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**Written submission from the
Chippewas of Kettle and Stony
Point First Nation**

**Mémoire de la Première Nation
de Chippewas de Kettle et
Stony Point**

Canadian Nuclear Laboratories

Regulatory Oversight Report for
Canadian Nuclear Laboratories Sites:
2022

Laboratoires Nucléaires Canadiens

Rapport de surveillance réglementaire
des sites des Laboratoires Nucléaires
Canadiens : 2022

Commission Meeting

Réunion de la Commission

November 1-2, 2023

1-2 novembre 2023



Chippewas of Kettle & Stony Point First Nation

6247 Indian Lane
Kettle & Stony Point FN, Ontario, Canada N0N 1J1

October 2, 2023

Attn:

Canadian Nuclear Safety Commission
P.O. Box 1046, Station B
280 Slater Street
Ottawa, ON K1P 5S9

Re: Regulatory Oversight Report for Canadian Nuclear Laboratories Sites: 2022

The Chippewas of Kettle and Stony Point First Nation (CKSPFN) reviewed the following report in preparation for these comments:

- Canadian Nuclear Laboratories – Regulatory Oversight Report for Canadian Nuclear Laboratories Sites: 2022

Please note that CKSPFN is submitting the following written comments only and is not requesting to make an oral presentation during the November 1, 2023, Commission meeting.

Summary

In 2017, CKSPFN passed a First Nation Council Resolution asserting ownership to the lakebeds and waterways within CKSPFN traditional land base (see Appendix A). Specifically, “Declaration to the waterways and lakebeds within its traditional territory for the management, use and enjoyment of the First Nation and its peoples.” This assertion includes Lake Huron. CKSPFN has a keen interest in the impacts of the Canadian Nuclear Laboratories Douglas Point site on the water and the species and communities that rely on the water.

In 2023, CKSPFN passed a First Nation Council Resolution asserting ownership to the subsurface throughout its traditional territory (see Appendix B). This assertion includes subsurface pore space known as the space below the surface of the land in which there were or are natural gas formations, salt formations, salt caverns, oil reserves, minerals and water deposits. CKSPFN has a keen interest in the impacts of the Canadian Nuclear Laboratories, especially the storage of nuclear waste below ground, on the subsurface pore space.

Comments

CKSPFN is currently coordinating a meeting for information exchange and a site visit to the Douglas Point facility with CKSPFN’s Nuclear subcommittee to better understand the potential impacts of the decommissioning and social and environmental legacy of the project, including the short- and long-term storage of nuclear waste and low- and intermediate-level waste on- and off-site. The comments below



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reflect an interest in working collaboratively, as well as improving our existing relationship with the CNSC and staff to ensure CKSPFN's rights and interests are protected and respected.

Table 1. CKSPFN Comments on the CNL ROR for CNL Sites: 2022

Reference	CKSPFN Comment
<p>In accordance with the <i>Nuclear Safety and Control Act</i>, and its associated regulations, the Canadian Nuclear Safety Commission (CNSC) regulates Canada's nuclear industry to protect the health, safety of the people, security and the environment; to implement Canada's international commitment on the peaceful use of nuclear energy; and to disseminate objective scientific, technical and regulatory information to the public.</p>	<p>The <i>United Nations Declaration on the Rights of Indigenous Peoples Act</i> came into force in 2021, requiring the Government of Canada (i.e., all federal governments) to take all measures necessary to ensure the laws of Canada are consistent with the Declaration.</p> <p>With this understanding, please answer the following questions:</p> <ol style="list-style-type: none"> 1) What does UNDRIP mean to the CNSC? 2) How will the CNSC work in consultation and cooperation with Indigenous communities to support measures in the UNDA Action Plan? 3) How will the CNSC work in consultation and cooperation with Indigenous communities to support measures 32 in the UNDA Action Plan, which relates to obtaining the free, prior and informed consent from Indigenous communities on natural resource projects? 4) How will the CNSC report on UNDA Action Plan progress to relevant agencies and Indigenous communities?
<p>[...], the Commission granted a licence amendment effective March 12, 2021, authorizing the phase 3 decommissioning activities, including the decommissioning and dismantlement of certain facilities and structures at the DPWF site.</p>	<p>The opportunity for CKSPFN to participate in decommissioning efforts and to assess decommissioning plans that have been approved for Phase 3 decommissioning activities should be explored by the CNSC.</p> <p>The potential for CKSPFN's commercial involvement in decommissioning operations through CNL/AECL Indigenous procurement</p>



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	<p>policies and procedures should be considered for decommissioning activities occurring at the DPWF site.</p> <p>CKSPFN appreciates the efforts brought forward by the CNL to launch the Indigenous Vendor Portal and Indigenous Business Network.</p>
<p>As CNSC REGDOCs are published, CNCS staff request implementation plans for each site update the LCHs as applicable. CNCS staff verify REGDOC implementation as part of ongoing compliance verification activities.</p>	<p>The REGDOC – 3.2.2 titled <i>Indigenous Engagement</i> requires further discussion with CKSPFN and CKSPFN’s Nuclear subcommittee; ahead of the formal consultation process likely beginning in Spring 2024.</p>
<p>CNSC staff implement compliance plans for each site by conducting regulatory activities including, inspections, desktop reviews, and technical assessments of licensee programs, processes, and reports.</p>	<p>The prospect of CKSPFN’s engagement in the formulation and execution of compliance plans, which includes conducting remote and on-site inspections, should be considered by CNSC staff.</p> <p>CKSPFN is in the process of launching a monitor program to train monitors to attend archaeological as well as environmental assessments at active project sites. Prospective monitors would benefit from attending CNSC-led on-site inspections at the DPWF site.</p>
<p>CNSC staff assess performance in all SCAs by verifying licensee compliance through planned or reactive desktop reviews and inspections.</p>	<p>In consultation and cooperation with Indigenous communities, the CNSC should present the safety analysis of CNL facilities to Indigenous partners to facilitate the building of long-term relationships and commitment towards full transparency.</p>
<p>CNSC staff is satisfied with the corrective actions taken by CNL to address these 2 NNCs and they are now considered closed.</p>	<p>Please share the corrective actions taken by the CNL to address the two NNCs at the DPWF site, especially the storage with surveillance NNC.</p> <p>The potential for CNSC staff notifying Indigenous partners of NNCs at CNL/AECL sites should be considered by the CNSC.</p>
<p>CNL continually updates the facility-specific procedures relating to operations, maintenance,</p>	<p>In consultation and cooperation with Indigenous communities, the CNL should present</p>



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<p>and emergency response as needed and supports ongoing process improvements across all sites.</p>	<p>improvements relating to operations, maintenance, and emergency response to Indigenous partners. For example, emergency management and fire protection plans can be shared with CKSPFN’s nuclear subcommittee for information gathering purposes, as well as to facilitate feedback on existing plans and future improvements to plans.</p>
<p>CNSC staff have reviewed the CNL’s conduct of design engineering documents, to ensure activities are planned, controlled and monitored in accordance with regulatory requirements and applicable codes and safety standards.</p>	<p>Does the physical design SCA apply to decommissioning activities? If so, are CNSC staff required to conduct a desktop review of the decommissioning activities at the DPWF?</p>
<p>Radiation and contamination monitoring programs continued to be implemented at CNL sites in 2022, to control and minimize radiological hazards and the spread of radioactive contamination.</p>	<p>Appendix J stipulates that “there is no need for an environmental monitoring program at the DPWF,” given the small fraction of radioactive material in DPWF effluents. However, “the Bruce Power environmental monitoring program potentially captures any environmental impacts emanating from the small contribution of DPWF.”</p> <p>With this understanding, please answer the following questions:</p> <ol style="list-style-type: none"> 1) Who is responsible for overseeing the environmental monitoring at the Bruce Power site? 2) How can CKSPFN monitors participate in the environmental monitoring program at Bruce Power? 3) How can CKSPFN be included in the design and review of Bruce Power’s study of available mitigation measures for environmental impacts on- and off-site? 4) How can CKSPFN further information sharing with Bruce Power and, subsequently, CNSC staff about the Bruce Power site?



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<p>CNL has implemented and maintains effluent verification monitoring program that meets regulatory requirements at all sites covered by this report.</p>	<p>The potential for CKSPFN's participation in the verification monitoring program should be explored by CNSC staff, taking into account CKSPFN's Water Assertion.</p> <p>The possibility of delivering annual presentations to CKSPFN's nuclear subcommittee regarding water-related studies and reports associated with the DPWT and the Bruce Power site should be considered by CNSC staff.</p>
<p>CNSC staff reviewed the submitted ERAs, for the CRL, DPWF and G1WF sites and have determined that they are compliant with the requirements in CNSC's REGDOC 2.9.1, [...].</p>	<p>In consultation and cooperation with Indigenous communities, the CNSC should furnish CKSPFN with a summary document that delineates the compliance of the DPWF ERA with REGDOC 2.9.1.</p>
<p>CNSC staff assess CNL's performance in the waste management SCA through desktop review of documents, reportable events and through the course of inspections.</p>	<p>The opportunity for CKSPFN to participate in desktop reviews and inspections for waste management should be explored by the CNSC, taking into account CKSPFN's Subsurface Assertion.</p>
<p>CNSC staff concluded that CNL met the applicable regulatory requirements for the waste management SCA at all CNL sites in 2022.</p>	<p>Does the waste management SCA cover the transportation of waste? If yes, did the CNL meet the applicable regulatory requirements for the transportation of waste? If no, can CNSC staff provide CKSPFN with a list of NNCs.</p> <p>In consultation and cooperation with Indigenous communities, there is an opportunity to assess CNL's internal waste-related programs and provide input on their effectiveness and efficiency from a First Nations perspective. For instance, while CNSC staff have determined that CNL's waste management programs still adhere to relevant regulatory standards, there may be gaps in data, and engagement with First Nations can enhance the management of nuclear waste both within and beyond their traditional territory.</p>
<p>Indigenous Nations and communities were also provided updates on ongoing licensed activities</p>	<p>CKSPFN requests to keep receiving updates on ongoing licensed activities at the DPWF.</p>



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<p>at the DPWF, WL, G1WF, PHAI, NPDWF and CRL sites.</p>	
<p>In advance of the 2022 IEMP sampling campaign around CRL, the Bruce Power site (DPWF) and WL, notifications emails were sent to Indigenous Nations and communities near the sites to notify them of the sampling campaigns and to seek input on the applicable sampling plans.</p>	<p>Please verify the contact details that CNSC possesses for CKSPFN's participation in IEMP sampling around the Bruce Power site (DPWF). CKSPFN has indicated their desire to be part of the environmental monitoring program in both their 2022 ROR submission for CNL sites and this current submission.</p>
<p>Once the results are available for each of the sampling campaigns, CNSC staff will work with each Indigenous Nation and community to communicate the results to their respective leadership and community members, including collaboration on easy-to-read results cards that can be shared with</p>	<p>CKSPFN welcomes the opportunity to hear from CNSC staff about the results of the sampling campaign at the Bruce Power site (DPWF).</p>
<p>CNSC staff have formalized long-term engagement relationships with interested Indigenous Nations and communities through ToRs collaboratively developed with each Nation or community.</p>	<p>There is the potential to establish an enduring engagement partnership between CKSPFN and CNSC. This could encompass activities such as reporting to CKSPFN's nuclear subcommittee and consultation department, participation in IEMPs, archaeological projects, and site restoration, as well as bolstered information exchange, engagement in emergency management, and other collaborative efforts.</p> <p>Furthermore, there is an opportunity to allocate funding for collaborative biodiversity and cultural heritage studies, particularly in light of CKSPFN's Water and Subsurface Assertion.</p>

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Conclusion and Next Steps

CKSPFN sincerely values the opportunity to submit these comments for the consideration of the CNSC. In accordance with the *United Nations Declaration on the Rights of Indigenous Peoples Act*, CKSPFN eagerly anticipates the establishment of a constructive and enduring relationship with the CNSC and CNL concerning the DPWF and the Bruce Power site.

Miigwetch,
CKSPFN Consultation Department



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Appendix A – Water Assertion

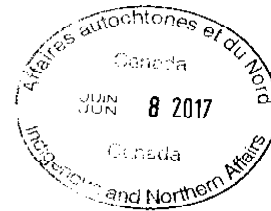


Chippewas of Kettle & Stony Point First Nation

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Wednesday, May 31, 2017

Minister Carolyn Bennett
Indigenous Affairs and Northern
Development Canada
Terrasses de la Chaudière
10 Wellington, North Tower
Gatineau, Quebec
K1A 0H4



Dear Minister Bennett:

Re: Chippewas of Kettle and Stony Point First Nation Band Council Resolution # 2851

Enclosed please find the Chippewas of Kettle and Stony Point First Nation BCR #2851 regarding the affirmation of the First Nation's declaration of ownership to the lakebeds and waterways located within our traditional land base.

Please direct inquiries to Chief Thomas Bressette at your convenience.

Sincerely,

Toni George
Council Assistant

Attach: (1)

c: Ministry of Indigenous Relations & Reconciliation
Ministry of Natural Resources
Ministry of Environment
Municipality of Lambton Shores

Ph: 519-786-2125

Toll Free: 1-877-787-5213

Fax: 519-786-2108

^{T17203}
<http://www.kettlepoint.org>



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FIRST NATION COUNCIL RESOLUTION

REFERENCE NO. 2851	DATE OF DULY CONVENED MEETING: 2017 / 05 / 29 (YEAR/MONTH/DAY)	PROVINCE OF ONTARIO
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THE CHIPPEWAS OF KETTLE AND STONY POINT FIRST NATION DO HEREBY RESOLVE:

WHEREAS the "Chippewas Nation of Indians and His Majesty King George IV as represented by the Superintendent of Indian Affairs" entered into the Provisional Agreement of 1825 and Treaty of 1827 regarding a certain tract of land in Southwestern Ontario and which surrendered certain parts of the tract and created the Reserves designated as Kettle Point #44 and Stony Point #43; and,

WHEREAS in neither agreement or Treaty was there a surrender of the waterways known as Lake Huron including the lakebed or any other waterways within the traditional territory; and

WHEREAS under Aboriginal and Treaty Rights, the Chippewas of Kettle and Stony Point First Nation assert ownership and jurisdiction over said waterways to the International Boundary and the land underlying the waterways (lakebed); and

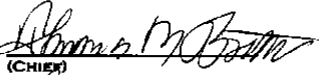
WHEREAS the Chippewas of Kettle and Stony Point First Nation make DECLARATION to the waterways and lakebeds in its traditional territory including the waterway known as Lake Huron to the International Boundary, and including the lands under the waterway of Lake Huron known as the lakebed; and

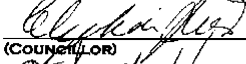
WHEREAS the Lake Huron waterways are described as the point of intersection of the surrendered lands with Lake Huron as its most northerly point, extending directly out into Lake Huron to the International Boundary, then running along the International Boundary to the southerly limit of the herein described lands at the water's edge of the St. Clair River, and the land underlying this portion of Lake Huron (lakebed) and assert this waterway and lakebed has never been surrendered; and


THEREFORE BE IT RESOLVED THAT the Chippewas of Kettle and Stony Point First Nation hereby notify each government- Federal, Provincial and Municipal, company, individual, or groups of individuals, and any others who use or who plan to use any part or portion of this territory that they must disclose their use to the First Nation, and seek express permission from the government of the First Nation, namely the elected Chief and Council for the proposed usage; and


FINALLY THEREFORE BE IT RESOLVED the Chief and Council of the Chippewas of Kettle and Stony Point First Nation pass and affirm this "DECLARATION TO THE WATERWAYS AND LAKEBEDS WITHIN ITS TRADITIONAL TERRITORY FOR THE MANAGEMENT, USE AND ENJOYMENT OF THE FIRST NATION AND ITS PEOPLES" as confirmed within the First Nation's Aboriginal and Treaty Rights.

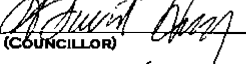
QUORUM 6

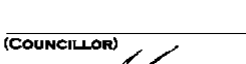

(CHIEF)

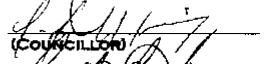

(COUNCILLOR)



(COUNCILLOR)

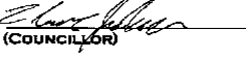

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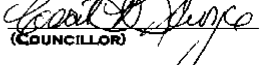

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Appendix B – Subsurface Assertion



FIRST NATION COUNCIL RESOLUTION

REFERENCE No. 3132	DATE OF DULY CONVENED MEETING: 2023 / 03 /06 <small>(YEAR/MONTH/DAY)</small>	PROVINCE OF ONTARIO
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THE CHIPPEWAS OF KETTLE AND STONY POINT FIRST NATION DO HEREBY RESOLVE:

WHEREAS the “Chippewas Nation of Indians and His Majesty King George IV as represented by the Superintendent of Indian Affairs” entered into the Provisional Agreement of 1825 and Treaty of 1827 regarding a certain tract of land in Southwestern Ontario and which granted to the Crown certain rights to certain parts of the tract and created the Reserves designated as Kettle Point #44 and Stony Point #43; and




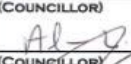

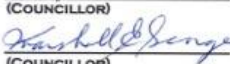


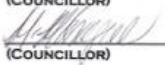
WHEREAS in neither agreement nor Treaty was there a surrender of the subsurface pore space known as the space below the surface of the land in which there were or are natural gas formations, salt formations, salt caverns, oil reserves, minerals and water deposits; and

WHEREAS the Chippewas of Kettle and Stony Point First Nation assert title to, jurisdiction over and rights to occupy and use said subsurface throughout its traditional territory north of the international boundary between Canada and the USA, including all pore space and all natural resources therein, pursuant to its Anishinaabe Law including its customs, international and Canadian constitutional and common law including that of section 35 of the Constitution Act 1982 (“SUBSURFACE TITLE AND RIGHTS”); and

WHEREAS the subsurface title and rights exist in the following territory: the point of intersection of the surrendered lands with the Huron Tract as its most northerly point, extending directly out into Lake Huron to the international boundary, then running along the international boundary to the southerly limit of the herein described lands at the water’s edge of the St. Clair River, and the land underlying this portion of Lake Huron, then running along the water’s edge of Lake Erie to the westerly limit of the herein described lands of Treaty No.2, Treaty No.6 and the Huron Tract, and the land underlying this portion of the traditional territory; and

THEREFORE BE IT RESOLVED THAT the Chippewas of Kettle and Stony Point First Nation hereby declare subsurface title and rights as set out herein, and hereby notify each Crown government- Federal, Provincial and Municipal --, and each company, individual, or groups of individuals, and any others who use or who plan to use any part or portion of the applicable subsurface area, of the need to disclose such intended use to the First Nation, and seek express permission from the government of the First Nation for the proposed usage, failing which such usage shall be deemed by the First Nation as a violation of its rights and title and laws.

QUORUM 5

 _____ (CHIEF)	 _____ (COUNCILLOR)	 _____ (COUNCILLOR)
 _____ (COUNCILLOR)	 _____ (COUNCILLOR)	 _____ (COUNCILLOR)
 _____ (COUNCILLOR)	 _____ (COUNCILLOR)	 _____ (COUNCILLOR)