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## **Oral presentation**

## **Exposé oral**

### **Written submission from the Nuclear Transparency Project**

### **Mémoire du Projet de transparence nucléaire**

#### **Canadian Nuclear Laboratories**

Mid-Term Update of Licensed  
Activities for the Chalk River  
Laboratories Site and Regulatory  
Oversight Report for Canadian Nuclear  
Laboratories Sites: 2022

#### **Laboratoires Nucléaires Canadiens**

Rapport de mi-parcours au sujet des  
activités autorisées sur le site des  
Laboratoires de Chalk River et 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**



nuclear  
transparency  
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Submitted via email

October 3, 2023

To President Velshi and Members of the Canadian Nuclear Safety Commission,

Re: Canadian Nuclear Safety Commission Staff's Regulatory Oversight Report  
for Canadian Nuclear Laboratories Sites: 2022 and CNL's mid-term update

We would like to begin by thanking the Commission for this opportunity to provide comments on this Regulatory Oversight Report (ROR). We would also like to recognize the efforts of Canadian Nuclear Safety Commission (CNSC) staff, Canadian civil society organizations, and Indigenous Nations for their informative publicly available materials and submissions on this matter.

#### About NTP

The Nuclear Transparency Project (NTP) is a Canadian-registered not-for-profit organization dedicated to supporting open, informed, and equitable public discourse on nuclear technologies. NTP advocates for robust public access to data and other types of information and helps to produce accessible analysis of publicly available information, all with a view to supporting greater transparency in the Canadian nuclear sector. NTP is comprised of a multi-disciplinary group of experts who work to examine the economic, ecological, and social facets and impacts of Canadian nuclear energy production. We are committed to interdisciplinary, cross-sectoral, and equitable collaborations and dialogue between regulators, industry, Indigenous nations and communities, civil society, members of host and potential host communities, and academics from a variety of disciplines.

#### About this intervention

NTP's intervention was made possible by CNSC funding through its Participant Funding Program (PFP). These submissions were drafted by NTP founder and coordinator Pippa Feinstein, JD LL.M. in collaboration with biologist Dr. Tamara Fuciarelli and Alan Rial, M. Eng. who performed NTP's data analysis.

Our submissions have been divided into four parts. The first part contains a review of the current ROR for Canadian Nuclear Laboratories' (CNL) facilities and projects. The second part contains recommendations to increase the amount of publicly accessible data collected by facilities that use nuclear substances. The third part contains NTP's more general recommendations to improve the ROR intervention process for future ROR meeting proceedings. Our comments in these three parts have been drafted to build on last year's recommendations, elaborating further on some of them and reporting on the progress of implementing others. Finally, these submissions will provide a series of comments and recommendations relating to CNL's mid-term licence update for the Chalk River site.

## PART ONE: NTP's review of the ROR

Last year, NTP expressed some concerns about CNL having its own ROR. At that time the organization noted CNL was the only licensee to have its own ROR, while all other RORs were scoped around particular activities. The inconsistency was curious and we ultimately recommended that it might be more a transparent practice to label this ROR a "waste and decommissioning" report.

Since then, NTP intervened in Ontario Power Generation's (OPG) application to renew its Darlington Waste Management Facility where OPG applied to rename it "Nuclear Sustainability Services – Darlington". In those submissions, we expressed concerns with this name change as it had the effect of misleading the public by minimizing or obscuring the fact that nuclear generating facilities produced wastes that needed to be responsibly stored and managed.<sup>1</sup> CNSC staff and the Commission Tribunal ultimately agreed with NTP and other intervenors' concerns on this issue and denied OPG's requested name change. Commissioners noted that principles of transparency required the facility's name to align with its licensed activities.<sup>2</sup> NTP has similarly become concerned that no ROR titles mention nuclear waste. The ROR that most concerns waste and waste management is instead labeled as "Canadian Nuclear Laboratories", despite the fact that its primary licensed activity is waste management, not laboratory research. As was the case for OPG's waste management facility, the disconnect in this ROR's title poses an unhelpful and unnecessary potential barrier to public understanding.

As the nuclear industry attempts to position itself as offering a "green" and "sustainable" solution to climate change, it is paramount for Canada's nuclear regulator to ensure transparency around the fact that nuclear processes, like any other industrial processes, inevitably produce waste. Further, as nuclear infrastructure ages over time it requires decommissioning. CNL's facilities and projects highlight the real and unique challenges

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<sup>1</sup> Nuclear Transparency Project, CMD 23-H9.25, "Written Submission Re: Ontario Power Generation's request to relicense the Darlington Waste Management Facility", December 5, 2022, online: <https://www.nuclearsafety.gc.ca/eng/the-commission/hearings/cmd/pdf/CMD23/CMD23-H9-25.pdf>.

<sup>2</sup> Canadian Nuclear Safety Commission, DEC 23-H9, "Record of Decision in the Matter of Ontario Power Generation Inc.'s Application to Renew the Class IB Waste Facility Operating licence for Ontario Power Generation in Darlington, Ontario", April 19, 2023, at paras 169 – 173.

posed by managing legacy nuclear wastes and decommissioning decades-old nuclear facilities. The significant geographic and temporal scope of this work also highlights the significance of these undertakings. As such, NTP believes transparency would be best served by naming this ROR according to the licensed activities it covers and not the licensee performing them. This would help to ensure that the public can understand the true contours of comprehensive nuclear regulation by the CNSC.

Recently, on September 22<sup>nd</sup>, NTP had the opportunity to meet with CNSC staff, including those who prepared the CNL ROR. At this meeting, CNSC staff representatives explained that by naming the ROR after CNL, and not its activities, it was supporting public transparency by allowing CNL's operations at different sites to be compared against one another. Staff argued this effectively highlighted CNL's compliance with regulatory requirements at each of its projects or facilities. CNSC staff also noted that not all licensed activities had their own ROR, for example maintenance and refurbishment activities were included in several different RORs rather than their own stand-alone ROR. NTP was grateful for these perspectives and NTP's experts have deeply considered and reflected on them. Ultimately, this exchange has allowed us to amend, better contextualize, and further clarify our recommendations from last year.

Ultimately, we still believe the public interest in understanding CNL's licensed activities is more significant than the public interest in being able to measure CNL facilities and projects against one other. However, rather than renaming this ROR the "Waste and Decommissioning ROR" as we recommended last year, we would now propose that the CNL ROR be renamed the "Legacy Waste and Decommissioning ROR".

*Recommendation 1: that CNSC staff and the Commission Tribunal rename the CNL ROR and call it instead the "Legacy nuclear waste and decommissioning ROR".*

Further, we recognize that maintenance and refurbishment, like waste management more generally, features in all RORs that span the nuclear fuel chain. As such, there may be an opportunity for all RORs to more transparently recognize maintenance, refurbishment, and the production and management of wastes at the facilities they cover – whether in their titles somehow, or else their structure.

*Recommendation 2: that all RORs address waste issues more prominently, whether in their titles or the structures of their reports.*

Finally, we note that NTP's intervention and its recommendations from last year were not mentioned in this year's CNL ROR, nor did we receive any written responses to the recommendations in our last intervention from CNSC staff. For next year's ROR, we would like to request some mechanism by which civil society interventions can be noted alongside any related CNSC staff comments or undertakings. Such a feature could assist ongoing conversations between CNSC staff and civil society and support or preserve any developments on particular issues of interest or concern.

*Recommendation 3: that future RORs contain some acknowledgement of civil society interventions from previous years.*

## PART TWO: NTP's review of publicly accessible data for CNL facilities

Last year, NTP conducted an audit of CNL's proactive online disclosures and made a series of recommendations for further disclosure. At that time, our organization also began analysing the National Pollutant Release Inventory (NPRI) data posted for CNL facilities on the Open Government data platform. As noted in our intervention last year, we found CNL data to be the most difficult to understand and interpret. In advance of our September 22<sup>nd</sup> meeting with CNSC staff, we received responses to our first round of queries about this dataset. Those responses have led us to generate a new set of information requests we are submitting to staff alongside these submissions. As such, we still require more time to prepare detailed comments and recommendations relating to those datasets.

In the meantime, NTP resubmits its two more general recommendations from last year for CNSC staff consideration:

*Recommendation 4: that groundwater and stormwater data for all CNL facilities be disclosed via the Open Government Portal.*

*Recommendation 5: that specific baselines, relevant Derived Release Limits, and Action Levels be posted in separate columns in datasets uploaded to the Open Government Portal.*

Further, there are a few immediate practices that may be instituted to facilitate NTP analysis of data already contained in this ROR. First, the graphs and tables used to visualize data throughout the ROR and appendices could be embedded in the text rather than included as images. This could make the data they contain machine-readable and thus exportable to other machine-readable formats for further analysis. Further, the tables provided throughout the ROR could also be provided separately in CSV formats, either via a link or as a separate document that accompanies the ROR. Most of the tables and graphics included in the ROR are likely assembled in a version or format that is machine readable. As such, making that original format available to the public should not require too much staff time.

*Recommendation 6: that CNSC staff ensure graphs and tables included in future RORs are machine-readable either by including data values in ROR text or else by disclosing these tables in separate CSV formats.*

### PART THREE: NTP's recommendations for future ROR intervention processes

Last year, we made three recommendations relating to the ROR intervention process that were not specific to any particular ROR. First, NTP requested more time to prepare interventions; second, we requested the ability to present oral submissions at Commission meetings to consider RORs; and third, we requested that the CNSC's PFP develop more specific intervenor funding criteria in consultation with members of the public and public interest organizations.

This year, we were very grateful for an additional two months of preparation time for this intervention. While CNSC staff's Commission Member Document (CMD) was released at roughly the same time as last year (in mid-late August), the additional preparation time allowed our experts to more easily schedule their reviews and follow up with CNSC staff to obtain responses to last year's information requests and submissions. It also allowed us to arrange a meeting with CNSC staff. Due to the more delayed responses from CNSC staff for this particular ROR, we did not have enough time to incorporate all their comments into these submissions. However, the contents of some of our shared discussions are reflected above.

We have also been offered the opportunity to deliver oral submissions for certain RORs this year, which is likewise appreciated. We hope these opportunities to make oral submissions are extended to all interested members of the public and civil society organizations, and that they may include the opportunity to meaningfully contribute to the public record for these ROR proceedings.

The review of the PFP funding criteria is an outstanding item that NTP would again like to propose for the CNSC's consideration. The scoping of ROR interventions by the funding conditions intervenors receive can effectively shape the substantive content of ROR proceedings and impact the public record and any outcomes from Commission meetings. Developing a broader definition of the types of analysis and experts eligible for funding could expand the scope of funded interventions while still remaining consistent with the Commission's mandate.

*Recommendation 7: that the CNSC's PFP develop more specific and expansive intervenor funding criteria, in consultation with members of the public and public interest organizations.*

### PART THREE: NTP's comments on CNL's mid-term update

NTP reviewed CNL's mid-term update for Chalk River, and there are certain areas where we believe further information could be provided.

The CRL campus is a complex one to understand without a site visit. As such, the pictures of buildings and their descriptions contained in CNL's report were especially helpful and appreciated. A map outlining the building locations and waste sites at Chalk River would

also be a helpful resource and allow members of the public to better contextualize each building.

*Recommendation 8: that CNL release a comprehensive map of all facilities and waste areas at Chalk River.*

Further, a comprehensive explanation of which waste sites will be remediated and how would fill a knowledge gap that has persisted throughout the Near Surface Disposal Facility (NSDF) environmental assessment process to the present. NTP has requested this information from CNL, who responded by explaining such a document is still in the process of being compiled. NTP recommends that it be proactively publicly released as soon as it is completed.

*Recommendation 9: that CNL release information concerning the waste management areas at Chalk River that describes current plans to remediate or manage each one.*

Finally, NTP submits that CNL could view these mid-term licence update proceedings as opportunities to release further data in machine-readable formats. As this is not currently done on an annual or otherwise routine basis, less frequent relicensing hearings and mid-licence updates could provide the time required to gather and release larger datasets to the public.

*Recommendation 10: that CNL consider releasing larger machine-readable datasets at licensing and mid-licence update proceedings.*