



**Written submission from the
Hiawatha First Nation**

**Mémoire de la
Première Nation de Hiawatha**

Regulatory Oversight Report for
Canadian Nuclear Power Generating
Sites: 2022 and Mid-term update for
Ontario Power Generation's Pickering
Nuclear Generating Station

Rapport de surveillance réglementaire
des sites de centrales nucléaires au
Canada : 2022 et Rapport de mi-
parcours d'Ontario Power Generation
pour la centrale nucléaire de Pickering

Commission Meeting

Réunion de la Commission

December 13 and 14, 2023

13 et 14 décembre 2023



HIAWATHA FIRST NATION

MISSISSAUGAS OF RICE LAKE

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November 6, 2023

(Submitted by Email)

RE: Hiawatha FN's comments on Regulatory Oversight Report for Canadian Nuclear Power Generating Sites for 2022. (CMD:23-M36)

Dear Registrar,

On behalf of our Consultation Department at Hiawatha First Nation (FN), we are writing to submit to you Hiawatha FN's review and comments on the Regulatory Oversight Report for Canadian Nuclear Power Generating Sites for 2022. We wish to thank Canadian Nuclear Safety Commission (CNSC) for proactively providing Hiawatha FN the opportunity to review this Regulatory Oversight Report (ROR) along with Ontario Power Generation (OPG)'s submissions to the CNSC.

Hiawatha FN's Core Consultation and Land Resource Development office was established to address the Crown's (Federal and Provincial Governments) "Duty to Consult." This is in response to the Supreme Court of Canada decision relating to the Crown's "Duty to Consult" aboriginal communities regarding proposed land development when their treaty and traditional lands are impacted.

Our mandate is to engage with governments and private sector proponents on land and resource matters that may affect the Treaty and inherent rights of our First Nation. Hiawatha First Nation's traditional territory has been affected by numerous and various developments, which have impacted our traditional territory, way of life, and sustainability of Hiawatha. Our traditional ways are derived from the land. Hiawatha is not opposed to development. We would like to be reassured that wildlife, habitat, air, and water tributaries would be adequately protected from contamination for 7 generations without upsetting the balanced ecosystem/relationship we have with our Mother Shka-ki-mi-kwe (Mother Earth).

Our values grow from the culture from which we are born into and live with and our beliefs and attitudes emerge from our values. As Mississaugi people from the Mississauga Nation, we try to live a healthy way of life

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"We, the Mississaugi of Hiawatha First Nation, are a vibrant, proud, independent and health people balanced on the richness of our cultural and traditional ways of life." 1

“Mino Bimaadiziwin” through the teachings passed down from ancestors. These teachings include Seven Grandfathers teaching that was given to us by the Creator. This story has been passed down many generations. These foundational teachings include; wisdom, love, respect, bravery, honesty, humility, and truth.

All of the above combined create a balance of spiritual, emotional, physical and mental being. They are the cornerstones of our belief system and the formula for maintaining the delicate balance between Shka-ki-mi-kwe (Mother Earth) and all her inhabitants. We have a strong connection to Shka-ki-mi-kwe and only use what is necessary from her. We believe that all things are connected and are taught that if we look after our Mother she will look after us. With all decisions made we always consider the effects our choices will make on the next seven generations just as our ancestors have done for us. We often turn to our Elders who hold great knowledge of Shka-ki-mi-kwe that no one else possesses. Their knowledge is held in their hearts and minds to be passed by oral tradition for the next generations.

Hiawatha FN would like to acknowledge the changes that have been made to this year’s ROR, such as including Indigenous Nations and communities’ Terms of Reference, as well as summarizing the number of issues, concerns and recommendation submitted by Indigenous Nations and communities on the ROR. Hiawatha FN is of the view that additional improvements could be made to the ROR process. Through our review of the CNL, UNSPF and NPGS RORs, we note that there lacks consistency between each document in terms of form and language, and specifically how engagement and consultation with First Nations and Indigenous communities is conveyed and characterized.

For example in the UNSPF ROR, CNSC staff notes *“In response to the concerns raised by Indigenous Nations and communities in their interventions in relation to the UNSPFs ROR for 2021 that their input was not being incorporation into CNSC’s assessment of licensees, CNSC staff sought formal feedback from Indigenous Nations and communities with regards to their perspectives and feedback on UNSPFs licensees’ engagement with them in 2022 to be included in the 2022 UNSPFs ROR.”*

In the NPGS ROR, CNSC staff states *“In their 2021 ROR interventions, Indigenous Nations and communities raised the concern that their views on licensees’ engagement were not reflected in the RORs. In response to this concern, CNSC staff sought feedback from the Indigenous Nations and communities with regards to their perspectives on the Licensees engagement with them in 2022.”*

This demonstrates a discrepancy between the intent of CNSC; in the case of UNSPFs CNSC it implies the feedback will inform CNSC’s assessment of licensees, whereas in the NPGS version no indication that the views of Indigenous Nations and communities will inform licensee assessment. In speaking with our sister community Curve Lake First Nation, Hiawatha FN notes that for both the UNSPF and NPGS RORs, CNSC did not make clear what the intended use of Curve Lake First Nation’s feedback was for, therefore Hiawatha FN remains concerned regarding CNSC’s intentions and evaluation methodology.

Hiawatha FN recommends that CNSC work collaboratively with First Nations and Indigenous communities to develop a clear evaluation methodology and that it should apply to all RORs. We wish to note that no feedback was sought from Hiawatha First Nation on the licensees, but haven given the opportunity we could have expressed our views and concerns. For instance, we wish to note that the majority of discussions between Hiawatha FN and OPG have been related to the proposed DNNP, rather than on daily operations. Until the review of this ROR, we were not aware of several of the operational issues identified at the PNGS or DNGS.

In Hiawatha FN's view, the ROR continues to demonstrate a lack of understanding of the history and Indigenous presence on the lands and waters where CNSC regulated activities are occurring. The language used within the report diminishes the rights of Indigenous Peoples and the roles, responsibilities, and obligations of the Crown in relation to these rights. The report blurs critical distinctions between Indigenous rights and interests and includes language which serves to historicize and erase First Nations' presence and legitimacy while omitting the ongoing legacy of colonialism, including the legacy of the nuclear industry, on cultural and spiritual activities.

Hiawatha FN found that the level of information provided was often insufficient for Hiawatha FN to fully assess the oversight activities that CNSC staff has contemplated on NPGS in 2022. Therefore, Hiawatha FN could not conclude whether NPGSs remained safe and could not assess a full understanding of all concerns the Nation may have in relation to the NPGS activities. Based on the limited information some concerns that were brought to light are outlined below:

- it does not appear that CNSC is considering the cumulative impacts of NPGS activities, especially when assessing them by licence rather than by site. Hiawatha FN strongly recommends that CNSC assess nuclear activities on a site-by-site basis with the goal of understanding the cumulative impacts of Non-Compliance Notices (NNCs), and regulatory exceedances.
- The decision to discontinue tritium and gross gamma monitoring in stormwater was made without consultation with Hiawatha FN, even after Hiawatha FN indicated that it was not acceptable to discontinue such monitoring. As stated by the Chiefs of Ontario (2008) and reaffirmed by Assembly of First Nations (2019), First Nation rights to access, steward, and make decisions regarding water is a Right maintained by Indigenous Peoples in Canada. Hiawatha First Nation requests CNSC provide clarity regarding how the determination to discontinue tritium and gross gamma monitoring in stormwater was arrived at without consultation.

With respect to OPG's *Mid-Term Update of Licensed Activities for the Pickering Nuclear Generating Station* (CMD:23-M36.1), Hiawatha FN notes that there were major discrepancies between how OPG characterized its activities when compared with the findings of the *CNSC Regulatory Oversight Report for Canadian Nuclear Power Generation Facilities in 2022*. For example, in its Midterm report, OPG states "Year over year, Pickering NGS continues to meet the expectations of the CNSC and demonstrates compliance to requirements through CNSC Compliance Verification activities." (pg 2). Yet, as documented this the CNSC ROR for NPGS:2022, OPG was issued an Administration Monetary Penalty because of a failure to comply with a licence condition in relation to its security program at PNGS and DNGS. In fact, OPG was found non-compliant in security related to Facilities and Equipment in 2021, and remains non-compliant in 2022, including net-new non-compliances. Such discrepancies appear contradictory to OPG's expressed understanding that its "licence to operate depends on maintaining strong relationships based on trust and openness." (pg 32).

Hiawatha FN has reviewed and accepted recommendations and requests provided by 4 Directions of Conservation Consulting Services (4 Directions) for the ROR for NPGS: 2022, which can be found in detail at **Appendix A**. Hiawatha FN has also reviewed and accepted the recommendations and request provided by 4 Directions in relation to OPG's submissions to CNSC regarding the ROR, which can be found in detail at **Appendix B**. We trust that you will review these detailed comments and provide responses. We hope to discuss these comments with you further as part of the ongoing discussions and broader relationship building that is occurring between the CNSC and Hiawatha FN.

Sincerely,

Sean Davison
Lands & Resource Consultation
Consultation and Land Resource Development Office
Hiawatha First Nation

Francis Chua
Support to Hiawatha First Nation

cc:

Chief Laurie Carr, Hiawatha First Nation

Trisha Shearer, Director of Operations, Hiawatha First Nation

Tom Cowie, Lands & Resource Consultation, Hiawatha First Nation

Mandy McGonigle, Archaeology, Hiawatha First Nation

Gary Pritchard, CEO & Indigenous Conservation Ecologist, 4 Directions of Conservation Consulting Services

Appendix A:

4 Directions of Conservation Consulting Services Review of CNSC *Regulatory Oversight Report for Canadian Nuclear Power Generating Sites for 2022.*



November 1st, 2023

Attn: **Consultation Department**

Hiawatha First Nation

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RE: CMD: 23-M36 *CNSC Regulatory Oversight Report for Canadian Nuclear Power Generating Sites for 2022*

4 Directions File No: 23-109

4 Directions of Conservation Consulting Services (4 Directions) is pleased to present our review and recommendations regarding the Regulatory Oversight Report (ROR) prepared by the Canadian Nuclear Safety Commission (CNSC) with respect to Canadian nuclear power generating sites during 2022. These documents were presented to Hiawatha First Nation (HFN) from the CNSC under their Duty to Consult and Accommodate.

1.0 General Comments

4 Directions reviewed the CNSC's ROR titled *CNSC Regulatory Oversight Report for Canadian Nuclear Power Generating Site for 2022* (the Report). In doing so, the below high-level concerns were identified.

1.1 Comment & Concern

Across Canada, it has become best practice for settler organizations and government entities to include an acknowledgement at the beginning of formal documents which recognize the lands and treaties impacted by their activities and offer meaningful comments which include reflection on reconciliation effort in Canada and commitments and/or actions being made by the particular organization to such endeavours.

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





1.1.1 Question

How will CNSC include such reconciliatory and land acknowledgments at the forefront of the Report?

1.1.2 Recommendation

4 Directions staff recommend that CNSC work collaboratively with First Nation Rights-holders to develop a respectful and meaningful acknowledgement, including a reconciliatory reflection that could be included in CNSC documents.

1.2 Comment & Concern

Throughout the Report, CNSC utilizes problematic terminology and literary styles which, purposefully or not, diminish and obscure the distinct rights of Indigenous Peoples and the responsibilities of the Crown, as well as historicize the presence of First Nations. The information provided in the Report also demonstrates a lack of understanding regarding Indigenous Rights, and CNSC's obligations, which could be viewed as disrespectful.

Examples include:

- A lack of demonstrated understanding regarding the distinctions between:
 - Territories or lands and treaties;
 - First Nations, Indigenous communities, and Indigenous organizations;
 - First Nation Rights-holders and Indigenous Interest-holders.
- Problematic terms, misspellings and literary devices utilized, such as:
 - "and/or";
 - Inconsistencies in naming of First Nations or Indigenous communities.

1.2.1 Question

It is of 4 Directions staff's understanding that several First Nations have raised concerns and provided feedback regarding CNSC's continued use of problematic language. How will CNSC staff address these concerns in the Report?

1.2.2 Recommendation

4 Directions staff recommend CNSC ensure that staff are educated on the distinctions between the terms outlined above and that written documents, such as the Report, make these distinctions known by using clear descriptions and by avoiding language that obscures such distinctions. For example, CNSC could employ "the lands, waters and treaty territories of..." rather than "traditional territories and/or treaty lands."





4 Directions staff recommends that CNSC include language that reflects not only a mere interest by First Nations and Indigenous communities in CNSC activities but rather expounds on the obligations that CNSC has to meaningfully consult and engage with First Nation Rights-holders, and its commitment and intent to engage with Indigenous Interest-holders meaningfully.

4 Directions staff recommends that CNSC ensure community names are spelled correctly and consistently throughout its written documents.

1.3 Comment & Concern

CNSC has not clearly defined its obligations to consult with First Nation Rights-holders. For example, the sentence *“The CNSC is committed to building relationships and trust with Indigenous Nations and communities interested in CNSC regulated facilities”* removes the responsibility that the CNSC has in this regard due to its role as a Crown entity vis-à-vis First Nations regulations, consultation protocols, the Canadian Constitution, the Williams Treaties Settlement of 2018, Canadian Legislation, and Supreme Court decisions.

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

1.4.1 Questions

How will the CNSC clearly describe its roles, responsibilities, and obligations to Hiawatha First Nation within the Report vis-à-vis First Nations regulations, consultation protocols, the Canadian Constitution, the Williams Treaties Settlement of 2018, Canadian Legislation, and Supreme Court decisions?

1.4.2 Recommendation

4 Directions staff recommends that the CNSC include language that reflects its obligations under First Nation and Canadian legislation, Treaty, regulation, and policies to consult and engage with First Nation Rights-holders meaningfully. The CNSC must be accountable by being specific when describing these responsibilities and obligations in the Report.

The supreme court of Canada has stated that it is not up to First Nations to educate the Crown on their own responsibilities; it is 4 Directions’ recommendation that the CNSC critically reflects on how First Nations regulations, consultation protocols, the Canadian Constitution, the Williams Treaties Settlement of 2018, Canadian Legislation and Supreme Court decisions are being centred and prioritized in identified areas such as:

- a. Report writing;
- b. Project monitoring;
- c. Environmental procedures and assessments; and,
- d. Future project planning.





2.0 Specific Feedback by Section

4 Directions staff have created the following table (**Table 1**) based on their review of the Report. For clarity, specific comments, concerns, requests, and recommendations are organized in correlation with the various sections of the Report to which they are relevant.

Section	Comments & Concerns	Requests & Recommendations
Summary	<p>This section states <i>“The evaluations of all findings for the safety and control areas show that, overall, NPP and WWMF licensees made adequate provision for the protection of the healthy, safety and security of persons and the environment and took the measures required to implement Canada’s international obligations.”</i></p> <p>4 Directions staff wishes to raise concerns with this statement as it fails to address the protection of the rights of Indigenous Peoples which should be included as a component to be evaluated. The protection of the inherent, Aboriginal and Treaty rights of Indigenous peoples should be a stated goal of the CNSC as part of its duty as the Crown to consult and accommodate Rights holders.</p>	<p>It is 4 Directions staff recommendation that CNSC acknowledge the protection of the rights of Indigenous Peoples as part of its evaluation, overall goals, and activities. CNSC should be sure to make this a separate and distinct goal and commitment outside of its obligations to the public or non-rights holding entities.</p>
Executive Summary	<p>This section states <i>“The Canadian Nuclear Safety Commission acknowledges that nuclear power generating stations are located on the traditional territories and homelands of many Indigenous Nations and communities and are covered by several treaties.”</i></p> <p>4 Directions wishes to acknowledge that this statement is an improvement over the CNL ROR and UNSPF ROR, especially</p>	<p>CNSC must continue to educate itself regarding the history of Indigenous Peoples, the history of treaty making in order to be able to more accurately reflect the lands and treaties without diminishing the rights of Indigenous Peoples, or the roles and responsibilities of the CNSC as the Crown.</p> <p>CNSC must ensure that staff understand and communicate about</p>





	<p>as it distinguishes between traditional territories and treaty lands. However, 4 Directions staff notes that it would be more appropriate to list the specific territories treaties and inherent rights pertinent to each site to avoid diminishing the rights of Indigenous Peoples, the responsibilities of the Crown, and erasure of the presence of First Nations.</p> <p>CNSC makes use of the term “traditional” but fails to provide any context as to what is meant by this term. Without such context, the average settler reader is left with the western connotation of ‘traditional’ which erroneously historicizes the presence of First Nations. While First Nations often refer to “traditional territories”, it is within the context of describing a cultural and spiritual presence within and relationship to their territories and lands, which continues to this day.</p> <p>Additionally, CNSC could recognize that Indigenous Peoples living, harvesting, and hunting around the facilities are disproportionately impacted by any effects to the environment and human health.</p>	<p>treaty lands and traditional territories with the relevant context. CNSC should work with First Nation Rights-holders to collaboratively define the context around the use of the term “traditional” so as to avoid erroneously historicizing Indigenous presence, Indigenous Knowledge Systems, and the exercising of Indigenous rights, and Indigenous cultural and spiritual activities.</p> <p>4 Directions staff recommends that CNSC acknowledge, recognize, and incorporate the disproportionate effects of nuclear activities on Indigenous Peoples who live, hunt and harvest around such facilities into its analysis (Chong & Basu, 2022; Folkers & Gunter, 2022).</p>
<p>2.2 About the regulatory oversight report</p>	<p>Within this section, CNSC staff mention that requests based on previous RORs have been made by the Commission and that the responses to these requests are provided throughout the report. 4 Directions staff note that one of the requests of interest is RIB#22116, the (v) report on OPG's review and revision of the PNGS Public Information and Disclosure Program (PIDP) with regards</p>	<p>As emergency preparedness and the provision of information to populations beyond the detailed planning zone is of great concern to Hiawatha First Nation, 4 Directions staff request CNSC staff ensure that appropriate information is inserted in the 2023 ROR as mentioned and</p>





	<p>to emergency preparedness and the provision of information to populations beyond the detailed planning zone. The response to RIB#22116 is mentioned to be found on section 2.16. However, section 2.16 only states that 'a fleet-wide desk top inspection of OPG's PIDP was conducted in 2023' and that 'the outcome will be included in the 2023 NPGS Regulatory Oversight Report. [RIB 22116]'.</p>	<p>requested by the Commission for this year's ROR.</p>
<p>2.2 About the regulatory oversight report</p>	<p>Within this section it is noted that RIB#26782 requested CNSC staff to update the Commission on the concerns raised by several intervenors whose comments and recommendations made on previous RORs were not addressed by CNSC staff. The commission directed CNSC staff to work towards the transparent resolution of intervenor recommendations.</p> <p>4 Directions staff notes that while responses to this request are said to be found in Appendix G, the tables provided in Appendix G only offer themes raised by intervenors and status of concerns. These tables may help CNSC track comments and focus their effort into areas that generate the most concerns, but they do not offer 'transparent resolution of intervenor recommendations' as requested by the Commission.</p> <p>While 4 Directions staff appreciates that a great level of effort has been put with each intervenor to work on addressing their comments, there is not enough</p>	<p>4 Directions staff requests that CNSC provide clarity on how it aims to offer 'transparent resolution of intervenor recommendations' as well as clarity regarding how responses, approaches and closeouts were determined.</p>





	<p>information in the Report to know whether comments raised last year from Indigenous intervenors have been answered. This lack of detail does not allow for readers to understand how and if any comments provided by Hiawatha First Nation would be presented in next years' ROR.</p> <p>While 4 Directions staff are generally supportive of CNSC's transparency regarding feedback and requests received from First Nations and Indigenous communities, there remains concern with this statement. Specifically, it is not clear how approaches, responses and/or closeouts were determined. Was this determined collaboratively or by CNSC unilaterally?</p> <p>Without clarity, the statement that CNSC has provided approaches to meaningfully address concerns, issues and requests could be considered paternalistic.</p>	
<p>1.3.1 Nuclear power generating sites and associated waste management facilities in Canada</p>	<p>Within this section, CNSC staff list the nuclear power generating sites and their associated waste management facilities. Lacking from this section, is any reference to the territories or treaty lands that the sites are situated on.</p> <p>4 Directions finds this practice concerning as it is a clear example of omitting the presence of First Nations, Indigenous lands, Treaties, and rights. Such actions diminish the role, responsibilities, and obligations of the Crown in relation to First Nation Rights-holders. Purposefully or not, this language serves to devalue and erase First Nations' rights, cultures, histories,</p>	<p>It is 4 Directions staff recommendation that CNSC refine this section to include acknowledgement of territories and treaty lands.</p> <p>To that end, 4 Directions staff identify the following to be acknowledged:</p> <p>Darlington site: Michi Saagiig lands and waters as well as the Gunshot Treaty (1877-88), Williams Treaties (1923), and Williams Treaties Settlement (2018).</p> <p>Pickering Site: Michi Saagiig lands</p>





	<p>and continued presence from the land. Such narratives are pervasive in settler discourse and must be addressed and rectified when identified.</p> <p>4 Directions staff note that despite the exclusion of First Nations, Indigenous lands, waters, and treaties within this section, they have been included within Section 3.0.</p>	<p>and waters as well as the Gunshot Treaty (1877-88), Williams Treaties (1923), and Williams Treaties Settlement (2018).</p> <p>4 Directions staff recommends CNSC include a section that reflects the role, responsibilities, and obligations that CNSC has under First Nation and Canadian legislation, Treaty, regulations and policies to meaningfully consult with First Nation Rights-holders. CNSC must be accountable by being specific about what these responsibilities and obligations are, as well as what specific activities are undertaken to fulfil these duties and obligations.</p>
<p>1.4.2 Licensing</p>	<p>Within this section, CNSC identifies that it has an MOU (2013) with Fisheries and Oceans Canada which allows CNSC staff to be responsible for monitoring activities and verifying compliance for FAA.</p> <p>4 Directions staff wish to understand if this MOU was created in consultation with First Nations, and further, how it upholds the Williams Treaties Settlement of 2018.</p> <p>Additionally, 4 Directions staff seek further information and clarification regarding how the monitoring and compliance activities are inclusive of Indigenous participation, and how the results are evaluated and shared with First Nation Rights-holders.</p>	<p>4 Directions staff request that additional information be provided to Hiawatha First Nation regarding the establishment of the MOU with DFO, any associated record of consultation, information on Indigenous participation, results evaluation and sharing of information regarding monitoring and compliance activities, and an analysis of how this MOU upholds the Williams Treaties Settlement of 2018.</p>





<p>1.4.4 Compliance verification program</p>	<p>Within this section, CNSC provides a chart that conveys the number of 'findings' at each NPP. The total number of findings were 1,747.</p> <p>4 Directions staff note that, within this section, not enough information has been provided to determine if there are any concerns that should be considered by Hiawatha First Nation.</p>	<p>4 Directions staff request that additional information is provided to Hiawatha First Nation regarding the nature of these findings, including how many were compliant or non-compliant.</p> <p>4 Directions staff recommends that future RORs provide more detail regarding findings and instances of non-compliances so that there is enough information for Hiawatha First Nation to make an informed determination regarding any concerns the Nation may have.</p>
<p>1.4.5 Safety assessment ratings</p>	<p>Within this section CNSC states <i>"For the Bruce A and B, Darlington, and Pickering sites, the NPP and WMF are assessed separately because they are regulated under separate licences and have facility-specific licensing bases."</i></p> <p>4 Directions staff notes that assessment results should consider a cumulative evaluation by site, rather than be assessed separately, since the facilities are located on the same site. As such, the safety and health risks associated with this site would not be contained to a specific facility, but rather present cumulatively to all within the area of the site.</p>	<p>4 Directions staff recommends that CNSC consider the cumulative risks to health and safety associated with the entire site for the Bruce A and B, Darlington, and Pickering sites in conjunction with their individual facility assessments.</p> <p>Cumulative effects assessments must consider, prioritize, and transparently communicate potential risks to Aboriginal, Inherent, and Treaty Rights. To ensure the validity of such assessments, engagement with First Nations and pertinent Indigenous communities should be undertaken.</p>
<p>2.3 Operating performance</p>	<p>Within this section CNSC states <i>"All operating NPPs licensees are required to report serious process failures to the CNSC...[and] to submit quarterly reports on the 'Number of unplanned transient' [...]. CNSC staff informed the Commission of unplanned outages resulting from</i></p>	<p>4 Directions staff recommends that any serious process failures, quarterly, and status reports be shared with Hiawatha First Nation in a timely and transparent manner to ensure HFN can make informed and timely decisions.</p>





	<p><i>reactor trips and their outcomes via status reports on NPPs in 2022.”</i></p> <p>Based on the above-provided quotation, 4 Directions staff note that any serious process failures, as well as quarterly and status reports must be shared with HFN in a timely and transparent manner.</p>	<p>4 Directions staff requests that additional information regarding what caused the unplanned transient be provided to Hiawatha First Nation and be included in future RORs.</p>
<p>2.3 Operating performance</p>	<p><i>“For all Canadian nuclear power plants, the 10-year trend for unplanned transients has been stable or slightly improving, and the unplanned reactor trips are well below the World Association of Nuclear Operators (WANO) target of one trip per 7,000 hours of critical operation.”</i></p> <p>While this may satisfy Western frameworks for evaluation, has this evaluation criteria including input from First Nation-Rights holders?</p>	<p>4 Directions recommends that the CNSC not only adhere to the WANO target for unplanned transients, but also engage with First Nation Rights Holders regarding these thresholds.</p>
<p>2.9 Environmental protection</p>	<p>As noted within this review, there is no acknowledgement of Indigenous Peoples throughout the Report. 4 Directions staff wish to specifically highlight the exclusion of Indigenous presence from the Environmental protection section. This exclusion in the <i>environmental protection</i> section is of particular concern to 4 Directions staff, as it closely correlates with protection of Michi Saagiig rights, values, culture, and spirituality. Within this section, the protection of Indigenous rights is completely omitted. Further, it is not clear that First Nation Right-holders have been involved in the evaluation of the environmental protection SCA.</p> <p>As sovereign Nations and stewards of the lands with Inherent, Aboriginal and</p>	<p>The <i>UNDRIP Act (2021)</i> “emphasizes the urgent need to respect and promote the inherent rights of Indigenous peoples [...] which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories, philosophies and legal systems, especially their rights to their lands, territories and resources;”</p> <p>What’s more, within the Truth and Reconciliation Commissions (TRC) 94 Calls to Action (2015), Call to Action 92 specifically calls “upon the corporate sector in Canada to adopt the United Nations Declaration on the Rights of Indigenous Peoples as a reconciliation framework and to apply its principles, norms, and</p>





	<p>Treaty Rights, First Nation Rights-holders must be included in the evaluation of the environmental protection SCA in accordance with the Duty to Consult and Accommodate, the <i>United Nations Declaration on the Rights of Indigenous Peoples (2006)</i>, and the <i>UNDRIP Act (2021)</i>.</p> <p>All of the Environmental Protection activities, assessments, monitoring and relevant REGDOCS should be informed by engagement and consultation with First Nation Rights-holders to ensure the protection of rights and values as well as the revitalization of Indigenous cultural activities and spiritualities.</p>	<p><i>standards to corporate policy and core operation activities involving Indigenous peoples and their lands and resources.</i>" This includes but is not limited to meaningful consultation, respectful relationships, and free, prior, and informed consent (FPIC) on regulatory oversight activities such as the evaluation of the environmental protection SCA.</p> <p>4 Directions staff recommends CNSC make space for Indigenous inclusion, contexts and knowledges within commission member documents including but not limited to regulatory oversight reports and regulatory activities with a more balanced approach, such as involving Indigenous participation in evaluation activities, and incorporating Indigenous Knowledge Systems, values and culture broadly into (but not limited to):</p> <ul style="list-style-type: none"> • CNSC activities, • Assessments, • Monitoring, and, • Relevant REGDOCS.
<p>2.9 Environmental protection</p>	<p>Within this section, CNSC states <i>"These reports are separate from a specific licensing decision to allow interested Indigenous Nations and communities and members of the public additional time to review information related to environmental protection and engage with CNSC staff on any areas of concern."</i></p> <p>4 Directions staff raise concern with the above-provided statement as it lacks distinguishment between First Nation</p>	<p>4 Directions staff recommends CNSC include language that reflects not only a mere interest by First Nations and Indigenous communities in CNSC regulated facilities, but rather expounds on the obligations that CNSC, and by extension each facility, has to meaningfully consult and engage with First Nation Rights-holders, and its commitment and</p>





	<p>Rights-holders and Indigenous Interest-holders, as well as between Indigenous engagement and consultation activities, public engagement, and how engagement and consultation activities vary between each group, respectfully. This approach risks creating a false equivalency between non-rights and rights-holding communities.</p> <p>4 Directions staff note the lack of distinction between First Nation Rights-holder and Indigenous interest-holders as well as a limitation by CNSC of First Nations having only an “interest” in environmental protection at NPPs is problematic as it demonstrates a lack of understanding and contributes to the devaluation of the rights of Indigenous Peoples as well as the diminishment of the role, responsibilities, and obligations of the Crown to First Nation Rights-holders.</p> <p>Further, this homogenization creates a false equivalency between members of the public and First Nation Rights-holders. This also contributes to the devaluation of the rights of Indigenous Peoples as well as the diminishment of the role, responsibilities, and obligations of the Crown to First Nation Rights-holders.</p>	<p>intent to meaningfully engage with Indigenous Interest-holders.</p> <p>4 Directions staff recommend that CNSC ensure that staff are educated on the distinctions between First Nations Rights-holder and Indigenous Interest-holders, as well as between engagement and consultation activities. Additionally, 4 Directions staff recommend that the CNSC clearly distinguish between First Nation Rights-holders and Indigenous Interest-holders, and make clear the varying depth of engagement required within its documents. Consultation activities should only occur with First Nations Rights-holders.</p>
<p>2.12 Security</p>	<p>In this section, CNSC highlights that OPG was found non-compliant in security related to Facilities and Equipment in 2021, and remains non-compliant in 2022, including net-new non-compliances.</p> <p>Non-compliances were also identified at DNGS and PNGS related to Response</p>	<p>4 Directions requests that the CNSC provide HFN with further information regarding the security non-compliances and warning discusses in section 2.12 of the Report.</p> <p>4 Directions staff requests CNSC to indicate why information on the Security SCA in the conclusion</p>





	<p>Arrangements.</p> <p>Further, CNSC notes that OPG was issued a warning letter for a serious security event; CNSC also notes that it issued an Administration Monetary Penalty (AMP) to OPG as a result of a failure to comply with a licence condition in relation to its security program at the PNGS and DNGS.</p> <p>CNSC states “These non-compliant findings and the follow up of the security event are described in a supplemental CMD as the details are confidential.”</p> <p>4 Directions staff note that just for this SCA, for Darlington, 13 non-compliance findings were issued in 2022. For Pickering, four non-compliance findings were issued in 2022, in addition to 5 non-compliance findings on performance assessment and cyber security. Based on a declining trend in compliance performance observed, CNSC staff are even conducting enhanced regulatory oversight of this SCA.</p> <p>Section 4, Conclusions, does not mention the security failures at PNGS and DNGS even though the SCA was below expectations for 2 years in a row (Table E-1). It is not clear why the results of this SCA’s performance were not discussed in the conclusion section. From the perspective of 4 Directions staff, these are significant findings which must be transparently communicated to Rights holders.</p>	<p>section was missing, and what actions CNSC staff will take if OPG is below expectations results for this SCA again next year.</p> <p>Additionally, 4 Directions staff recommend that future CNSC RORs include a summary of significant information related to Security SCAs in the conclusion of the Report.</p>
<p>2.12 Security</p>	<p>In this section, CNSC states <i>“In early 2023, the CNSC initiated a new regulator and industry advisory group, the Nuclear</i></p>	<p>4 Directions staff requests that additional information be provided to Hiawatha First Nation regarding</p>





	<p><i>Security Advisory Group (NUSAG), with participants from the CNSC and all NPGS licensees. The advisory groups serves as a forum for collaboration between industry and the CNSC on matters related to nuclear security.”</i></p> <p>Was this new regulator created in consultation with First Nation Rights-holders?</p> <p>What are the regulatory authorities that this advisory group has?</p>	<p>the NUSAG, its regulatory authorities, and details regarding any consultation that occurred with First Nation Rights-holders as part of its establishment.</p>
<p>2.14 Packaging and transport</p>	<p>Within this section, CNSC states <i>“In 2022, four packaging and transport events were reported. All four events were of negligible safety significance.”</i></p> <p>4 Direction staff note that no context has been provided for these ‘events’. Further clarification and details are required in order for Hiawatha First Nation to make a sound decision regarding the provided Report (e.g., were they spills?).</p>	<p>4 Directions staff requests that additional clarification and details be provided to Hiawatha First Nation regarding the nature and context of the four identified packaging and transport events.</p>
<p>2.15.1 Indigenous Consultation and Engagement</p>	<p>4 Directions staff notes that despite the title, this section omits a description of the role, responsibilities, and obligations of CNSC to consult with First Nation Rights-holders. No consultation activities are described within.</p>	<p>4 Directions staff recommend that CNSC include language that reflects the role, responsibilities, and obligations that CNSC has under First Nation and Canadian legislation, Treaty, and relevant regulations and policies to meaningfully consult and engage with First Nation Rights-holders. CNSC must be accountable by being specific about what these responsibilities and obligations are as well as provide a description of consultation activities. 4 Directions recommends referencing HFN’s <u>Consultation and Accommodation Standards (2017)</u> as part of this process.</p>





<p>2.15.1 CNSC staff engagement activities</p>	<p>Within this section, CNSC relegates First Nations and Indigenous communities to an Appendix.</p> <p>4 Directions finds this practice concerning as it is a clear example of omitting the presence of First Nations, Indigenous lands, Treaties, and rights. Such omissions risk diminishing the roles, responsibilities, and obligations of the Crown in relation to First Nation Rights-holders. Moreover, such omissions can serve to devalue and erase First Nations' rights, cultures, histories, and continued presence from the land in narrative form.</p>	<p>4 Directions staff recommends CNSC list the First Nations and Indigenous communities relevant to each site within the main body of the Report. As the locations are listed within the main body of the Report, and not simply as an Appendix, this would provide further consistency and transparency in the Report.</p> <p>4 Directions recommends that CNSC provide a map, alongside the site map, which depicts First Nations communities delineated by having rights or interests. This map should also depict treaty territories.</p> <p>A more thorough and accurate acknowledgement section is also required. In this acknowledgement, CNSC staff should state the relevant Indigenous Nations that have Inherent, Aboriginal and Treaty rights to the lands and waters as well as the communities that have 'interests' to the land and waters.</p>
<p>2.15.1 CNSC staff engagement activities</p>	<p>Within this section CNSC states "<i>The CNSC is committed to building long-term relationships and conducting ongoing engagement with Indigenous Nations and communities who have an interest in CNSC-regulated facilities within their traditional and/or treaty territories.</i>"</p> <p>Within the provided quotation, and throughout the entirety of the Report, the CNSC has not clearly defined its obligations to consult with First Nation Rights-holders.</p> <p>For example, the sentence "<i>CNSC continued to work with Indigenous</i></p>	<p>4 Directions staff recommends CNSC include language that reflects not only a mere interest by First Nations and Indigenous communities in CNSC regulated facilities, but rather expounds on the obligations that CNSC, and by extension each facility, has to meaningfully consult and engage with First Nation Rights-holders, and its commitment and intent to meaningfully engage with Indigenous Interest-holders.</p> <p>4 Directions staff recommend that CNSC ensure that staff are educated</p>





	<p><i>Nations, communities, and organizations to identify opportunities for formalized and regular engagement throughout the lifecycle of these facilities and welcomed the opportunity to meet with Indigenous Nations and communities to discuss and address topics of interest or concern”</i> removes the responsibility that the CNSC has in this regard due to its role as a Crown entity vis-à-vis First Nations regulations, consultation protocols, the Canadian Constitution, the Williams Treaties Settlement of 2018, Canadian Legislation, and Supreme Court decisions.</p> <p>4 Directions staff finds these statements lack distinguishment between First Nation Rights-holders and Indigenous Interest holders, and between engagement and consultation activities, and how they apply to each group, respectfully.</p> <p>This approach risks creating a false equivalency between non-rights and rights-holding communities.</p> <p>4 Directions staff note the lack of distinction between First Nation Rights-holder and Indigenous interest-holders as well as CNSC limiting First Nations to having only an “interest” in NPGSs as problematic as each demonstrates a lack of understanding and contributes to the devaluation of the rights of Indigenous Peoples as well as the diminishment of the role, responsibilities, and obligations of the Crown to First Nation Rights-holders.</p> <p>Throughout these statements CNSC makes use of problematic terminology</p>	<p>on the distinctions between First Nations Rights-holder and Indigenous Interest-holders, as well as between engagement and consultation activities, and that CNSC clearly distinguish between First Nation Rights-holders and Indigenous Interest-holders and make clear the varying depth of engagement required within its documents. Consultation activities should only occur with First Nations Rights-holders.</p> <p>4 Directions staff recommend that CNSC ensure that lands, waters and treaties are appropriately acknowledged in each facility description so as to ensure that treaty lands and traditional territories are communicated and expressed with the relevant context.</p>
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	<p>and literary styles which diminish the rights of Indigenous Peoples, the responsibilities of the Crown, and historicizes the presence of First Nations.</p> <p>Further, the specific lands, waters, and treaties are not clearly defined in this Report. For example, the use of “and/or” when discussing treaty lands and traditional territories obscures the context and distinction between traditional territories and treaty lands, which often overlap.</p>	
<p>2.15.1 CNSC staff engagement activities</p>	<p>Within the subsection <i>NPGS ROR Virtual Engagement Session</i> CNSC describes hosting a singular collective engagement session with Indigenous Nations and communities regarding the NPGS ROR for 2021.</p> <p>4 Directions staff finds this concerning as engagement and consultation requirements vary depending on Rights-holding and non-Rights holding communities. Holding a singular information sharing event does not constitute engagement nor consultation. Such practices demonstrate a lack of understanding of meaningful engagement and consultation activities, contributes to the devaluation of Indigenous rights, and risks creating a false equivalency between First Nation Rights-holders and Indigenous Interest-holders.</p> <p>Further, CNSC states that “<i>Based on the continued success of these virtual engagement sessions CNSC staff plan to host another NPGS ROR engagement</i>”</p>	<p>4 Directions staff recommend that CNSC ensure that staff are educated on the distinctions between First Nations Rights-holder and Indigenous Interest-holders, as well as between engagement and consultation activities. On a related note, 4 Directions staff recommend that CNSC clearly distinguish between First Nation Rights-holders and Indigenous Interest-holders, making clear the varying depth of engagement required within its documents. Consultation activities should only occur with First Nations Rights-holders.</p> <p>4 Directions staff requests that CNSC provide clarity regarding how “success” was defined and determined in relation to the virtual engagement session.</p>





	<p><i>session for the 2022 ROR in September 2023.”</i></p> <p>4 Directions staff raise concerns about this statement. It is not clear what evaluation criteria was used to measure success. Was the finding of success determined collaboratively or by CNSC unilaterally?</p> <p>Without clarity, the statement that the virtual engagement was a success could be considered paternalistic.</p>	
2.15.1 CNSC staff engagement activities	<p>Within the subsection <i>Tracking of ROR Issues, Concerns and Recommendations</i>, the CNSC states, “<i>Additionally, the Appendix [G] presents the number of issues and concerns that CNSC has responded to, provided an approach to meaningfully address and close out specific requests, concerns and comments, where possible.</i>”</p> <p>While 4 Directions staff are generally supportive of CNSC’s transparency regarding feedback and requests received from First Nations and Indigenous communities, there remains concern with this statement. Specifically, it is not clear how approaches, responses and/or closeouts were determined. Was this determined collaboratively or by CNSC unilaterally?</p> <p>Without clarity, the statement that CNSC has provided approaches to meaningfully address concerns, issues and requests could be considered paternalistic.</p>	4 Directions staff requests that CNSC provide clarity regarding how responses, approaches and closeouts were determined.
2.15.1 CNSC staff engagement activities	<p>Within the subsection <i>Tracking of ROR Issues, Concerns and Recommendations</i>, the CNSC states “<i>Overall, the</i></p>	4 Directions staff recommends that CNSC provide Hiawatha First Nation with the 12 themes that were





	<p><i>interventions in relation to the 2021 ROR were categorized in 12 different themes including consultation and engagement, improvements to ROR process and ROR content, and CNSC oversight activities."</i></p> <p>4 Directions staff are generally supportive of CNSC's transparency and analysis regarding feedback and requests received from First Nations and Indigenous communities. 4 Directions staff request additional information is shared with Hiawatha First Nation regarding these themes and how they were derived.</p>	<p>identified, as well as clarity regarding how they were identified and if this occurred in collaboration with First Nation Right-holders.</p>
<p>2.15.1 CNSC staff engagement activities</p>	<p><i>Within the subsection Pickering and Darlington sites CNSC states "In 2022, CNSC staff were grateful for the opportunity to visit culturally important and sacred sites, such as the Petroglyphs Provincial Park with Curve Lake First Nation and Serpent Mounds site with Hiawatha First Nation. These activities were invaluable for building relationships, understanding and enhancing CNSC staff's cultural awareness."</i></p> <p>Based on feedback from Hiawatha First Nation, there are concerns over the use of the word 'sacred' within this statement as it lacks the context and worldview required to meaningfully interpret it. To the average settler reader, the word 'sacred' carries a religious overtone. While these sites are spiritually significant, they are not connected to religion. Among many community members, the idea of 'sacred' is understood in a much different way. It is important to note the differences</p>	<p>Based on feedback from Hiawatha First Nation staff, 4 Directions requests that CNSC refine this statement to describe the sites as "culturally significant."</p> <p>Additionally, Curve Lake First Nation and Hiawatha First Nation wish to provide the community names for each site in the language.</p> <p>4 Directions staff requests that CNSC remove 'Petroglyphs Provincial Park' from the statement and replace it with Kinomaage-Waapkong (Teaching Rocks)</p> <p>4 Directions staff request that CNSC remove 'Serpent Mounds' from the statement and replace it with Pamitaashkoodeyong site (Water on Fire).</p>





	<p>between western and Indigenous knowledge systems with respect to language, and the fundamental gaps that exist. It is important for acknowledgements and descriptions to provide more context so that the meaning and intention of words is made clear.</p>	
<p>2.15.2 Licensee Indigenous Engagement Activities</p>	<p>Within this section CNSC states <i>“In 2022, CNSC staff continued to monitor the engagement work conducted by the NPGS licensees to ensure that there was active engagement and communication with Indigenous Nations and communities interested in their facilities, and that activities were carried out in relation to the relevant licensing and Commission hearing processes that occurred in 2022.”</i></p> <p>4 Directions finds this statement concerning on the basis of qualifying engagement as ‘active’ without demonstrating that this evaluation was made with input from the First Nations and Indigenous communities.</p> <p>Further, within this section CSNC states <i>“CNSC staff confirmed that the licensees have Indigenous engagement and outreach programs.”</i> and the paragraph goes on to describe various outreach or information sharing initiatives.</p> <p>4 Directions staff find this concerning as there is no qualification given to these activities to determine if they were effective or not. Having a program does not indicate that engagement was effective. Such qualifications are up to</p>	<p>4 Directions staff request that CNSC provide information regarding its definition for terms such as “active” or “meaningful” engagement and share how these definitions were informed by First Nations and Indigenous communities.</p> <p>4 Directions staff recommend that CNSC ensure that staff are educated on the distinctions between First Nations Rights-holder and Indigenous Interest-holders, as well as between engagement and consultation activities. Additionally, 4 Directions staff recommend that the CNSC clearly distinguish between First Nation Rights-holders and Indigenous Interest-holders within its Report, making clear the varying depth of engagement required within its documents. Consultation activities should only occur with First Nations Rights-holders.</p>





	<p>the discretion of the Rights holder being engaged with.</p> <p>Additionally, this section makes no evaluation of CNSC’s role in fulfilling the Duty to Consult. Throughout this section CNSC continues to characterize First Nations and Indigenous communities as having ‘interest’ in CNSC regulated facilities.</p> <p>As outlined in other sections of this submission, 4 Directions staff finds this mischaracterization concerning as it devalues the rights of Indigenous Peoples, demonstrates a lack of understanding by the CNSC on the differences between First Nation Rights-holders and Indigenous Interest-holders, and omits the CNSC’s role and responsibility to consult with First Nation Rights-holders.</p>	
<p>2.15.2 Licensee Indigenous Engagement Activities</p>	<p>Within this section CNSC states, <i>“In their 2021 ROR interventions, Indigenous Nations and communities raised the concern that their views on licensees’ engagement were not reflected in the RORs. In response to this concern CNSC staff sought feedback from the Indigenous Nations and communities with regards to their perspectives on the Licensees engagement with them in 2022.”</i></p> <p>4 Directions staff notes that within this statement, CNSC presents the concern as applying to all First Nations and Indigenous communities rather than specifying which First Nation or community express this concern. Of note, Hiawatha First Nation was not contacted</p>	<p>4 Directions staff recommends that CNSC ensure it communicates views, preferences, values, and feedback as specifically from the relevant First Nation or Indigenous community, recognizing the plurality and individualism of each and avoid utilizing a pan-Indigenous approach.</p>





	<p>to provide feedback on licensees. This makes CNSC’s statement above erroneous, as not all Indigenous Nations and communities were contacted or provided feedback.</p> <p>Without this clarity, the statement could be viewed as tokenistic as there is not a pan-Indigenous voice, and each First Nation’s views are their own and should not be utilized by CNSC to represent collective views, values, or feedback.</p>	
<p>2.15.2 Licensee Indigenous Engagement Activities</p>	<p>In the subsection <i>Ontario Power Generation</i>, CNSC states that “<i>OPG met and shared information with interested Indigenous Nations, communities and organizations including the Williams Treaties First Nations, the Métis Nation of Ontario, and the Mohawks of the Bay of Quinte.</i>”</p> <p>4 Directions staff wish to identify that the Williams Treaties First Nations should be listed individually, as they each are sovereign Nations with unique Inherent, Aboriginal and Treaty rights. Further, as indicated throughout this review, 4 Directions staff find it concerning that the CNSC does not make the necessary distinction between First Nation Rights-holders, Indigenous Interest-holders and Indigenous organizations.</p> <p>4 Directions staff note this lack of distinction between First Nation Rights-holder and Indigenous interest-holders is as well as a limitation to “interest” in NPGs as problematic as they each demonstrates a lack of understanding and contributes to the devaluation of the rights of Indigenous Peoples as well as</p>	<p>4 Directions staff recommends CNSC refine this statement to list each Williams Treaties First Nation, as well as distinguish between First Nation Rights-holders, Indigenous Interest-holders, and Indigenous organizations.</p>





	<p>the diminishment of the role, responsibilities, and obligations of the Crown to First Nation Rights-holders.</p>	
<p>2.15.2 Licensee Indigenous Engagement Activities</p>	<p>In the subsection, <i>Ontario Power Generation</i> CNSC staff state they “continue to be satisfied with OPG’s engagement efforts and activities in 2022.”</p> <p>4 Directions staff finds this concerning as this qualification is made prior to presenting feedback from First Nations or Indigenous communities.</p> <p>There is an example of feedback provided by Curve Lake First Nation, however, the feedback does not make any evaluation of OPG, rather it provides a factual description of activities that have been undertaken and areas of concern.</p> <p>It is not clear within this section how or if the feedback from First Nations and Indigenous communities was considered as part of the evaluation of the NPGs engagement activities.</p>	<p>4 Directions staff recommends that CNSC refine this section to make clear how First Nation Rights-holders’ feedback is included, and weighted, in the evaluation process. Such augmentations would avoid making qualifications (e.g., claiming satisfaction) prior to introducing feedback from First Nations.</p> <p>4 Directions staff recommends that the CNSC work with First Nation Rights-holders to define what effective engagement looks like, with an understanding that each First Nation may have different criteria.</p> <p>In addition, CNSC must work with First Nation Rights-holders to develop an appropriate methodology and process for evaluation. In doing so, CNSC will seek to move beyond the current approach of confirming that an outreach or engagement program exists and providing a description of information sharing activities, towards meaningful, respectful, appropriate, and effective engagement.</p>
<p>2.15.2 Licensee Indigenous Engagement Activities</p>	<p>Within the subsection <i>CNSC Conclusions on Licensee Engagement</i>, CNSC states that they are “satisfied with the level and quality of Indigenous engagement conducted by Licensees with regards to their operations and proposed projects at its different nuclear power generating sites in 2022.”</p>	<p>4 Directions staff requests that CNSC provide any information regarding the methodology used for evaluation of Licensee engagement activities to Hiawatha First Nation for review and consideration.</p>





	<p>4 Directions staff note that it is not clear from this statement how CNSC evaluated the level and quality of Indigenous engagement. It is not clear within this section what methodology was used for evaluation, or how this evaluation included or considered the feedback provided from First Nation Rights-holders. It is not clear within this section if or how CNSC worked collaboratively with First Nations Rights-holders to define and determine what the evaluation criteria would be.</p> <p>This lack of clarity leaves 4 Directions staff with questions about whether CNSC and NPGS licensees have worked with First Nations and Indigenous communities to clearly define what meaningful and effective engagement looks like in order for it to be properly evaluated.</p> <p>4 Directions staff wishes to note that most discussions between Hiawatha First Nation and OPG have been related to the proposed DNNP, rather than on daily operations. Until the review of this ROR, Hiawatha First Nation was not aware of several of the operational issues identified at the PNGS or DNGS.</p>	<p>4 Directions staff recommends that CNSC work with First Nation Rights-holders to define what effective engagement looks like, with an understanding that each First Nation may have different criteria. In addition, CNSC must work with First Nation Rights-holders to develop an appropriate methodology and process for evaluation that moves beyond confirmation that an outreach or engagement program exists and a description of information sharing activities.</p>
<p>2.16.5 Forum between the CNSC and Canadian Environmental Non-Governmental Organizations</p>	<p>Within this section, CNSC staff describes a forum between CNSC, and members of environmental non-governmental organizations (ENGOS) established to <i>“exchange information and ideas and consider substantive and procedural issues of interest or concern.”</i></p>	<p>4 Directions requests that CNSC provide Hiawatha First Nation with information regarding the ENGO forum, including how information and feedback is weighed, considered and incorporated into CNSC activities.</p>





	<p>CNSC goes on to state <i>“The Forum is distinct from project or policy-specific opportunities for ENGOs to intervene before the Commission and does not constitute ENGO endorsement of the CNSC.”</i></p> <p>Further, CNSC notes that the forum <i>“is co-chaired by the CNSC’s Regulatory Affairs Branch Vice-President and Chief Communications Officer and the Nuclear Transparency Project Director.”</i></p> <p>4 Directions staff notes that this type of forum should be inclusive of and offered to First Nation Rights-holders. It is not clear why CNSC has invested time and resources in such a forum with ENGOs which have no constitutionally protected rights, and yet has not invested in a similar forum for First Nation Rights-holders to whom CNSC is obligated to consult.</p> <p>4 Directions finds it interesting that the forum is co-chaired and attended regularly by senior executives. Such respect is not afforded to First Nation-Rights holders, despite the fact that First Nations are sovereign Nations that must be afforded utmost respect and treated as National dignitaries.</p> <p>Additionally, the names of participating ENGOs as well as the themes and topics discussed with the Forum are documented and expounded upon within the body of this section.</p> <p>4 Directions staff note that the list of First Nations, Indigenous communities,</p>	<p>4 Directions requests that CNSC clarify if a similar forum exists for First Nation-Rights Holders, and if not, why?</p> <p>4 Directions staff request that CNSC clarify how it upholds the <i>United Nations Declaration of the Rights of Indigenous Peoples (2006)</i> and <i>UNDRIP Act (2021)</i> such as including First Nation Rights-holder in decision-making processes and achieving FPIC.</p> <p>4 Directions staff recommends CNSC invest the same level, if not more resources into engagement with First Nation Rights-holders, including demonstrating respect by ensuring senior executive take part in regular engagement activities. An example of such investment could be to meaningfully respond to prior requests from Hiawatha First Nation and Curve Lake First Nation to hold Commission Hearings in a relevant First Nation community.</p> <p>4 Directions staff recommends CNSC become educated about structural racism and conduct an evaluation of its activities to determine if there are other instances, and work with First Nation Rights-holders to address.</p> <p>4 Directions staff recommends that CNSC work with First Nation Rights-holders to define meaningful engagement, appropriate protocols, and educate its staff on the distinct nature and standing of First Nations in Canada.</p>
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	<p>and organizations was relegated to an Appendix, and the themes collected through the previous years' ROR were not similarly expanded upon.</p> <p>The section includes the statement <i>"Through these exchanges, CNSC staff gain an understanding of the barriers and challenges that ENGOs face when participating in Commission proceedings, and in accessing information required to provide informed interventions and commentary about nuclear-related activities and the CNSC's role as a regulator."</i></p> <p>4 Directions staff note that although First Nations and Indigenous communities have raised similar concerns, CNSC does not document how this has impressed a similar understanding of the barriers and challenges, but rather states that it tracks and responds to issues, concerns and recommendations.</p> <p>CNSC states its intent <i>"to continue to gain important insights and various perspectives from ENGOs and Civil Society Organizations on regulatory processes, practices and policies as the nuclear industry evolves."</i></p> <p>4 Directions staff note that no such similar characterization of intent by CNSC, or qualification of First Nation Rights-holders having insights or its being valued, is documented within the Report.</p> <p>These discrepancies document the transactional nature of CNSC's interactions with First Nations and</p>	
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	<p>Indigenous communities and could be perceived as a lack of genuine relationship-building. They could also be viewed as forms of structural racism.</p> <p>4 Directions staff note that within this section CNSC does not make clear how information and feedback provided through this forum is weighed or included in CNSC activities. 4 Directions staff highlight that feedback and information provided by non-rights holding entities should be communicated and shared with First Nation Rights-holders for consideration and feedback.</p> <p>As highlighted in the <i>United Nations Declaration of the Rights of Indigenous Peoples</i> (2006) as well as affirmed in the <i>United Nations Declaration of the Rights of Indigenous Peoples Act (2021)</i>, CNSC should be ensuring that First Nation Rights-holder are included in decision-making processes and receive Free, Prior, and Informed Consent (FPIC).</p> <p>Free, prior and informed consent is a <i>"specific right granted to Indigenous Peoples recognised in the UNDRIP, which aligns with their universal right to self-determination. FPIC allows Indigenous Peoples to provide or withhold/withdraw consent, at any point, regarding projects impacting their territories. FPIC allows Indigenous Peoples to engage in negotiations to share the design, implementation, monitoring, and evaluation of projects"</i> (FAO, 2023).</p> <p>With this notion of FPIC in mind, 4 Directions staff highlight that it is</p>	
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	<p>quintessential for First Nation Rights-holders to be engaged with at the onset of projects. Delaying engagement and consultation with First Nation Rights Holders to later stages of projects is not only inappropriate and disrespectful but increases the likelihood of proponents' projects being delayed.</p> <p>If a proponent does not engage with Rights holders from the onset of their project, potential impacts to Inherent, Aboriginal, and Treaty Rights may not be realized until consultation takes place.</p> <p>As First Nation Rights holders maintain the legal right to be consulted and accommodated, any projects with potential to impact such Rights can be stopped indefinitely, until Rights-holders feel that proper consultation and accommodation has taken place. All this to say, it is in both the First Nation Rights-holders' and proponents' best interest to engage with and consult Rights holders from the onset of a project.</p>	
<p>2.16.5 Forum between the CNSC and Canadian Environmental Non-Governmental Organizations</p>	<p>Within this section, it is stated that CNSC explored topics such as "Access to Environmental Data", "Regulatory Oversight Reports Presentation and Questionnaire", "Commission Modernization Discussion Paper" and will explore the topic of "Transparency of nuclear-related sampling data and compliance verification activities" in the future.</p> <p>4 Directions notes that these topics may be of importance to First Nations rights-holders.</p>	<p>4 Directions staff requests that information regarding these topics be provided to Hiawatha First Nation for information, consideration and feedback.</p>





<p>2.16.6</p>	<p>Within this section CNSC states <i>“The IEMP results were consistent with the results submitted by OPG PNGS, indicating that the licensee’s environmental protection program is effective.”</i></p> <p>4 Directions finds this statement concerning on the basis of qualifying the licensee’s environmental protection program as ‘effective’ without demonstrating that this evaluation was made with input from the First Nations and Indigenous communities.</p> <p>Additionally, this section makes no evaluation of CNSC’s own IEMP and its effectiveness. This calls into question the ability to use the IEMP as a benchmark to compare OPG’s data to.</p> <p>4 Directions staff notes that Curve Lake First Nation and Hiawatha First Nation representatives participated in the 2023 IEMP at Darlington Nuclear Generating Station. Having field experience and on the ground knowledge, hand-in-hand with understanding the evaluation criteria, would bring a better understanding on the effectiveness of the programs.</p>	<p>4 Directions staff request that CNSC provide information regarding the methodology through which it evaluated the IEMP and OPG data, as well as its definition for terms such as “effective” and share how these definitions were informed by First Nations and Indigenous communities.</p>
<p>3.1.0 Introduction</p>	<p>In this section, CNSC states <i>“The Darlington site lies within the traditional territory of the Michi Saagiig Anishninaabe people. These lands are covered by the Williams Treaty between Canada and the Mississaguas and Chippewa Nations.”</i></p> <p>4 Directions staff raise concerns with the quotation provided above. The</p>	<p>4 Directions staff recommend that CNSC ensure that lands, waters and treaties are appropriately acknowledged in each facility description so as to ensure that treaty lands and traditional territories are communicated and expressed with the relevant context.</p>





	<p>acknowledgement provided by the CNSC appears to be incomplete, as it does not provide an accurate depiction of treaties that cover the Darlington site. Moreover, the provided acknowledgement does not include the Michi Saagiig waters.</p> <p>4 Directions staff note, that based on feedback from Hiawatha First Nation, the spelling of names and words varies as the language was not written down and is now trying to fit into the parameters of English. Hiawatha First Nation has provided edits to this acknowledgement which reflect its common spelling of Anishinaabeg. Of note – the ‘g’ at the end makes the word plural.</p>	<p>CNSC should work with First Nation Rights-holders to collaboratively define the context of each facility.</p> <p>To that end 4 Directions staff recommends CNSC refine the statement as follows:</p> <p>“The Darlington site lies within the traditional lands and utilizes the waters of the Michi Saagiig Anishinaabeg. These lands are covered by the Gunshot Treaty (1787-88), the Williams Treaties (1923), and the Williams Treaties Settlement (2018) between Canada, Ontario and the Mississaguas and Chippewa Nations.”</p>
<p>3.1.0 Introduction</p>	<p>Within this section CNSC describes DNGS’ Fisheries Act authorization which includes the condition of providing a monitoring report on vegetation encroachment and notes that <i>“On March 1st, 2023, OPG requested an extension to submit its vegetation encroachment report. DFO has granted this extension and OPG plans to submit this report on October 31, 2023. At that time, DFO will conduct a technical review of the report.”</i></p> <p>Additionally CNSC lists <i>“PRPD-2022-15102 & DRPD-2022-14705 – Report – TII – Fleet Environment Monitoring Program at Pickering and Darlington NGS”</i> as issued by OPG on February 27, 2023.</p> <p>4 Directions staff notes that these reports have not been shared directly by OPG with Hiawatha First Nation.</p>	<p>4 Directions requests CNSC provide these reports to Hiawatha First Nation for review and consideration and work to collaborate with the Nation in order to understand and address current and legacy issues.</p> <p>4 Directions recommends CNSC begin to discuss operational topics with Hiawatha First Nation on a more routine basis.</p>





	<p>Currently, OPG does not routinely discuss operations or provide information pertinent to Hiawatha First Nation such as reports on its FAA or Environmental Fleet Monitoring.</p> <p>Hiawatha First Nation has requested that OPG work collaboratively with the Nation to ensure that it understands the year-to-year trends in environmental monitoring, including legacy issues so it can better identify potential impacts to Michi Saagiig rights.</p>	
<p>3.1.0 Introduction</p>	<p>Within the subsection <i>Refurbishment</i>, CNSC states that it “<i>conducted compliance verification activities as established in the Darlington Refurbishment Project Multi-Unit Compliance Plan and confirmed that OPG was in compliance with regulatory requirements. There were no inspection findings with a medium or high safety significance identified during the refurbishment</i>”.</p> <p>4 Directions staff notes that in this specific section, nothing is mentioned on inspection findings of low safety significance and whether any were found during the DNGS Refurbishment of Unit 3.</p>	<p>4 Directions staff requests CNSC provide Hiawatha First Nation with additional information regarding the inspection finding of low safety significance and whether any were found during the DNGS Refurbishment of Unit 3.</p>
<p>3.2.0 Introduction</p>	<p>In this section, CNSC states “<i>The DWMF is located within the traditional territory of the Michi Saagiig Anishninaabe people. These lands are covered by the Williams Treaty between Canada and the Mississaguas and Chippewa Nations.</i>”</p> <p>As is stated earlier, 4 Directions staff raise several concerns with the above-provided quotation, as it appears</p>	<p>4 Directions staff recommend that CNSC ensure that lands, waters and treaties are appropriately acknowledged in each facility description so as to ensure that treaty lands and traditional territories are communicated and expressed with the relevant context.</p>





	<p>incomplete. CNSC’s provided acknowledgement does not accurately depict the treaties that cover the DWMF site and does not include the Michi Saagiig waters.</p> <p>4 Directions staff note, that based on feedback from Hiawatha First Nation, the spelling of names and words varies as the language was not written down and is now trying to fit into the parameters of English. Hiawatha First Nation has provided edits to this acknowledgement which reflect its common spelling of Anishinaabeg. Of note – the ‘g’ at the end makes the word plural.</p>	<p>CNSC should work with First Nation Rights-holders to collaboratively define the context of each facility.</p> <p>To that end 4 Directions staff recommends CNSC refine the statement as follows:</p> <p>“The DWMF is located within the traditional lands and utilizes the waters of the Michi Saagiig Anishinaabeg people. These lands are covered by the Gunshot Treaty (1787-88), the Williams Treaties (1923), and the Williams Treaties Settlement (2018) between Canada, Ontario and the Mississaguas and Chippewa Nations.”</p>
<p>3.3.0 Introduction</p>	<p>In this section, CNSC states “<i>The Pickering site lies within the traditional territory of the Michi Saagiig Anishninaabe people. These lands are covered by the Williams Treaty between Canada and the Mississaguas and Chippewa Nations.</i>”</p> <p>As is stated earlier, 4 Directions staff raise several concerns with the above-provided quotation, as it appears incomplete. CNSC’s provided acknowledgement does not accurately depict the treaties that cover the Pickering site and does not include the Michi Saagiig waters.</p> <p>4 Directions staff note, that based on feedback from Hiawatha First Nation, the spelling of names and words varies as the language was not written down and is now trying to fit into the parameters of English. Hiawatha First Nation has</p>	<p>4 Directions staff recommend that CNSC ensure that lands, waters and treaties are appropriately acknowledged in each facility description so as to ensure that treaty lands and traditional territories are communicated and expressed with the relevant context.</p> <p>CNSC should work with First Nation Rights-holders to collaboratively define the context of each facility.</p> <p>To that end 4 Directions staff recommends CNSC refine the statement as follows:</p> <p>“The Pickering site lies within the traditional lands and utilizes the waters of the Michi Saagiig Anishinaabeg people. These lands are covered by the Gunshot Treaty (1787-88), the Williams Treaties</p>





	<p>provided edits to this acknowledgement which reflect its common spelling of Anishinaabeg. Of note – the ‘g’ at the end makes the word plural.</p>	<p>(1923), and the Williams Treaties Settlement (2018) between Canada, Ontario and the Mississaguas and Chippewa Nations.”</p>
<p>3.3.0 Introduction</p>	<p>Within this section, CNSC references OPG’s 2021 Fish Impingement Monitoring report, which was provided in accordance with its FAA.</p> <p>4 Directions staff note that this report was not provided directly to Hiawatha First Nation.</p> <p>Hiawatha First Nation is concerned with the Pickering Nuclear Generating Station and its impacts n fish, and therefore Michi Saagiig rights, because it is a surface water intake.</p>	<p>4 Directions staff requests CNSC provide a copy of this report directly to Hiwatha First Nation for review and consideration, and that such reports continue to be provided to Hiawatha in the future.</p>
<p>3.4.0 Introduction</p>	<p>In this section, CNSC states <i>“The PWMF is located within the traditional territory of the Michi Saagiig Anishninaabe people. These lands are covered by the Williams Treaty between Canada and the Mississaguas and Chippewa Nations.”</i></p> <p>As is stated earlier, 4 Directions staff raise several concerns with the above-provided quotation, as it appears incomplete. CNSC’s provided acknowledgement does not accurately depict the treaties that cover the PWMF site and does not include the Michi Saagiig waters.</p> <p>4 Directions staff note, that based on feedback from Hiawatha First Nation, the spelling of names and words varies as the language was not written down and is now trying to fit into the parameters of English. Hiawatha First Nation has provided edits to this acknowledgement which reflect its common spelling of</p>	<p>4 Directions staff recommend that CNSC ensure that lands, waters and treaties are appropriately acknowledged in each facility description so as to ensure that treaty lands and traditional territories are communicated and expressed with the relevant context.</p> <p>CNSC should work with First Nation Rights-holders to collaboratively define the context of each facility.</p> <p>To that end 4 Directions staff recommends CNSC refine the statement as follows:</p> <p>“The PWMF is located within the traditional lands and utilizes the waters of the Michi Saagiig Anishinaabeg people. These lands are covered by the Gunshot Treaty (1787-88), the Williams Treaties (1923), and the Williams Treaties</p>





	<p>Anishinaabeg. Of note – the ‘g’ at the end makes the word plural.</p>	<p>Settlement (2018) between Canada, Ontario and the Mississaugas and Chippewa Nations.”</p>
<p>3.4.9 Environmental protection</p>	<p>Within this section CNSC states “<i>OPG assessed their stormwater program at the PWMF. As a result, OPG requested to discontinue tritium and gross gamma monitoring in stormwater, as there are no regulatory requirements to monitor this discharge. CNSC and ECCC reviewed the request and agreed with OPG’s request to discontinue the stormwater monitoring in 2022. Stormwater will continue to be considered as part of the ERA and groundwater protection programs.</i>”</p> <p>4 Directions staff note that representatives from Hiawatha First Nation informed OPG that it was not acceptable to discontinue such monitoring, and raised concerns that it would open the door to discontinuation of other monitoring programs, and could result in shifting the baseline of tolerance.</p> <p>4 Directions staff note that within this section it is not clear how this determination was made, and how this decision to discontinue stormwater monitoring was arrived at through consultation with First Nation-Rights holders.</p> <p>As has been stated in previous sections of this review, the Rights to access, steward, and make decisions regarding water is a Right maintained by</p>	<p>4 Directions staff requests that CNSC provide clarity regarding how the determination to discontinue tritium and gross gamma monitoring in stormwater was arrived at, and how First Nation Rights-holders were consulted regarding this decision.</p>





	<p>Indigenous Peoples in Canada (COO, 2008; AFN, 2019). As such, any decisions regarding water, including stormwater monitoring, must be addressed in consultation with Rights holders.</p> <p>4 Directions staff note that legislation such as the <i>Fisheries Act</i> and its associated regulations are only possible because of Treaty. Treaties are separate from and supersede settler regulations and must be acknowledged as such.</p>	
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3.0 Closing Remarks

4 Directions staff are concerned regarding the lack of information provided within the *CNSC Regulatory Oversight Report for Canadian Nuclear Power Generating Sites in 2022*. 4 Directions staff remain concerned regarding the demonstrated lack of understanding of Michi Saagiig lands, rights, and treaties. Moreover, we have highlighted instances where the proponent has used harmful language and styles throughout the provided documents. For example, the decision to relegate First Nations, Indigenous communities, and organizations only to sections or appendices of reports risks diminishing Indigenous Peoples rights, interests, values, cultures and spiritualities.

4 Directions wishes to reiterate its concern over the lack of responsibility, accountability, and transparency that the CNSC has demonstrated within this report regarding its role, responsibilities, and obligations as the Crown to First Nations Rights-holders, including Hiawatha First Nation. This report remains void of any mention or discussion of the Duty to Consult or consultation activities. 4 Directions remains concerned regarding the continued non-compliance of OPG in the security safety control area, lack of transparency and how CNSC came to its conclusions within the Report of NPGs graded as “acceptable”, despite this.

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

Miigwetch,

Jaimi O’Hara

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Appendix B:

4 Directions of Conservation Consulting Services Review of OPG's *Mid-Term Update of Licensed Activities for the Pickering Nuclear Generating Station.*



November 3, 2023

Attn: **Consultation Department**

Hiawatha First Nation
 431 Hiawatha Line
 Hiawatha, ON. K9J 0E6
 P: (705) 295-4421

RE: CMD: 23-M36.1 *Mid-Term Update of Licensed Activities for the Pickering Nuclear Generating Station.*

4 Directions File No: 23-109

4 Directions of Conservation Consulting Services (4 Directions) is pleased to present our review and recommendations regarding the written submission from Ontario Power Generation (OPG) under the terms of its Operating Licence from Canadian Nuclear Safety Commission (CNSC) with respect to its licensed activities for Pickering Nuclear Generating Station. These documents were presented to Hiawatha First Nation (HFN) from the CNSC under their Duty to Consult and Accommodate.

1.0 Feedback and Comments

4 Directions reviewed the OPG’s written submissions to the CNSC titled *Mid-Term Update of Licensed Activities for the Pickering Nuclear Generating Station* (the Report). 4 Directions staff have created the following table (**Table 1**) based on their review of the Report. For clarity, specific comments, concerns, requests, and recommendations are organized in correlation with the various sections of the Report to which they are relevant.

Table 1: Specific Feedback by Section		
Section	Comments & Concerns	Requests & Recommendations
Land Acknowledgement	<p>Within this section, OPG has included a Land Acknowledgement as follows:</p> <p><i>“The lands and waters on which the Pickering Nuclear Generating Station is situated are the treaty and traditional territory of the Michi Saagiig and Chippewa Nations, collectively known as the Williams Treaties First Nations. Pickering NGS is within the territory of the Gunshot Treaty and the Williams Treaties of 1923. The Gunshot Treaty</i></p>	<p>4 Directions staff recommends that OPG work collaboratively with the Williams Treaties First Nations to refine its land acknowledgement.</p> <p>To that end, 4 Directions staff has heard from Hiawatha First Nation staff that it would be most appropriate to acknowledge the traditional territories, waters and treaty lands in one succinct</p>





	<p><i>Rights were reaffirmed in 2018 in a settlement with Canada and the Province of Ontario.</i></p> <p><i>Ontario Power Generation respectfully acknowledges that the Williams Treaties First Nations are the stewards and caretakers of these lands and the waters that touch them, and that they continue to maintain this responsibility to ensure their health and integrity for generations to come.</i></p> <p><i>As a company, Ontario Power Generation remains committed to developing positive and mutually beneficial relationships with the Williams Treaties First Nations.”</i></p> <p>While 4 Directions staff are generally supportive of the inclusion of Land Acknowledgements, we’ve highlighted the following areas of improvement based on feedback from Hiawatha First Nation staff:</p> <ul style="list-style-type: none"> - Dividing the traditional territory and treaty lands makes the acknowledgement difficult to fully understand. - There are concerns over the use of the word ‘stewards’ within this acknowledgement as it lacks the context and worldview required to meaningfully interpret it. To the average settler reader, the word stewardship speaks of supervision and care-taking; it has a hierarchical connotation which is derived through a sense of ownership or authority. In fact, in 	<p>paragraph to avoid confusion. To that end, 4 Directions staff proposes the following:</p> <p><i>“The lands and waters on which the Pickering Nuclear Generating Station is situated are the traditional territory of the Michi Saagiig and Chippewa Nations, collectively known as the Williams Treaties First Nations. The lands are covered by the Gunshot Treaty (1877-88) and the Williams Treaties (1923). The Gunshot Treaty Rights, including the rights to hunt, harvest and fish were reaffirmed in 2018 by Canada and the Province of Ontario.</i></p> <p><i>Ontario Power Generation respectfully acknowledges that the Williams Treaties First Nations maintain a cultural and spiritual presence within and relationship to these lands and the waters that touch them, and continue to protect and care for them to ensure their health and integrity for generations to come.</i></p> <p><i>As a company, Ontario Power Generation remains committed to working with the Williams Treaties First Nations, to develop positive and mutually beneficial relationships.”</i></p> <p>Under the intention of supporting further education and relationship building regarding understanding of Treaties and Indigenous Rights, 4 Directions sees that constructing</p>
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	<p>some ways, through the <i>Indian Act</i>, the Crown has acted as a ‘steward’ over Indigenous Peoples, who have been considered ‘wards’ which has now been recognized as a harmful act of colonialism and racism. Among many community members, the idea of ‘stewardship’ is understood in a much different way. Through a Michi Saagiig lens, the term steward or stewardship connotes much more than being a supervisor, it’s a relational and familial term. It includes the responsibility to protect and take care of the environment but is not derived from any sense of ownership or authority. It is important to note the differences between western and Indigenous knowledge systems with respect to language, and the fundamental gaps that exist. It is important for acknowledgements and descriptions to provide more context so that the meaning and intention of words is made clear.</p> <ul style="list-style-type: none">- There were some concerns raised over OPG’s use of a Land Acknowledgement at all. There is an impression among Hiawatha First Nation staff that they are not being engaged with in a meaningful or intentional fashion. For example, it does not seem to be translating to staff outside of the IR team, and meetings and correspondences remain mainly focused on transactional encounters intended to progress project schedules and milestones.	<p>and ensuring collective understanding of a meaningful land acknowledgement could be a useful endeavor.</p> <p>Land acknowledgements, when engaged with meaningfully, can serve as impactful political tools to address and resist dominant narratives that often seek to diminish and/or erase Indigenous presence and colonial violence from the collective storyline (Robinson et al., 2019).</p> <p>As Treaty people, we must begin relationship building with contextual understandings that are “accurate representations of Indigenous territorial claims, languages, and governance systems” (Wark, 2021: pp. 202).</p>
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Executive Summary

Within this section OPG states “*OPG is proud of the strong performance and the many significant achievements at the Pickering Nuclear Generating Station (NGS) during the current licence term. [...] Year over year, Pickering NGS continues to meet the expectations of the CNSC and demonstrates compliance to requirements through CNSC Compliance Verification activities. The evaluations of all the findings for safety and control areas show that, Pickering NGS made adequate provisions for the protection of the health, safety and security of persons and the environment during this licensing period.*”

4 Directions staff notes that a recent review of the CNSC Regulatory Oversight Report for the Nuclear Power Generating Stations revealed that OPG was issued an Administration Monetary Penalty (AMP) as a result of a failure to comply with a licence condition in relation to its security program at the PNGS and DNGS.

For Pickering, four non-compliance findings were issued in 2022, in addition to 5 non-compliance findings on performance assessment and cyber security.

In fact, OPG was found non-compliant in security related to Facilities and Equipment in 2021, and remains non-compliant in 2022, including net-new non-compliances.

4 Directions staff request that OPG provide clarity regarding how it can stat that it ‘continues to meet the expectations of the CNSC and demonstrates compliance to requirements through CNSC Compliance Verification activities given these findings reported by the CNSC.

Given this discrepancy, 4 Directions staff requests that OPG share information with Hiwatha First Nation regarding how it defines compliance.





	Based on a declining trend in compliance performance observed, CNSC staff are even conducting enhanced regulatory oversight of this SCA.	
Executive Summary	<p>Within this section, 4 Directions staff notes that while it is generally supportive of highlighting engagement with Indigenous Peoples as part of Executive Summaries, they should not be excluded from all other sections including but not limited to, activities and areas of interest such as the protection of the public and the environment.</p> <p>4 Directions staff notes that OPG makes no acknowledgment of its potential or real impacts to rights of Indigenous Peoples.</p> <p>4 Directions finds this practice concerning as it is a clear example of omitting the presence of First Nations and Inherent, Aboriginal and Treaty rights which diminishes the role, responsibilities and obligations of the Crown in relation to First Nation Rights-holders and serves to devalue and erase First Nations' rights, interests, involvement, concerns and continued presence in narrative form.</p>	<p>4 Directions staff recommends that OPG work collaboratively with First Nation Rights-holders to develop an appropriate acknowledgement of OPG's real and potential impacts on Indigenous rights.</p> <p>4 Directions staff recommends that OPG reframe the Executive Summary to integrate Indigenous presence in all sections that are relevant to First Nation Rights-holders.</p>
Executive Summary	When discussing engagement with Indigenous Peoples, despite discussion treaty and Aboriginal rights and Section 35 of the Canadian Constitution, OPG fails to distinguish between First Nation rights-holders and Indigenous interest-holders.	4 Directions staff recommend that OPG ensures that staff are educated on the distinctions between First Nations Rights-holder and Indigenous Interest-holders, as well as between engagement and consultation activities, and that OPG clearly distinguish between First Nation Rights-holders and





	<p>4 Directions staff note this lack of distinction between First Nation Rights-holder and Indigenous interest-holders is problematic as it demonstrates a lack of understanding and contributes to the devaluation of the rights of Indigenous Peoples as well as the diminishment of the role, responsibilities, and obligations of the Crown to First Nation Rights-holders.</p> <p>Within this section OPG sites the signing of framework agreements as an example of respecting treaty and Aboriginal rights.</p> <p>4 Directions staff which to note that while the established Framework Agreements are a welcome improvement, they are the first step of engagement and relationship building. Framework Agreements may provide support and potential avenues for dialogue and opportunities to respect treaty and Aboriginal rights, but true demonstrated respect such rights is carried out through (but not limited to) mutual decision-making processes, collaborative planning of project activities, rights-based mitigation, compensation and restoration activities that are meaningfully informed by Indigenous Knowledge Systems.</p> <p>Using Framework Agreements as an example of respecting treaty and Aboriginal rights, without having demonstrated respect through the activities outlined above (or other similar activities as mutually defined between OPG and individual Rights-holding First Nations) could be viewed</p>	<p>Indigenous Interest-holders and make clear the varying depth of engagement required within its documents. Consultation activities should only occur with First Nations Rights-holders.</p> <p>4 Directions staff recommends OPG continue to focus efforts on building its capacity to respect treaty and Aboriginal rights through actions and processes that are mutually determined and agreed upon with First Nation Rights-holders. 4 Directions staff recommends that OPG communicates about its Indigenous Relations journey in a transparent manner. For example, OPG could indicate that they value respecting Aboriginal and treaty rights but acknowledge that there are gaps and are working collaboratively with the Williams Treaties First Nations to understand how they might be fully realized.</p>
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	as premature and be construed as an example of tokenism.	
Advancing Reconciliation	<p>Within this section OPG states <i>“In October 2021, OPG launched its first-ever Reconciliation Action Plan (RAP) to meaningfully advance Reconciliation with Ontario’s Indigenous Nations and communities, businesses and organizations.”</i></p> <p>4 Directions staff raises concern regarding the use of a possessive within this sentence. Indigenous Nations and communities are not subject to provincial jurisdiction or ownership but are sovereign Nations which existed prior to the Provinces’ formation.</p> <p>Within this section OPG states <i>“The plan’s primary goals include growing OPG’s economic impact for Indigenous communities and businesses to \$1 billion over the next 10 years, increasing Indigenous representation at all levels, strengthening environmental stewardship, and improving awareness and understanding of Indigenous culture, history, and perspectives within the company.”</i></p> <p>4 Directions staff raises concern over the reference to Indigenous Peoples having “perspectives”. First Nations have rights and complex and sophisticated knowledge systems that are much deeper than western science and settler perspectives. The connotation of “perspective” perpetuates the devaluation of the sovereignty of First Nations, Indigenous</p>	<p>4 Directions staff recommend OPG reframe its communications to exclude the use of possessive language with respect to Indigenous Peoples. For example, stating <i>“In October 2021, OPG launched its first-ever Reconciliation Action Plan (RAP) to meaningfully advance Reconciliation with Indigenous Nations and communities, businesses and organizations in Ontario.”</i></p> <p>4 Directions staff recommends OPG reference Indigenous values, rather than ‘perspectives’, as this is more accurate and respectful.</p> <p>4 Directions staff request that additional information regarding who received the \$56 million in procurement and \$21 million in equity, including what types of services or projects they were related to, be provided to Hiawatha First Nation for review and consideration.</p> <p>4 Directions staff request OPG provide additional information to Hiawatha First Nation regarding the RAP, including any consultation that occurred with First Nation Rights-holders during its development. 4 Directions staff would also like to request</p>





	<p>Knowledge Systems and Indigenous rights, values, cultures and spiritualities.</p> <p>Within this section OPG provides a bullet which states <i>“Delivered approximately \$77 million in economic benefits to Indigenous communities and businesses, with \$56 million in Indigenous procurement and \$21 million in distributions from our equity partnerships to our Indigenous partners.”</i></p> <p>4 Directions staff notes that while information was shared about the RAP at various forums, they are not aware of any requests from OPG for First Nation Rights-holders to provide input or to develop the RAP collaboratively.</p>	<p>information regarding how the RAP will be measured and evaluated and recommends that OPG enter into that process collaboratively with First Nation Rights-holders.</p> <p>4 Directions staff recommends that should any updates be contemplated by OPG, that it be carried out through meaningful consultation and engagement with First Nation Rights-holders.</p>
<p>Pickering NGS Performance</p>	<p>Within this section OPG states <i>“The safety of the public and our staff is our number one priority. [...] Ontario Power Generation maintains effective safety systems, robust emergency plans and strives to keep the public informed through our many nuclear emergency preparedness campaigns and initiatives. [...] The guiding principles established in OPG’s Nuclear Safety Policy state that nuclear safety shall be the overriding priority in all activities performed in support of OPG nuclear facilities; nuclear safety shall have clear priority over schedule, cost and production”</i>.</p> <p>4 Directions staff notes that a recent review of the CNSC Regulatory</p>	<p>Given this discrepancy, 4 Directions staff requests that OPG share information with Hiwatha First Nation regarding how it reconciles its commitment to nuclear safety cultures with these environmental exceedances and continued non-compliance in the area of security.</p>





	<p>Oversight Report for the Nuclear Power Generating Stations revealed that OPG was found non-compliant in security related to Facilities and Equipment in 2021, and remains non-compliant in 2022, including net-new non-compliances.</p> <p>In addition, within this Report, OPG notes that there were environmental exceedances in fish biomass and effluent, among others.</p> <p>4 Directions staff notes that these occurrences appear contradictory to the nuclear safety culture that is described within this paragraph.</p> <p>4 Directions staff remain curious regarding how OPG can reconcile its purported nuclear safety culture when there remain non-compliances and exceedances.</p>	
<p>Pickering NGS Performance</p>	<p>Within the subsection <i>Probabilistic Safety Analysis</i>, OPG states:</p> <p><i>“The Pickering NGS B PSA (PBRA) was updated and submitted in 2022. The updated 2022 PBRA addresses Level 1 and Level 2 PSA aspects for various internal events, internal fire, internal flood, seismic, high winds, as well as an external and internal hazard screening assessment and PSA for non-reactor sources. The PBRA reports submitted to CNSC staff in 2022 demonstrate that Pickering NGS B satisfies safety goals for all internal and external hazards, and hence represents very low public</i></p>	<p>4 Directions staff request OPG provide Hiawatha First Nation with more information regarding Safety Analysis and PSA; it has been brought up before as a topic of interest to the community and should be a topic of discussion between OPG and the Nation in a way that is accessible and understandable to laypersons. 4 Directions staff request OPG directly provide Hiawatha First Nation copies of the reports discussed in this section.</p>





	<p><i>risk. The Pickering NGS A PSA will be submitted to the CNSC in 2023. [...]</i></p> <p>The 2022 Annual Reliability Report for Pickering NGS A and B reported that all systems important to safety met their unavailability targets in 2022.”</p> <p>4 Directions staff notes that dialogue and information sharing by OPG remains dominated by the Darlington New Nuclear Project. As such, Hiawatha First Nation has not been made familiar with the safety analysis process and the PSA analysis.</p>	
Pickering NGS Performance	4 Directions staff notes that the figure displaying the Pickering NGS Staff Combined Annual Radiation Exposure is not clear enough to read.	4 Directions staff requests that OPG provide a clearer figure to Hiawatha First Nation for review and consideration.
Pickering NGS Performance	<p>Within the subsection <i>Emergency preparedness</i>, OPG discusses its success in being ready to respond to a nuclear emergency at length, giving several examples of measures that have been taken. For example, OPG states “<i>OPG’s Nuclear Emergency Preparedness program ensures OPG has adequate provision for the preparedness and onsite response capability that would mitigate the releases of radioactive material.</i>”</p>	4 Directions staff requests that additional information regarding Emergency preparedness be discussed with Hiawatha First Nation as a topic of interest.
Pickering NGS Performance	<p>Within the subsection <i>Emergency preparedness</i> OPG states, “<i>In the unlikely event of an emergency at Pickering NGS, OPG would perform the appropriate notifications to the Province, CNSC and local municipalities in accordance with established procedures. [...]</i> OPG, in conjunction with another nuclear facility, has prepared <i>Radiation Basics</i> training to be provided to <i>City of Toronto and Durham</i></p>	<p>4 Directions requests that OPG include Hiawatha First Nation, and other Williams Treaties First Nations who wish, be acknowledged in the emergency preparedness and notification processes. Additionally, Hiawatha First Nation needs to understand the scope and content of available training such as ‘Radiation Basics’ to determine</p>





	<p><i>Region to support Emergency Worker training efforts."</i></p> <p>4 Directions staff notes that WTFNs have previously requested to be included in the Emergency preparedness plans, including appropriate notification.</p>	<p>what parts of it may be valuable or useful to promote awareness and readiness within the community.</p>
Pickering NGS Performance	<p>Within the subsection <i>Potassium Iodine Pills</i> OPG discusses the pre-distribution of iodine thyroid blocking agents or potassium iodide, including that they are <i>"available at reception centres, emergency workers centres and for the Ingestion Planning Zone (50 km IPZ) by the Province of Ontario."</i></p> <p>4 Directions staff note that WTFNs have previously requested to receive Potassium Iodide pills to be readily distributed to community members in the event of an emergency.</p>	<p>4 Directions staff requests that OPG work with Hiawatha First Nation to ensure that Potassium Iodide pills are readily available to community members in the event of an emergency.</p>
Pickering NGS Performance	<p>Within the subsection <i>Environmental Risk Assessment</i> OPG states, <i>"The purpose of the Pickering NGS ERA is to assesses potential human health and ecological risks for exposure to radiological contaminants, conventional contaminants, and physical stressors (eg. Noise) present in the environment as a result of site operations. [...]</i> Overall, the data considered for this ERA includes results of the 2014/2015 sampling programs and routine environmental and effluent monitoring data from 2016 to 2020".</p> <p>4 Directions staff note that the sampling regime relied upon for the ERA is nearly 10 years-old, which could call into questions its validity.</p>	<p>4 Directions recommends OPG work with Hiawatha First Nation and other First Nation Rights-holders to define appropriate parameters for human health and ecological risks.</p> <p>4 Directions staff requests OPG enter into a meaningful dialogue with Hiawatha First Nation regarding the Pickering NGS ERA and PEA. How were First Nations or IKS included in that PEA. Specifically, we request that OPG provide clarity regarding how the ERA and PEA took into consideration the protection of Michi Saagiig rights, Michi Saagiig harvesters and fishers, and cultural</p>





	<p>Further, OPG states <i>“The 2022 Pickering NGS ERA meets the requirements of the Canadian Standards Association (CSA) N288.6-12 standard, Environmental risk assessments at Class I nuclear facilities and uranium mines and mills. [...] The 2022 Pickering NGS ERA confirms that Pickering NGS is continuing to operate in a manner that is protective of the health of the public and environment.”</i></p> <p>Within the subsection <i>Predictive Effects Assessment</i>, OPG states, <i>“In 2017, OPG undertook a PEA as required under the Nuclear Safety and Control Act to support the Pickering NGS power reactor operating licence renewal application process and to evaluate the potential for adverse effects to human health and the environment from the activities associated with transitioning the station from ECO to a safe storage site. [...] In 2022, OPG issued a PEA Addendum Report to demonstrate continued protection of human health and the environment based on updated baseline environmental conditions and current operational assumptions. The 2022 PEA Addendum Report was updated in April 2023 to address comments received from the CNSC and to reflect continued operation of Pickering NGS until 2026.”</i></p> <p>4 Directions staff wish to better understand how the ERA or PEA (and its amendment and update) for Pickering NGS took into consideration the protection of Michi Saagiig rights, Michi</p>	<p>keystone species as well as how First Nation Rights-holders were consulted as part of the ERA and PEA and how they considered and were inclusive of Indigenous Knowledge Systems.</p>
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	<p>Saagiig harvesters and fishers, and cultural keystone species. 4 Directions staff also wish to understand better how First Nation Rights-holders were consulted as part of the ERA and PEA and how they considered and were inclusive of Indigenous Knowledge Systems.</p> <p>For example, 4 Directions notes that the parameters for human health do not seem to include specific medicinal plants or consider how topical use, ingestions, or inhalation of such plants may be impacted. Such parameters would be inclusive of Indigenous harvesters. With respect to fish, it seems that sport fishery was considered, rather than smaller fish that may be eaten by Indigenous fishers.</p>	
<p>Pickering NGS Performance</p>	<p>Within the subsection <i>Effluent Monitoring</i>, OPG states “<i>Pickering NGS controls and monitors certain waterborne discharge streams under Environmental Compliance Approvals (ECA). During the current licence period, all effluent streams that are monitored under the ECA were discharged to the environment via approved pathways. There have been eight (8) exceedances during the period from 2018 to 2022, which were reported to the Ministry of Environment, Conservation and Parks. Three of these were related to effluent temperature exceedances and the remaining five were as a result of chemical discharge parameters exceedances above the ECA limit. It is worthwhile noting that none of these exceedances led to any significant</i></p>	<p>4 Directions staff requests OPG provide Hiawatha First Nation with more information on this topic including:</p> <ul style="list-style-type: none"> - Consideration of Impacts to Michi Saagig water, treaty and Aboriginal rights by OPG; - Information regarding the approved pathways for effluent discharge; - A copy of the ECA; - specifics on the exceedances; - notification to First Nation Rights-holders regarding these exceedances; - the determination that there was no impact to the environment; <ul style="list-style-type: none"> o observations;





	<p><i>impact to the public or the environment. Appropriate actions have been taken to minimize recurrence.”</i></p> <p>4 Directions notes that Hiawatha First Nation was not made adequately aware of these occurrences. Michi Saagiig Rights to access, protect and care for, and make decisions regarding water is a Right maintained by Indigenous Peoples in Canada (COO, 2008; AFN, 2019). As such, any decisions regarding water, including effluent monitoring, must be addressed in consultation with First Nation Rights-holders.</p> <p>4 Directions staff would like to better understand what the approved pathways for effluent discharge are and specifically, what mitigation efforts are in place.</p>	<ul style="list-style-type: none"> ○ actions or plans taken to mitigate ○ lessons learned ○ consideration of cumulative impacts. <p>4 Directions staff recommends OPG work collaboratively with Hiawatha First Nation to establish an appropriate notification process.</p> <p>4 Directions staff recommends OPG include Hiawatha First Nation in decisions and activities related to the protection of or impact to the waters.</p>
<p>Pickering NGS Performance</p>	<p>Within the subsection <i>Groundwater Protection and Monitoring Program</i> OPG states, <i>“From 2018 to 2022, the groundwater data collected from many of the key areas at Pickering NGS indicate that tritium concentrations have mostly remained constant or decreased, showing stable or improved environmental performance, demonstrating that there are no off-site impacts. Additionally, as part of the program, groundwater samples are collected from over one hundred sampling locations annually on the Pickering site. Collected samples are mainly analyzed for tritium, but some locations are also analyzed for petroleum hydrocarbons, benzene, toluene, ethylbenzene, xylenes, and dissolved iron.”</i></p>	<p>4 Directions staff requests that OPG facilitate a focused and ongoing dialogue regarding the groundwater protection and monitoring program with Hiawatha First Nation. As this is an area of major concern, we request that information also be developed for general community membership.</p> <p>4 Directions staff requests that OPG provide monitoring results data and additional relevant information directly to Hiawatha First Nation for review and consideration.</p> <p>4 Directions staff recommends OPG include Hiawatha First Nation in decisions and activities related to</p>





	<p>4 Directions staff notes that Michi Saagiig Rights to access, protect and care for, and make decisions regarding water is a Right maintained by Indigenous Peoples in Canada (COO, 2008; AFN, 2019). As such, any decisions or activities regarding water, including ground water protection and monitoring, must be addressed in consultation with First Nation Rights-holders.</p> <p>4 Directions staff notes that while OPG has presented a snapshot of the Groundwater protection and monitoring program at routine meetings, there has not been enough information presented through that forum or within this report for Hiawatha First Nation to determine the extent of concerns it may have.</p> <p>We wish to note that while tests for each contaminant may be within the limits, the cumulative effects are not demonstrated to be clearly understood within this Report.</p>	<p>the protection of or impact to the waters.</p>
<p>Pickering NGS Performance</p>	<p>Within the subsection <i>Spill Management Program</i> OPG states, “Any spill that is likely to cause an adverse effect, or simply makes its way to a waterbody regardless of quantity, must be reported to the Ministry of Environment, Conservation and Parks. [...] During the current licence period (2018-2022), there were no Category A or B spills, and there were five (5) Category C spills.”</p>	<p>4 Directions staff requests that OPG provide more information regarding the specifics of these occurrences to Hiawatha First Nation for review and consideration.</p> <p>4 Directions staff recommends OPG work collaboratively with Hiawatha First Nation to establish an appropriate notification process.</p>





	<p>4 Directions notes that Hiawatha First Nation was not made adequately aware of these occurrences. Michi Saagiig Rights to access, protect and care for, and make decisions regarding water is a Right maintained by Indigenous Peoples in Canada (COO, 2008; AFN, 2019). As such, any decisions or activities regarding water, including potential spills that enter a waterbody, must be addressed in consultation with First Nation Rights-holders.</p>	<p>4 Directions staff recommends OPG include Hiawatha First Nation in decisions and activities related to the protection of or impact to the waters.</p>
<p>Pickering NGS Performance</p>	<p>Within the subsection <i>Fish Impingement and Entrainment</i> OPG states, “<i>Routine monitoring of fish impingement is conducted weekly throughout the year. Fish from the screenhouse are collected in bins and trained staff identify the fish species, count them and measure the size and weight of the fish sampled. The estimated biomass of impinged fish is reported annually to the CNSC and DFO and reports are posted to OGP’s website. Over the period 2018-2022, combined biomass of all species and ages impinged were below the two-year consecutive threshold of 3619kg except in 2018 and 2019, This exception was reported to the DFO as a condition of the FAA. [...] In 2018, impingement was influenced by above average impingement rates in May, June and October which were all higher than the same months in the previous 5 year period. In 2019, impingement was influenced by above average impingement rates in January, June, November and December. Subsequent investigations determined that none of the exceedances were caused by</i></p>	<p>4 Directions staff requests OPG provide Hiawatha First Nation with more information on this topic including:</p> <ul style="list-style-type: none"> - how OPG considered Impacts to Michi Saagig water, treaty and Aboriginal rights within the FAA; - Copies of the Fish Impingement reports to be provided directly to Hiawatha First Nation; - specifics on the exceedances in 2018 and 2019; - information regarding notification to First Nation Rights-holders about these exceedances; - how it was determined that these exceedances were not caused by Pickering NGS operations - information regarding mitigation response, including the potential use of a bubble curtain. <p>4 Directions recommends OPG meaningful consult with Curve Lake First Nation and Hiawatha First</p>





	<p><i>Pickering NGS operations and were primarily attributed to unusually cold weather and other environmental phenomena.”</i></p> <p>4 Directions staff notes that impacts to fish, including impingement and entrainment present a direct impact to Michi Saagiig inherent, Aboriginal and treaty rights. While OPG has presented some information regarding Fish Impingement and Entrainment to Hiawatha First Nation at routine meetings, there has not been enough information presented through that forum or within this report for Hiawatha First Nation to determine the extent of concerns it may have. The Pickering FAA and its offsets should be informed by meaningful consultation First Nation Rights-holders and informed by Indigenous Knowledge Systems.</p> <p>4 Directions notes that the biomass parameters might be too narrow of an approach to adequately understand impacts. More information would be required to understand what impacts may be occurring to the ecosystem. All fish who are impinged, regardless of species, size, or age are members of an ecosystem, all of which play an integral role.</p> <p>Of additional concern is OPG’s current offset program under the FAA. 4 Directions notes that the offset should reflect the native species that are impacted, as well as occur within Michi</p>	<p>Nation regarding the Pickering FAA and its offsets. There needs to be dialogue that addresses these particular concerns.</p> <p>4 Directions recommends OPG consider its offset program in collaboration with Hiawatha First Nation to ensure that the outcomes protect Michi Saagiig rights and revitalize Michi Saagiig culture.</p>
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	<p>Saagiig territory in a location that is meaningful to the community.</p> <p>For example, Atlantic Salmon are not a cultural keystone species to the Michi Saagiig Anishinaabeg.</p> <p>While 4 Directions is generally supportive of appropriate Habitat Restoration and Enhancement measures, we note that targeting the mouth of the river seems short sighted given the more northerly portions of the watershed are being heavily impacted by development and have several fish barriers.</p> <p>4 Directions notes that HFN and CLFN would like to be meaningfully consulted in the Pickering FAA and subsequent offsets to address the concerns outlined, as well as other that may arise through the course of discussions and dialogue.</p>	
<p>Engagement and Consolation</p>	<p>Within this section, OPG recognizes that the Pickering NGS is located in the traditional and treaty territory of the WTFNs. OPG goes onto state that <i>“Over the course of OPG’s engagement with the WTFN, the perspective that all life is connected has been shared and has helped frame OPG’s approach to various plant and animal species – particularly those that are viewed as “invasive species” by the western world.”</i></p> <p>4 Directions staff note that it is not clear why this particular example was highlighted by OPG. While this statement is true and important, it is</p>	<p>4 Directions staff request clarity regarding why OPG chose to highlight invasive species among all the collective feedback it has received from the WTFNs.</p> <p>4 Directions staff recommends OPG refer to Indigenous values rather than ‘perspectives’, and further be specific as to whom this value is attributed.</p>





	<p>not clear why OPG has chosen to highlight invasive species rather than the importance and expressed concern of Hiawatha First Nation over biodiversity and bio-connectivity for example.</p> <p>As raised in other areas of this review, OPG erroneously uses the word 'perspective' here, which diminishes the values of Indigenous Knowledge Systems. Additionally, it isn't clear which First Nation shared this knowledge. 4 Directions notes that it isn't appropriate to credit this knowledge to the collective Williams Treaties First Nations as Indigenous Knowledge Systems are diverse and vary across placed, cultures, and individuals. The Williams Treaties First Nations are comprised of two different cultural groups and 7 unique First Nations.</p>	
<p>Engagement and Consultation</p>	<p>Within this section, OPG states <i>"OPG continues to engage with rights holders surrounding Pickering NGS to build an understanding of Indigenous Knowledge and values and how they can be incorporated into the operational methodologies and practices."</i></p> <p>4 Directions staff notes that proximity to the Pickering NGS is not relevant, but rather those who have signed treaties over the lands upon with the Pickering NGS is located. These are the Michi Saagiig Anishinaabeg.</p>	<p>4 Directions recommends that OPG refine this statement to provide clarity regarding rights as being delineated by treaty rather than by geographical proximity.</p>
<p>Engagement and Consultation</p>	<p>Within this section, OPG states <i>"Meaningful engagement takes time and effort and OPG is committed to</i></p>	<p>4 Directions staff recommend OPG be clear about its responsibility to ensure the engagement and</p>





	<p><i>working with the Indigenous Nations and communities to develop culturally appropriate frameworks and respectful protocols that incorporate their priorities and capacity needs."</i></p> <p>4 Directions staff raise concerns with this statement. Capacity needs in First Nations with respect to consultation are created by industry and government. Case law has clearly established that it is the obligation of the proponent to ensure that requisite capacity is provided to First Nations to ensure a fair and balanced consultation process. Describing it as a 'need' of the community may perpetuate negative stereotype of First Nations to being incapable or as receiving 'hand-outs'. It lacks the context regarding the responsibility OPG has to First Nation Rights-holders as part of its own goals to advance projects within Michi Saagiig territories.</p> <p>4 Directions staff notes that Hiawatha First Nation and Curve Lake First Nation have already established protocols to inform consultation and engagement which should be followed.</p> <p>Hiawatha First Nation Consultation and Accommodations Standards (2017)</p> <p>Curve Lake First Nation Consultation and Accommodation Standards (2016)</p> <p>Curve Lake First Nation Archaeological Protocol (2016)</p>	<p>consultation is fair and balance which necessitates provision of funding to support the resources of the community which are taken up by OPG and its projects, operations and activities.</p>
<p>Engagement and Consultation</p>	<p>Within the subsection <i>Indigenous Community Meetings</i>, OPG states,</p>	<p>4 Directions staff recommends OPG continue to work with Hiawatha</p>





	<p><i>“OPG engages with these identified Indigenous Nations and communities on a regular basis to discuss plans such as ECO as well as station operations, environmental reporting, employment/ procurement opportunities and other topics viewed as priorities by the communities.”</i></p> <p>4 Directions staff notes, that while there seems to be an intention to engage with Hiawatha First Nation on the topics outlined within the statement, engagement and consultation has been dominated by the Darlington New Nuclear Project, and agendas are often focused on OPG’s priorities.</p>	<p>First Nation to understand how topics outside of the DNNP, and of particular importance to the Nation can be more readily discussed and grow to a meaningful dialogue.</p>
<p>Engagement and Consultation</p>	<p>Within the subsection <i>Indigenous Community Meetings</i>, OPG states <i>“In 2021, the following areas of interest were discussed and addressed with local Indigenous Nations and communities (WTFN, Mohawks of the Bay of Quinte, Six Nations, and Métis Nation of Ontario Region 8)”</i>.</p> <p>4 Directions staff raise concerns regarding this description as it does not clearly describe Indigenous rights, rather than a mere interest in activities. Further, within this statement there is not a clear distinction made between First Nation Rights-holder and Indigenous interest-holders. Both of these instances diminish and devalue the rights of Indigenous Peoples.</p> <p>4 Directions notes that out of respect, the Williams Treaties First Nations should be listed out individually. It is</p>	<p>4 Directions staff recommends that OPG educate its staff on the distinctions between Indigenous interests and rights as well as First Nation Rights-holders and Indigenous Interest-holders.</p> <p>4 Directions staff recommends OPG include language that reflects not only a mere interest by First Nations rights-holders in OPG activities, and ensures communications make distinctions between rights-holders and interest-holders.</p> <p>4 Directions recommends OPG refine the list of communities to list out each individual First Nation who are part of the Williams Treaties First Nations.</p>





	not clear if OPG had discussions with each WTFN community.	
Engagement and Consultation	<p>Within the subsection <i>Indigenous Community Meetings</i>, OPG states “Some of the WTFNs have express specific interest in the DFO authorization, particularly as it relates to the Pickering NGS end of operations timeline and discussions are ongoing.”</p> <p>4 Directions raises concern that this statement erroneously characterizes some of the WTFN’s as having a mere interest, rather than transparently communicating that there are expressed concerns. In fact, Curve Lake First Nation and Hiawatha First Nation have requested to be meaningfully consulted on the Pickering FAA, which has not yet transpired.</p>	4 Directions recommends that OPG refine this statement to transparently communicate that there are expressed concerns regarding the Pickering NGS FAA, and that Curve Lake First Nation and Hiawatha First Nation have requested to be meaningfully consulted on the FAA, which has not yet transpired.
Engagement and Consultation	<p>Within the subsection <i>Indigenous Community Meetings</i>, OPG states “OPG had discussions with Curve Lake, Scugog Island and Hiawatha regarding Pickering environmental initiatives such as monitoring of fish and groundwater and mitigation efforts in reducing impacts to endangered species.”</p> <p>4 Directions raises concern that this statement erroneously characterizes the interaction as a discussion and limits efforts to reducing impacts to endangered species rather than identifying that concerns were raised and that reducing impacts to species of cultural significance was discussed.</p>	4 Directions staff recommends that OPG refines this statement to include the fact that concerns were raised across each topic and that mitigation efforts were related to species of cultural concern, only some of which are considered endangered by Western regulation.
	Within the subsection <i>Making a Positive Impact</i> OPG states “For 2023 and beyond, an overarching Indigenous Engagement Plan is also being	4 Directions staff requests that OPG provide additional information regarding the Indigenous Engagement Plan, including





	<p>developed by OPG in collaboration with the Indigenous Nations and communities proximate to OPG’s nuclear operations which will support the prioritization and resource allocation required to continue meaningful engagement on Pickering NGS’s operations.”</p> <p>4 Directions notes that to its knowledge, Hiawatha First Nation has not been engaged regarding an overarching Indigenous Engagement Plan.</p>	<p>providing clarity regarding how it was developed in collaboration with First Nation Rights-holders.</p>
<p>Engagement and Consultation</p>	<p>Within the <i>National Indigenous History month</i> cutout, OPG states that it “<i>celebrates the progressive relationships and strong partnerships we have built with Indigenous Nations and communities across Ontario.</i>”</p> <p>4 Directions staff notes that it is not clear how the characterization of ‘progressive relationships and strong partnerships’ was arrived at and specifically if it included feedback from First Nations and Indigenous communities as part of that determination.</p> <p>Without clarity regarding arriving at this characterization collaboratively with First Nation Rights-holder and Indigenous communities, this characterization could be considered paternalistic.</p>	<p>4 Directions staff requests that OPG provide clarity regarding how the characterization of ‘progressive relationships and strong partnerships’ was determined.</p>
<p>Powering the Future</p>	<p>In the subsection <i>Refurbishment Feasibility Assessment</i> OPG states “<i>As of August 2023, OPG completed the assessment stage, which included scope development, initial cost estimates,</i></p>	<p>4 Directions staff recommends OPG refines this statement to accurately and transparently communicate that information has been shared with some First Nation</p>





	<p><i>schedule development, risk assessments, economic evaluations and regulatory strategies. It includes completion of preliminary high-level technical assessment, progress updates, initial financial assessments, industry capacity and capability assessments, and commercial strategies, community engagement and initial discussions with First Nation communities”</i></p> <p>4 Directions staff note that while OPG has provided information regarding the Pickering Refurbishment Feasibility Study, there have not yet been any meaningful discussions with Hiawatha First Nation.</p>	<p>communities, rather than to say discussions have occurred.</p>
<p>Conclusion</p>	<p>Within this section OPG states <i>“To promote engagement and transparency, Pickering NGS has fostered communication with its neighbors and the Indigenous communities that have a vested interest in the station’s safe operation.”</i></p> <p>4 Directions staff raise concerns regarding this description as it does not clearly describe Indigenous rights, rather mischaracterizes a mere interest in activities. This diminish and devalue the rights of Indigenous Peoples.</p>	<p>4 Directions staff recommends that OPG educate its staff on the distinctions between Indigenous interests and rights and include language that reflects not only a mere interest by First Nations rights-holders in OPG activities.</p>

3.0 Closing Remarks

4 Directions staff are concerned regarding the lack of transparency within OPG’s *Mid-Term Update of Licensed Activities for the Pickering Nuclear Generating Station (CMD:23-M36.1)*. There remain discrepancies between OPG’s Midterm report and the findings of the CNSC ROR for Canadian Nuclear Power Generating Stations that must be addressed. 4 Directions staff remain concerned regarding the demonstrated lack of understanding of Michi Saagiig lands, rights and treaties. Moreover, we have highlighted several instances where the proponent has used harmful language and styles throughout the provided documents. For example, the lack of distinction between First Nation Rights-holders and





Indigenous Interest-holders risks diminishing Indigenous Peoples rights, interests, values, cultures and spiritualities.

4 Directions remains concerned regarding the continued non-compliance of OPG in the security safety control area as well as the exceedances discussed within this report related to effluent and fish impingement. 4 Directions recommends Hiawatha First Nation continue to work with OPG to address these concerns.

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

Miigwetch,

Jaimi O'Hara

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