations.**

It is also crucial that the CNSC communicate monitoring results using plain language. For example, the ROR states on page 2 that monitoring data showed that the water and food grown nearby were safe for consumption. However, there is no indication of how these results will be shared in a manner using plain language for AOPFN membership. It is necessary that information regarding the safety of water and food be clearly communicated to AOPFN membership to ensure their rights to hunt and harvest on the lands and waters are not impacted and to ensure their wellbeing is protected.

**Recommendation 4. The CNSC and the UNSPFs must develop annual communication plans on how monitoring data will be shared with community members. These communication plans need to include financial and capacity support to allow communities to take a leading role in information and risk communication. This should include investing in community-led programs such as AOPFN's Safe Algonquins Food Program, to better integrate data on food safety and restore trust in harvested foods.**

The CNSC and its licensees must also strengthen how incidents that occur on or near AOPFN traditional territory are communicated to AOPFN.

**Recommendation 5. AOPFN expects any licensee who reports an incident to the CNSC to reach out to the AOPFN Consultation Department at [consultation@pikwakanagan.ca](mailto:consultation@pikwakanagan.ca) and (613) 625-1551. We require a phone call and a written communication explaining what occurred and next steps taken to address and correct the incident. Depending on the extent of the Consultation Department's involvement, financial support will be required to allow for full participation.**

## ***2. Indigenous Findings, Observations, and Perspectives on the Environment and Wellness***

All assessments and monitoring of nuclear operations reported in the ROR indicate that the operations by the facilities are not resulting in significant impacts to the biophysical environment. However, the document does not assess the effects that these facilities are having on the socio-cultural well-being of Indigenous Nations, nor does the ROR consider the cumulative effects of the UNSPFs to the environment. Based on the adverse psycho-social impacts associated with sites involving radioactivity, this represents a gap in the ROR.

Potential impacts of having the UNSPFs on AOPFN lands to Indigenous mental health and wellness have not been accounted for in the ROR. The mere presence of a nuclear facility within the traditional territory causes elevated stress for our people. Indigenous well-being is closely tied to the experience and perception of the lands, waters, resources, and spirit within the traditional territory. Improper consideration of effects on Indigenous wellbeing, such as fear, stigma, uncertainty, and the lack of agency associated with radioactive waste – is unacceptable. These effects have real world adverse health outcomes.

**Recommendation 6. To address this gap, the CNSC must:**

- 1) Work with AOPFN to identify whether and how Indigenous wellbeing and rights are being protecting at and around the UNSPFs with support from AOPFN;**
- 2) Work with AOPFN to adopt additional risk assessment parameters that allow for annual reporting on population health/Indigenous determinants of health risk assessment that would allow for mental health factors like fear, stigma, risk-perception, reduce willingness to harvest and consume country food, loss of connection to the cultural landscape, reduced knowledge transmission and an overall loss of agency to be integrated into the system. This work would require financial and technical support systems from the CNSC.**

This is identified in Part 2 criteria, along with our recommendations on how to assess mental wellbeing as a parameter going forward.

As stated in the CNL ROR submission, AOPFN rejects any argument by the CNSC that socio-cultural wellbeing is beyond the scope of its regulatory oversight. As an agent of the Crown, the CNSC owes us proper protection and promotion of all aspects of our rights that may be impacted by the physical works and activities that nuclear projects have had, continue to have and may in the future have in our territories. AOPFN also notes that the federal government has adopted a project review system, through the Impact Assessment Act, that emphasizes that Indigenous health, economic and social conditions and impacts on them are part of the federal jurisdiction, and we expect this to be the case in relation to both federal impact assessments and federal licensing and regulatory processes moving forward.

Furthermore, AOPFN has been vocal about how nuclear project developments in our territory contributes to, and exacerbates, cumulative impacts to the environment and our Aboriginal rights. This has not been reflected in the ROR, and is often not understood by – or is ignored by – proponents and the Crown. A key aspect of evaluating the operation of nuclear facilities from an Aboriginal rights-based perspective is to implement a more holistic lens. This means understanding how these facilities contribute to the cumulative effects impacting AOPFN's territory and Aboriginal rights.

The ROR states that licensees use effluent and environmental monitoring programs to verify that any releases of hazardous substances do not result in environmental concentrations that may affect public health. There is no mention of mental health, perceived risk, or cumulative effects. Additionally, while the Environmental Risk Assessment conducted by the CNSC addresses physical concepts of safety, it does not include mental wellness, cumulative effects or risk perception and its consequences.

**Recommendation 7. Cumulative effects (both facility-specific additive effects, and the total cumulative effects load on each value) should be considered and accounted for in**

future RORs when assessing operations. This should also be considered when assessing impacts to our wellness and health. AOPFN needs to play a central role in the initial assessment, not simply review the draft findings, and AOPFN's participation must be funded.

Further, we have identified issues with the SCAs used by the CNSC to evaluate each site for the annual ROR. Neither the SCA for Environmental Protection nor the conventional health and safety SCA include Indigenous concepts of wellness and health, or anything related to Aboriginal rights. We note that Licensees are required to maintain Safety Analysis Reports (SARs), which report on matters of safety for employees, public and the environment. Indigenous concepts of safety and health are not included in these reports.

**Recommendation 8.** The CNSC must increase its efforts to incorporate Indigenous perspectives on health and wellness and the environment moving forward into SCA criteria and SARs. This will feature direct collaboration with Indigenous groups on the determination and measurement of those criteria, which will need to be financially and technically supported. This may include investment into community health programs, communication programs, co-approval of conclusions, and more.

**3. Engagement and Consultation from the CNSC and the UNSPFs with Indigenous groups**

AOPFN is glad to see that the CNSC is implementing requests made by Indigenous Nations from past submissions, including land acknowledgements, a stand-alone Indigenous consultation and engagement section and collaborative reporting on long-term engagement activities. We provide a review of the CNSC's consultation performance in Table 2 below.

However, AOPFN is not satisfied with the level of information provided by the CNSC regarding engagement and consultation as well as how and when CNSC is collecting feedback from Indigenous groups. A more fulsome analysis, which includes Indigenous input and participation, is necessary for future RORs. To achieve this, we recommend the following:

**Recommendation 9.** Going forward, we ask that the CNSC consult with AOPFN prior to the ROR being published to receive our feedback on AOPFN's perspectives and experiences regarding how the UNSPFs are operating in AOPFN territory. Financial and technical support will be required to achieve this equitably.

**Table 2: The CNSC consultation adequacy metrics with AOPFN**

Issue	Measure	Recommendations for Improvement
<b>Information sharing and communication</b>	Does the CNSC maintain reciprocal communication channels and good-faith relations with Indigenous groups impacted by regulated sites?	The CNSC maintains good communication with AOPFN. AOPFN recommends a more structured approach to communication, such as regularly producing a quarterly

Issue	Measure	Recommendations for Improvement
		correspondence document with emails, timeline to respond, and meeting updates. The approach can be further determined at the long-term relationship table.
<p><b>Responsiveness to requests for revisions to licenses or other regulatory instruments</b></p> <p><b>Integration of Indigenous input into the CNSC's work</b></p>	<p>How have the Indigenous recommendations and concerns in response to the previous year's Regulatory Oversight Report been addressed in the regulatory and licensing operations of the past year?</p> <p>How has the CNSC incorporated Indigenous comments and recommendations to improve this relationship?</p>	<p>The CNSC makes efforts to ensure our concerns are reflected in reviews. The CNSC could provide a clearer overview of comments from each Nation in the RORs. AOPFN would also like to see the CNSC reporting to AOPFN on how our feedback is being integrated into decisions and operations.</p>
<p><b>Indigenous engagement in the creation of Independent Environmental Monitoring Program (IEMP)</b></p>	<p>Does the CNSC have an effectively functioning program to support impacted Indigenous groups in creating Indigenous-led IEMP's? What kind of support is provided (financial, technical, consultation etc.)?</p>	<p>A central way to improve the IEMP is to ensure it reflects a "two-eyed seeing" approach to ensure Indigenous values and relationships with the environment are represented in sampling plans. To do so, community members have suggested more day-to-day collaboration between CNSC and AOPFN, more synergies with our Neya Wabun Guardian Program, and funding to ensure CNSC's sampling plans are aligned with AOPFN's visions. AOPFN has provided comment on the IEMP and how to improve it; we recommend incorporating our feedback into future IEMP work.</p>
<p><b>Adequacy of the CNSC's support funding</b></p>	<p>Amount of PFP and other funding from the CNSC for Indigenous groups to engage in processes</p>	<p>The CNSC has been providing funding to Indigenous groups for monitoring and document review. However, the CNSC needs to seriously expand the amount</p>

Issue	Measure	Recommendations for Improvement
		provided to allow for more back and forth engagement on risk communication, the IEMP, among other consultation and collaboration priorities.
<b>Timeliness of consultation</b>	Does the CNSC support consultation timelines that allow for adequate consultation with nation leadership, and within nation membership?	The CNSC is respectful of our timelines and needs, but could be more flexible when needed, especially with respect to sampling programs.

From our review of the Indigenous Consultation and Engagement section of the ROR, it appears to us that engagement is limited to information sharing and listening to Indigenous concerns. Nowhere in the ROR does it state that Indigenous Nations are seen as partners with a role to play in the planning, monitoring, and decision-making process for these licenses. Funding is limited to commenting on reports and participating as an intervenor in the licensing process; therefore, AOPFN’s involvement as a partner is limited.

**Recommendation 10. The CNSC should support AOPFN’s position in decision-making around permitting and licences of the UNSPFs. For facilities proposed or operating on our lands, AOPFN has the right to provide Free, Prior, and Informed Consent (FPIC) for a Project. This is a fundamental principle of UNDRIP, which the federal government has committed to implementing in Canada. The CNSC should work with AOPFN to achieve FPIC regarding projects and should provide adequate funding to AOPFN to participate in reviews to the depth that we require in order to make our required FPIC determinations.**

The CNSC should do more to consult AOPFN when reviewing the performance of the UNSPFs. For example, the ROR states that “CNSC staff confirmed that the licensees have Indigenous engagement and outreach programs”<sup>12</sup>. However, there is minimal detail on what these programs entail, whether Indigenous groups were involved in the development of these programs, or whether we are satisfied with how these programs are running. The CNSC staff’s confirmation suggests a “tick the box” exercise – each of the UNSPFs either has or does not have an Indigenous engagement and outreach program – rather than a measure of whether such programs are meaningful. AOPFN would like clarification on how the CNSC monitors this engagement and whether this engagement was verified with Indigenous Nations. This is particularly important because two of the facilities – Nordion and BTL – have not worked directly with AOPFN.

**Recommendation 11. The CNSC should provide further information to Indigenous groups on each of the UNSPFs’ Indigenous engagement and outreach programs. This should include information from each company on how these companies are learning**

<sup>12</sup> Canadian Nuclear Safety Commission. 2022. *Regulatory Oversight Report for Uranium and Nuclear Substance Processing Facilities in Canada: 2021*. Page 35.



**from Indigenous Nations, implementing what they hear into their everyday operations, and their adherence level with requests made by Indigenous Nations. The impacted Nations should have an opportunity to review these programs to report on the status, and funding must be provided to impacted Nations to cover the cost of their time and efforts.**

We note that there is a lack of Indigenous involvement in the inspection of the nuclear processing facilities within AOPFN's unceded Algonquin territory. The ROR states on page 17 that the "Majority of the findings in these inspections were considered to be of low risk, with two being medium risk, and none had an impact on safety at the facilities"<sup>13</sup>. This decision did not include AOPFN's opinion or analysis to come to this conclusion. Two of the four facilities on AOPFN territory were not inspected at all in 2021 and the ROR does not explain why. We note that the CNSC does not identify its criteria on the frequency of inspections and does not identify at all whether or how Indigenous groups are involved in the inspection process, or in the decisions on how and when to inspect sites. This is a significant gap in the ROR. AOPFN is also disappointed that there is no mention of Indigenous participation in the compliance plans for each facility, licensing, or International Atomic Energy Agency (IAEA) activities.

The ROR identifies that there were 21 reportable events in 2021, including 12 on AOPFN territory. The CNSC's staff concluded that none of these events had an impact on the environment, health and safety of persons, and maintenance of national or international security. This conclusion is missing Indigenous perspectives on the environment and health. Nordion alone had seven reportable events. This is a significant number of events for one facility, and this raises questions on organizational capacity and the overall function of the facility. Additionally, BTL transported nuclear substances across the Canada-USA border without a valid license. We cannot stress enough that this raises many issues regarding the principles of FPIC (outlined in Appendix 1 in our document "Consultation, Engagement, and Accommodation Requirements for all Nuclear Sector Proposed Developments in AOPFN Territory"). Lastly, BWXT had two incidences where radioactive materials were lost (one of which was later found). In AOPFN's perspective, this is a serious red flag for the facility's organizational capacity.

AOPFN would like to see the CNSC continue to improve its approach to monitoring and sampling. Namely, the CNSC continues to apply a predominately western scientific perspective to its sampling initiatives, such as the Independent Environmental Monitoring Program (IEMP). AOPFN has raised concerns about the timing of the IEMP and the lack of adaptability to the different seasons when different samples would be available, where these samples might be available, and when AOPFN members could access certain items for sampling. More opportunities are needed to sample across the seasons, as temperature, habitat, plant locations, and wildlife presence all change with the season. The stated purpose of the IEMP is to build trust; therefore, the IEMP must be adapted further to ensure Indigenous values, observations and perceptions are reflected in the data collection and analysis. However, this is not reflected in the current approach to data collection and are nowhere to be seen in the data analysis.

**Recommendation 12. The CNSC should work with AOPFN to establish a more substantive role and a bilateral relationship in all future IEMPs. The CNSC and AOPFN should work together to incorporate AOPFN's Guardians Program into the CNSC's**

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<sup>13</sup> Canadian Nuclear Safety Commission. 2022. *Regulatory Oversight Report for Uranium and Nuclear Substance Processing Facilities in Canada: 2021*. Page 17.

**monitoring of the UNSPFs in AOPFN territory. The Neya Wabun Guardian Program should be funded to support seasonal sampling activities. This will need to be verified by the Indigenous groups who provided knowledge.**

In general, a critical gap in the ROR is the lack of consideration and incorporation of Algonquin Knowledge (AOPFN's culture group specific form of Indigenous Knowledge). Currently there is no requirement to include AOPFN's Algonquin Knowledge in management plans, monitoring activities, or investigation of incidents. Nor are there any license conditions requiring support for or incorporation of the findings of Indigenous-led Guardian Programs in the monitoring and management systems of the UNSPFs. Any facilities operating on AOPFN's unceded territorial lands must follow AOPFN protocols and policies, the same way these facilities do for federal and provincial policies and regulations. This includes working with AOPFN in monitoring and environmental management, consulting Algonquin Knowledge and information sharing. There is an opportunity to involve Algonquin Knowledge and perspectives on the changing environment in the physical design plans of these facilities. AOPFN's membership have previously raised concerns over climate change and the gradual decline in the health of the environment over time. AOPFN can bring a unique perspective to facility design, one that aligns with our governance and land use goals.

**Recommendation 13. The CNSC to provide information in future RORs on how Indigenous Knowledge/Algonquin Knowledge was considered in its annual activities and in the review of the UNSPFs. This should include a summary of how each of the UNSPFs consulted with Indigenous groups and utilized Indigenous Knowledge to support monitoring, decision-making and planning activities.**

Finally, AOPFN has recommendations on how to apply an Indigenous perspective to some of the existing SCAs:

The *Operating Performance* SCA should be modified to assess each company's Indigenous consultation policies and programs; more specifically, how they invest in relationship development with Indigenous groups. AOPFN has developed a list of expectations for firms operating in our territory, which we share with proponents when they contact AOPFN. These include a set of expectations with respect to monitoring, cultural awareness training, support for cultural programs, hiring AOPFN members, and investment into consultation and engagement work. CNSC staff should consider how each of the UNSPFs is working with AOPFN to achieve these expectations when reviewing the Operating Performance SCA. CNSC staff could report on this by collecting feedback from Indigenous Nations prior to developing the next ROR (as outlined in Recommendations 12, 13, and 14.

This is connected to the need for the staff of the CNSC and the UNSPFs to take cultural awareness training and apply it to their day-to-day interactions with Indigenous communities.

**Recommendation 14. The CNSC and the UNSPFs commit to ongoing Nation-specific cultural awareness training for CNSC staff and all staff of the UNSPFs. This must be developed with collaboration with the Nations and supported technically and financially and include demonstrating how the teachings will be incorporated into working with Indigenous communities and ongoing monitoring and management activities.**

The *Waste Management* SCA must consider how Indigenous Nations are included in site planning, decommissioning plans, and how the UNSPFs communicate with AOPFN regarding

waste transport on and through our lands. The ROR is not clear on the level of communication regarding the transportation of waste. As we have identified in previous submissions, the transport and storage of waste is a major issue for AOPFN. We expect licensees to obtain consent from AOPFN before waste is transported in, through, or out of our traditional territory. This is expressed in the AOPFN's "Consultation, Engagement, and Accommodation Requirements for all Nuclear Sector Proposed Developments in AOPFN Territory" (See Appendix 1). Similar to waste management, for the *Packaging and Transport* SCA, Indigenous Nations must be notified and decide whether to provide their FPIC, as well as collaborate on a time and route of transport if FPIC has been given.

**Recommendation 15. The CNSC and the UNSPFs must commit to further communication, collaboration, and co-approval with AOPFN for the import and transport of any off-site radioactive materials into and through AOPFN's unceded Algonquin territory. These communication policies must be financially and technically supported by the CNSC and UNSPFs.**

## Part 2. Algonquins of Pikwakanagan First Nation Statement on the Required Inclusion of Aboriginal rights Criteria

### Introduction to the New Criteria

The CNSC uses 14 SCAs to evaluate each site for the annual ROR<sup>14</sup>. These SCAs are limited, as they only address safety from a western science perspective and do not consider how SRBT, Nordion, BTL, and BWXT’s operations may be impacting Aboriginal rights and interests. As expressed in our submission on the CNL ROR<sup>15</sup>, the CNSC needs to expand its regulatory and safety lens to integrate Indigenous concerns and world views by incorporating the protection of Aboriginal rights in the assessment of site operations.

In so doing, the CNSC would be implementing a “two-eyed-seeing” approach. “Two-Eyed-Seeing” refers to viewing the world through Indigenous and Western eyes and minds. The concept was developed by Mi’kmaq Elder Albert Marshall with the goal of emphasizing the importance of using intercultural collaboration and multiple perspectives to achieve more positive and innovative outcomes.<sup>16</sup> Applying both Western Science and Indigenous Knowledge will benefit the CNSC, the UNSPFs, and affected Indigenous groups by integrating multiple perspectives, understandings, relationships with the lands and waters, ways of viewing and experiencing the world, and more. All parties can and should work in collaboration to co-develop criteria and measures to ensure that the engagement done by the CNSC and the UNSPFs are approached from a “two-eyed” perspective.

**Recommendation 16.** The CNSC should expand its regulatory and safety lens to integrate Indigenous concerns and world views by incorporating the protection of Aboriginal rights in the assessment of site operations (outlined in Table 3). This can only be achieved with support from AOPFN, and the CNSC will need to ensure funds are available to support AOPFN’s time and efforts to complete this work.

**Table 3: Recommended Aboriginal Rights Criteria**

Proposed Aboriginal Rights Criteria	Description
Recognition of, protection and promotion of Aboriginal rights	<ul style="list-style-type: none"> <li>Does the site have measures in place, co-identified with impacted Indigenous peoples, to support the protection and promotion of:               <ol style="list-style-type: none"> <li>Rights protected under Section 35 (hunting, trapping, harvesting, and fishing); and</li> </ol> </li> </ul>

<sup>14</sup> Canadian Nuclear Safety Commission. 2022. *Annual program report: Canadian Nuclear Laboratories Regulatory Oversight Report for Canadian Nuclear Laboratories Sites: 2021*.

<sup>15</sup> Algonquins of Pikwakanagan First Nation (AOPFN). 2022. The Algonquins of Pikwakanagan First Nation’s Submission on Regulatory Oversight Report for Canadian Nuclear Laboratories Sites: 2021, submitted October 3, 2022.

<sup>16</sup> Bartlett C., Marshall M., Marshall A. 2012. *Two-eyed seeing and other lessons learned within a co-learning journey of bringing together indigenous and mainstream knowledges and ways of knowing*. Journal of Environmental Studies and Sciences, 2, 331–340.

Proposed Aboriginal Rights Criteria	Description
	<p>2. Principles under UNDRIP (Free, Prior and Informed Consent; Self-Determination; Cultural Protections; Indigenous Health)?</p>
<p>Risk communication with Indigenous peoples and management of public concern</p>	<ul style="list-style-type: none"> <li>• Does the site have an effectively functioning program that communicates risks to Indigenous peoples in a timely, effective, and accepted manner?</li> <li>• Is the information being sent through effective and accepted communication channels?</li> <li>• Are public concerns about the facility low, moderate or high?</li> </ul>
<p>Integration of Indigenous Knowledge into site monitoring and management</p>	<ul style="list-style-type: none"> <li>• How is Indigenous Knowledge integrated into monitoring of the site and its surroundings? Do impacted Indigenous groups have a demonstrable role in identifying adaptive management measures?</li> </ul>
<p>Engagement of Indigenous peoples in site planning, monitoring and management</p>	<ul style="list-style-type: none"> <li>• Is there a system in place whereby impacted Indigenous groups are integrated into site planning, monitoring and management - research, analyses, decisions and implementation?</li> </ul>
<p>Contribution to reconciliation with Indigenous peoples</p>	<ul style="list-style-type: none"> <li>• Do the site operations and the relationship between SRBT, Nordion, BTL, BWXT, and impacted Indigenous groups contribute to better relations between Canada and impacted Indigenous peoples?</li> <li>• Are there demonstrable positive benefits to Indigenous peoples from the site?</li> <li>• Does the site communicate effectively and regularly with impacted Indigenous nations regarding past, present and future operations?</li> <li>• How is the site improving communication and relations with Indigenous nations regarding past relationships?</li> <li>• Do SRBT, Nordion, BTL, BWXT, and CNSC staff integrate Indigenous values into site monitoring, planning, and reviews? (i.e., assessing risk from an Indigenous lens, accounting for past harms and traumas)</li> </ul>
<p>Level of knowledge and support for site waste</p>	<ul style="list-style-type: none"> <li>• Does the site maintain communication and consultation with impacted Indigenous groups</li> </ul>

Proposed Aboriginal Rights Criteria	Description
management by Indigenous peoples.	<p>regarding onsite materials management, ultimate disposal plans, import and export types and volumes, and transportation methods and protocols?</p> <ul style="list-style-type: none"> <li>• How are Indigenous concerns and recommendations integrated?</li> </ul>
Engagement adequacy with Indigenous peoples	<ul style="list-style-type: none"> <li>• Does the site meet a minimum standard of adequacy of engagement with each impacted Indigenous group by SRBT, Nordion, BTL, and BWXT in a given year? (As a Pass or Fail outcome)</li> </ul>
Communication and management of reportable incidents	<ul style="list-style-type: none"> <li>• Were all reportable incidents promptly reported to impacted Indigenous groups and followed up on with additional communications? If so, how were they reported?</li> </ul>

### AOPFN Aboriginal Rights Criteria: A Review of BWXT, SRBT, BTL, and Nordion Facilities

The criteria proposed here helps expand the focus of the CNSC’s regulatory oversight process and proposes metrics that will support a better relationship between AOPFN and the CNSC, as well as AOPFN and the UNSPFs. These categories will contribute to the recognition and protection of Aboriginal rights, protected under Section 35 of the *Constitution Act 1982*<sup>17</sup>.

We provide a very brief summary of our experiences with each company and review their performance in the table below. We ask that the CNSC review this and work with AOPFN and the UNSPFs to help the UNSPFs improve how they work with Indigenous people going forward. The table below provides a review of the performance of BWXT, SRBT, BTL and Nordion, based on AOPFN’s experience. The table lists the metric / SCA; provides a description of the metric; ranks each company’s performance as either “Below Expectation = BE”, “Neutral” (meeting expectations), or “Above Expectation = AE”; and explains whether AOPFN has seen improvement and the reason for the ranking. It is difficult for AOPFN to comment on Nordion and BTL’s engagement efforts with our Nation, as there has been no engagement.

#### ***BWXT***

*AOPFN Rating: Neutral (improving in 2022)*

Of all the UNSPF licensees, BWXT has made the greatest effort to build a relationship with AOPFN and AOPFN staff. We appreciate that BWXT has committed to meeting with AOPFN staff, funding engagement, supporting AOPFN cultural activities, providing a donation to AOPFN’s pow wow, and their interests in taking AOPFN’s cultural awareness training. Additionally, BWXT voluntarily attended a meeting organized by the Nuclear Waste

<sup>17</sup> Government of Canada. 1982. *Constitution Act, 1982*. [https://laws-lois.justice.gc.ca/PDF/CONST\\_TRD.pdf](https://laws-lois.justice.gc.ca/PDF/CONST_TRD.pdf).

Management Organization (NWMO) and AOPFN to learn from AOPFN's experience with nuclear activities in our territories. A BWXT staffer also attended AOPFN's powwow. AOPFN would like to specifically recognize the effort that the staff of BWXT are making to show their commitment to building a relationship with AOPFN. BWXT has yet to commit to an official LTRA with AOPFN.

***SRBT***

*AOPFN Rating: Below Expectation*

SRBT has made some good efforts with AOPFN but the management team of SRBT still have a lot of room for improvement regarding how they work and communicate with Indigenous people, how they apply what they learn in cultural awareness training, and their commitment to developing a meaningful relationship with AOPFN. AOPFN was happy to see that SRBT was interested in taking our cultural awareness training and that they enjoyed what they learned in the training. However, we have not seen how they have applied these learnings to their interaction with AOPFN staff. We were disappointed with how SRBT management responded to AOPFN's expectation that they cover the cost of working with AOPFN. AOPFN has a basic expectation that all the time we put in to working with a company regarding engagement activities and establishing a relationship is covered by the company. Any work AOPFN puts into a company's project should be covered by said company; AOPFN does not have excess capacity to engage at our own cost. While SRBT did eventually pay for the consultation costs, the communication surrounding the request was disappointing for AOPFN. Additionally, SRBT has not been willing to formalize a relationship with AOPFN.

***BTL***

*AOPFN Rating: Below Expectation*

There has been no engagement with BTL. We ask that the CNSC follow up with BTL on this matter.

***Nordion***

*AOPFN Rating: Below Expectation*

There has been no engagement with Nordion. We ask that the CNSC follow up with Nordion on this matter.

***Table 4: AOPFN's review of SRBT, Nordion, BTL, and BWXT's Operations from a Rights-based Perspective***

Note: the review of Nordion applies to its Kanata Nuclear Medicine Processing Facility.

	SRBT	Nordion	BTL	BWXT
Overall Rank	BE	BE	BE	Neutral; improving
Metric / SCA	Facility performance and Recommendations for Improvement			
Recognition of, protection and promotion of	BE.	BE.	BE.	Neutral to slightly improving.

	SRBT	Nordion	BTL	BWXT
Overall Rank	BE	BE	BE	Neutral; improving
Metric / SCA	Facility performance and Recommendations for Improvement			
Aboriginal rights	SRBT acknowledges our rights but doesn't follow through with actions. Further engagement required, including a commitment to developing a LTRA.			BWXT is providing some funding to promote and protect cultural programs.  To improve relationship further, BWXT must develop a LTRA with AOPFN.
Risk communication with Indigenous peoples and management of public concern	Neutral. AOPFN does get correspondence regarding operations; however, a more structure approach to communication would help mitigate risk perceptions. The LTRA would include regular check-ins with AOPFN staff and communication with community.	BE.	BE.	Neutral. AOPFN does get correspondence regarding operations; however, a more structure approach to communication would help mitigate risk perceptions. The LTRA would include regular check-ins with AOPFN staff and communication with community.
Integration of Indigenous Knowledge into site monitoring and management	BE. Further work and engagement required. Specifically, SRBT must commit to working with AOPFN's guardian program.	BE.	BE.	BE. Further work and engagement required. Specifically, BWXT must commit to working with AOPFN's guardian program.
Engagement of Indigenous peoples in site planning, monitoring and management	BE. SRBT has made some effort for engagement (see above); however, further work and engagement required. SRBT must commit to: developing an LTRA, working with AOPFN's Neya Wabun Guardian Program, communication program with AOPFN, improving how it communicates with AOPFN staff.	BE.	BE.	Neutral. BWXT has made good efforts for engagement (see above); however, further work and engagement required. BWXT must commit to: developing an LTRA, working with AOPFN's Neya Wabun Guardian Program, communication program with AOPFN.



	SRBT	Nordion	BTL	BWXT
Overall Rank	BE	BE	BE	Neutral; improving
Metric / SCA	Facility performance and Recommendations for Improvement			
Contribution to reconciliation with Indigenous peoples	BE. Taking cultural awareness training is “catch up work”. AOPFN is doing the work to educate SRBT staff, SRBT needs to implement what they learn. The LTRA would be a commitment to moving forward with reconciliation.	BE.	BE.	Neutral. In 2021, BWXT made improvements in strengthening its relationship with AOPFN. To improve further, BWXT to commit to an LTRA to help BWXT implement its goals for reconciliation.
Level of community knowledge and support for site waste management and waste transport	BE. Direct communication is required so AOPFN is made aware of waste transport. SRBT must commit to FPIC.	BE.	BE.	BE. Direct communication is required so AOPFN is made aware of waste transport. BWXT must commit to FPIC.
Engagement adequacy with Indigenous peoples	BE. SRBT has not indicated interest in signing a LTRA with AOPFN, which would meet AOPFN’s engagement requirement.	BE.	BE.	Neutral. BWXT has started investing in relationship building with AOPFN; however, BWXT hasn’t signed a LTRA with AOPFN, which would meet AOPFN’s engagement requirement.
Communication and management of reportable incidents	BE. LTRA needed to establish communication expectations and plans.	BE.	BE.	BE. LTRA needed to establish communication expectations and plans.

## Conclusions

Overall, AOPFN is happy to see the CNSC and certain UNSPFs make progress in recent years to improve relations with our Nation and begin to make more of an effort to respect our rights and interests to our lands and waters.

AOPFN is optimistic that the CNSC will invest in a long-term relationship with AOPFN and working to incorporate our thoughts into the CNSC's work. Largely at our prompting, BWXT and SRBT have also started investing in relationship development with AOPFN. Nordion and BTL remain unknown to AOPFN.

Regardless of this progress, the CNSC and all of the facilities still have room for growth. Our Nation's goal is to ensure all nuclear facilities develop a long-term relationship agreement with us to ensure we have strong line of communication and that AOPFN members feel confident that our lands and waters are being protected.

We have developed a series of recommendations to help the CNSC and the UNSPFs further improve their collaboration and relationships with AOPFN, and to ensure AOPFN's rights and interests are protected. Further commitments to each of the following are necessary:

- **Transparency and communication (Recommendations 1, 2, 3, 5, 10, and 11);**
- **Further communication, collaboration and co-approval (FPIC) involving nuclear waste management and transportation (Recommendations 10 and 15);**
- **Incorporating Indigenous feedback, perspectives and experience in a draft version of the ROR before the CNSC assesses engagement adequacy (Recommendations 7, 8 and 9);**
- **Information sharing with our community members in a way that is collaborative, understandable, and culturally appropriate (Recommendations 3, 4, 6, and 11);**
- **Providing explanations on how our reviews, comments and feedback are incorporated into RORs, reviews of annual work activities, and permit reviews and decisions (Recommendations 1, 10, and 13);**
- **Incorporating Indigenous perspectives on wellness and health into the ROR review and monitoring, including recognition of cumulative effects (Recommendations 3, 4, 6, 7, and 8);**
- **Incorporating findings from our Neya Wabun Guardian Program into the annual RORs and day-today activities and approaches to monitoring (Recommendation 12);**
- **More Nation-specific cultural awareness training with CNSC and UNSPF staff (Recommendation 14); and**
- **Incorporating Indigenous rights Criteria into future RORs in collaboration with our Nations (Recommendations 6, 8, 13, and 16).**

AOPFN asks that the CNSC meaningfully respond to all the recommendations in collaboration with AOPFN and meaningfully integrate our recommendations and feedback into future RORs. We would also like the CNSC to communicate with all of the UNSPFs on our review, so they can learn from this work and invest further in their growth and a relationship with our Nation.

**As noted above, the recommendations outlined here will not be feasible without adequate funding and capacity support provided by the Government of Canada, the CNSC, and the UNSPFs. We ask that the CNSC identify how each of the actions associated with the recommendations below will be funded to ensure their success. Additionally, we ask that the CNSC encourages all the UNSPFs to enter into LTRAs with AOPFN and provide funding for the work associated with the UNSPF's operations.**

AOPFN works very hard to protect our members and to ensure companies are operating in a way that respects our rights and interests. AOPFN would like to see companies put our work and efforts into action and truly commit to reconciliation.

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## Appendix 1. Consultation, Engagement, and Accommodation Requirements for all Nuclear Sector Proposed Developments in AOPFN Territory



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### Algonquins of Pikwakanagan First Nation

### Consultation, Engagement, and Accommodation Requirements for all Nuclear Sector Proposed Developments in AOPFN Territory

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Drafted June 30, 2021

Endorsed by AOPFN Chief and Council, June 22, 2021

#### **Preamble**

The Algonquins of Pikwakanagan First Nation (AOPFN) have lived in our unceded traditional territory since time immemorial, practicing our ways and living according to our laws and culture. We are a self-defined people. AOPFN continues to assert and exercise Algonquin aboriginal title and aboriginal rights to and in all parts of AOPFN unceded traditional territory, to which AOPFN has not been a party to a treaty, including lands under water (see map attached as Annex 1 for AOPFN unceded traditional territory boundaries). AOPFN has an obligation to our members to plan for the future and to ensure self-determination, self-reliance, and self-governance. AOPFN is committed to respecting and protecting our unceded traditional territory and the interests of all our members and therefore AOPFN understands the value of establishing relationships while ensuring our Algonquin aboriginal rights, title and interest are fully recognized, respected and protected.

In addition to Algonquin aboriginal title, AOPFN's Algonquin aboriginal rights and interests in AOPFN traditional territory include Algonquin aboriginal rights to hunt, fish and trap, to harvest plants for food and medicine, to protect and honour burial sites and other sacred and culturally significant sites, to sustain and strengthen its spiritual and cultural connection to the land, to protect the Environment that supports our members survival, to govern ourselves, and to participate in all governance and operational decisions about how the land and resources will be managed, used and protected. Our laws require AOPFN to preserve and enhance a mutually respectful relationship with the Environment, to co-exist with Mother Earth and protect this relationship. We have the responsibility to care for our unceded traditional territory for future generations, and to preserve and protect wildlife, lands, waters, air and resources. We rely on the health of the Environment in AOPFN Traditional Territory for our survival. The health of the lands and waters is essential to the

continued existence of AOPFN as a people and our members' health, culture, laws, livelihood, and economy.

AOPFN must be recognized as a rightful, respected and principled steward of the Environment. Our input and perspective in any consultation and accommodation process will include the use of traditional ecological and cultural knowledge alongside knowledge from western scientific and technical sources.

AOPFN territory, since the 1940s, has seen the rise of one of Canada's largest nuclear sectors. This has been done without AOPFN consultation until recently, and without our consent in every instance to date. The importation, production, use and disposal of radioactive materials has had adverse impacts on the environment and constitutes an infringement of our Algonquin aboriginal rights, title, and interests to a degree that has yet to be assessed let alone recognized or compensated for. The nuclear sector has brought change to our lands and waters, closing off of traditional areas from our access, real and perceived health risks, and alienation and fear associated with the wildlife, vegetation and waters that our members rely on to practice their Algonquin culture and way of life on the land.

As priority Algonquin aboriginal rights holders under the *Constitution Act, 1982*, and as the traditional stewards of the land, these impacts on our Algonquin aboriginal rights, title and interests have always been and remain unacceptable.

With the rise of recognition by Canada that reconciliation with Indigenous peoples is essential to Canada's future, and the embracing of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), we are entering a new era. We have developed the requirements below to reflect our expectations as a Nation, to share openly and transparently with Canada and all proponents who would seek to build, conduct, and decommission nuclear sector-related projects in our AOPFN traditional territory.

AOPFN will update these requirements and communicate changes to Proponents at our discretion. AOPFN expects Proponents and government to stay informed of and respect AOPFN protocols and requirements and their evolution over time.

Evaluation of adherence to the following requirements must be determined jointly between AOPFN and the Proponent. Adherence to these requirements includes respect for AOPFN Free, Prior, and Informed Consent decisions. Accordingly, Proponents cannot assume AOPFN consent; it must be actively sought and explicitly provided. Importantly, while adherence to these requirements does not guarantee AOPFN Free, Prior, and Informed Consent, it does represent a positive initial step in the process for seeking Free, Prior, and Informed Consent and development of a relationship with AOPFN.

#### *Requirements for Nuclear Developments in AOPFN Territory*

AOPFN expects that each Proponent seeking to conduct a nuclear sector physical work or activity<sup>18</sup> in AOPFN territory, will adhere to the following requirements. While these requirements may be

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<sup>18</sup> For greater clarity, this includes any new physical work and activity, or relicensing of existing facilities, that involves the importation, storage, disposal, handling, manipulation or creation of radioactive materials, whether for research, energy production, medical or other purposes, and includes decommissioning of existing facilities that meet the above criteria.

scaleable to the size, nature and location of a proposed development, this can only be determined through engagement with AOPFN.

1. Adherence to AOPFN Principles Related to Nuclear Sector Projects (See Annex 2).
2. Adherence to AOPFN's Consultation and Engagement Protocol (Annex 3) and recognition that because only AOPFN can speak for our members, engagement must occur directly with AOPFN.
3. Recognition of AOPFN participation and capacity constraints that may arise from time to time (e.g. Covid-19 or other unforeseen circumstances) and a commitment to both negotiate solutions to accommodate these participation and capacity constraints and to respect the time required for AOPFN to make informed decisions.
4. Commitment to cover all reasonable costs of AOPFN engagement in relation to the planning, assessment, and licencing of the proposed physical work and activity, including process and studies costs as required, through a Contribution Agreement negotiated as early as possible in the planning stage for the proposed project.
5. Commitment to co-develop a collaboration framework to guide engagement for any provincial or federal impact assessment or regulatory process required for the Project. Any collaboration framework developed for a full impact assessment process will require at minimum a commitment for monthly meetings.
6. Commitment to conduct the environmental impact assessment according to the highest current standard of law and practice, and to respect and support AOPFN's expectations for the Nation's involvement in that assessment.
7. Commitment to provide opportunity to AOPFN to participate in a meaningful way in any "alternatives to" and or "alternative means" assessment early in project planning.
8. Commitment to provide right of first refusal and financial support for AOPFN to identify and lead or collaborate on studies or research relevant to the assessment of impacts from the Project. Required studies will be determined by AOPFN on a case-by-case basis but examples include:
  - a. Algonquin Knowledge and Land Use Studies
  - b. Culture and Rights Studies
  - c. Participation in early biophysical fieldwork and site assessment or inventories.
9. Commitment to provide meaningful opportunities for AOPFN to identify, develop, and implement mitigations or offsets for project impacts specific to AOPFN members. This includes involving AOPFN in a meaningful way in monitoring and management of the proposed project including via AOPFN's Neya Wabun (Guardian) Program (See also requirement 13a).
10. Commitment to provide meaningful opportunities for AOPFN to identify, characterize, and determine the significance of effects from impacts occurring to AOPFN members and or values in AOPFN territory.
11. Adherence to the requirements of UNDRIP, including but not limited to adhering to free, prior and informed consent decisions made by AOPFN in relation to the project.

12. Negotiation in good faith toward a Reconciliation Agreement with AOPFN, with the value of that agreement to be commensurate with the scope of the proposed physical work and activity.<sup>19</sup>
13. Financial contributions, commensurate with the scope of the proposed physical work and activity, to:
  - a. Support AOPFN's Neya Wabun Guardian Program;
  - b. Support AOPFN's Risk Communication Program;
  - c. Support and participation in AOPFN Cultural Awareness Training Program;
  - d. Support AOPFN's Skill Inventory and Proficiency Collection Program;
  - e. Support AOPFN's Cultural Revitalization Program; and
  - f. Support AOPFN Community Infrastructure needs.
14. Working with AOPFN to develop a Project-specific AOPFN Indigenous Benefits Maximization Plan for employment, education, training and business procurement opportunities associated with the proposed Project.

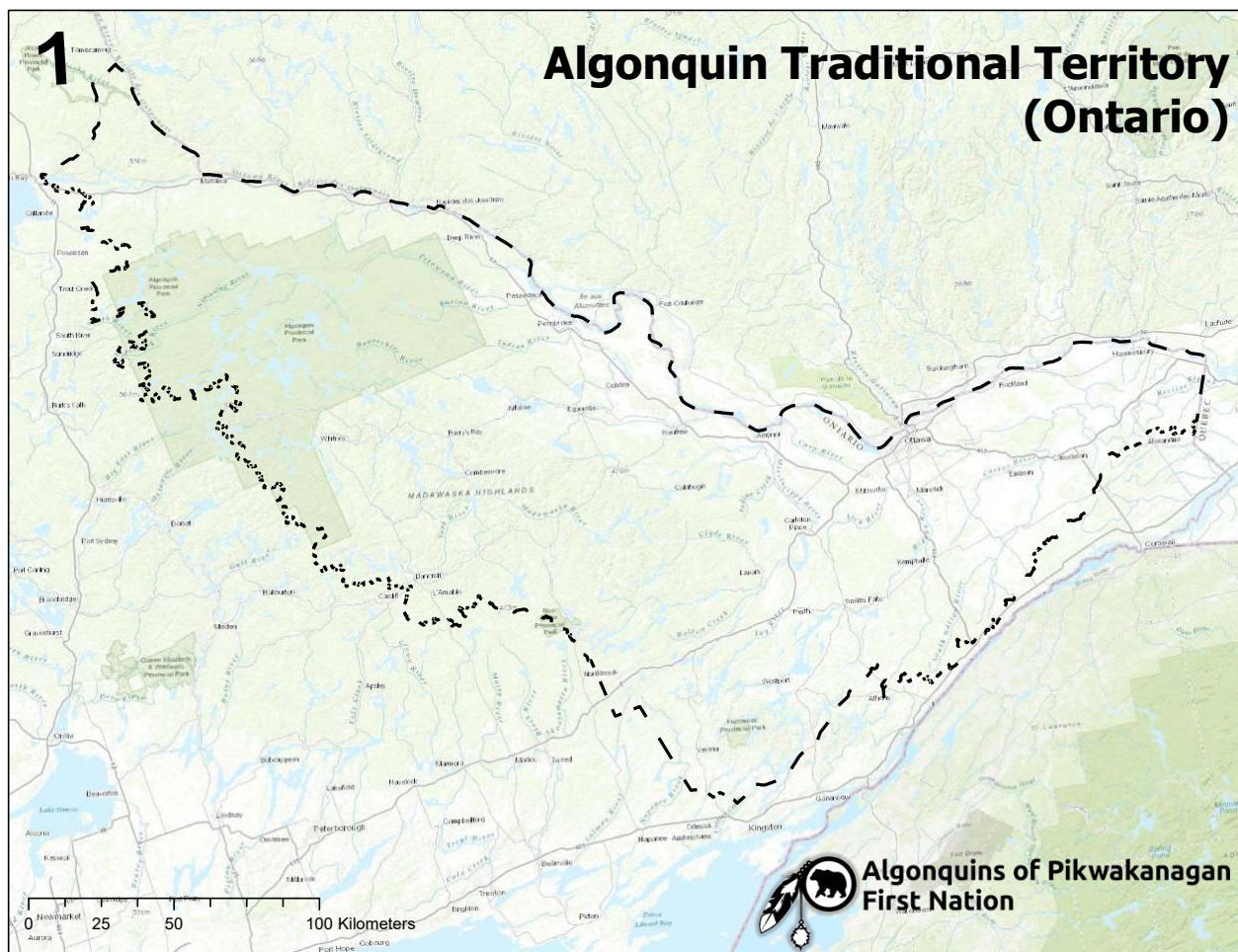
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<sup>19</sup> Where the parties have an existing agreement, the proponent is expected to commit to update it to reflect any change in scope of the relationship associated with the newly proposed physical work and activity.



# Annex 1 – Map of AOPFN Unceded Traditional Territory

Figure 2: AOPFN Unceded Traditional Territory



## Annex 2 – AOPFN Principles Related to Nuclear Sector Projects

Endorsed by AOPFN Chief and Council, June 22, 2021

AOPFN Principle
1. As a self-governing Indigenous Nation, AOPFN's right of free, prior and informed consent for nuclear projects will be respected.
2. AOPFN, as a government retrenching its rightful stewardship and governance responsibilities, will have a co-management role for nuclear projects in AOPFN territory.
3. All projects will contribute positively to educational opportunities critical to AOPFN self-sufficiency, governance and relationships with other parties.
4. To meet the expectation of sustainable development, risks will not be passed on to future generations; radioactive materials cannot ever be abandoned and forgotten in AOPFN territory.
5. AOPFN must be meaningfully involved in any provincial or federal impact assessment for developments occurring in AOPFN territory and any associated studies supporting assessment. Meaningful involvement requires adequate funding and reasonable timelines for participation activities.
6. Study Areas and Valued Components for any impact Assessment must be identified in collaboration with AOPFN knowledge Keepers and based on the extent of potential impacts associated with the proposed project.
7. AOPFN will have a meaningful role in monitoring the effects of nuclear projects in AOPFN territory.
8. Algonquin knowledge will be used alongside western science in planning, monitoring and management of nuclear facilities; Indigenous monitors will require access to skills in both Algonquin knowledge and technical monitoring fields.
9. Water must be clean, readily accessible, and trusted by AOPFN members.
10. No nuclear wastes will be moved into or out of AOPFN territory without AOPFN explicit permissions.
11. AOPFN members Algonquin aboriginal rights, title, and connection/relationship to the lands and waters will be protected and promoted, and AOPFN will play a key role in this process.
12. Wildlife and wildlife habitat will be protected and promoted, and AOPFN will play a key role in this process.
13. AOPFN will be meaningfully involved in all aspects of decision-making related to nuclear project planning.
14. AOPFN's cultural and spiritual values and resources will be vigilantly protected and promoted, and AOPFN will play a leading role in this process.
15. AOPFN will be accommodated for Project-specific and cumulative impacts that do occur as a result of nuclear projects, on biophysical and human environmental values and AOPFN Algonquin aboriginal rights, title, interest.
16. AOPFN must be provided adequate and timely access to funding and resources for exercise of its jurisdiction in relation to nuclear projects.
17. AOPFN has the right to preferentially economically benefit from projects that occur on its territory; in order to do so, systemic barriers need to be proactively removed

**AOPFN Principle**

**18. Nothing is more important to AOPFN members than safe and plentiful Algonquin foods and resources. Impacts on these will be monitored and communicated to AOPFN members in ways that have meaning to them.**

**19. Reconciliation between Indigenous peoples and Canada will underpin the Nation-to-Nation relationship; each proponent to present to AOPFN and work to refine a "Reconciliation Plan", showing how they will contribute to making life better and a healthy and mutually beneficial relationship with AOPFN.**