



**Written submission from the
Mississaugas of Scugog Island
First Nation**

**Mémoire de la Première Nation
des Mississaugas de Scugog Island**

In the Matter of

À l'égard d'

Ontario Power Generation

Ontario Power Generation

**Ontario Power Generation – Application to
change the licensing basis for the Pickering
Waste Management Facility**

**Ontario Power Generation – Demande
visant à modifier le fondement
d'autorisation de l'installation de
gestion des déchets de Pickering**

Public Hearing – Hearing in writing based on
written submissions

Audience publique – Audience fondée sur
des mémoires

June 2024

Juin 2024



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Written Intervenor Submission:

Ontario Power Generation's application to change the licensing basis for the Pickering Waste Management Facility



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Mississaugas of Scugog Island First Nation Consultation Office

June 7, 2024



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To the attention of:

The Canadian Nuclear Safety Commission (CNSC)

Via email: interventions@cnscccsn.gc.ca

Re: Ontario Power Generation's application to change the licensing basis for the Pickering Waste Management Facility

Thank you for the opportunity to comment on the application from Ontario Power Generation (OPG) to change the licensing basis for the Pickering Waste Management Facility (PWMF).

Comments on behalf of the Mississaugas of Scugog Island First Nation are below.

1.0 Introduction

The Mississaugas of Scugog Island First Nation (MSIFN) is located on the shores of Lake Scugog in the Region of Durham, Ontario. MSIFN, alongside the other Michi Saagiig and Chippewa First Nations, collectively form the Williams Treaties First Nations (WTFNs). Within these Treaty territories, MSIFN places utmost importance on protecting the lands, waters, wildlife, and fisheries vital to our livelihood, along with ensuring community safety.

The Pickering Waste Management Facility (PWMF) is situated within the territory covered by the Gunshot Treaty and the Williams Treaties of 1923, having treaty rights reaffirmed in 2018, granting MSIFN a rights-holding position in the project. MSIFN's reserve community is located just 41 km from the PWMF, and members have concerns and uncertainties regarding the safety, management, and security of the nuclear waste stored onsite, as well as potential ongoing environmental impacts. MSIFN must endure these risks without ever having provided consent to the project, and with no option to relocate our treaty lands to mitigate these risks to community safety and treaty rights. MSIFN emphasizes the imperative for the CNSC and OPG to prioritize the safety of MSIFN community members and uphold treaty rights.

Given the recent Supreme Court of Canada's unanimous decision and opinion ([2024 SCC 5 \(CanLII\)](#)) that the [United Nations Declaration on the Rights of Indigenous Peoples \(UNDRIP\)](#) is now incorporated into Canada's domestic positive law by the *United Nations Declaration on the Rights of Indigenous Peoples Act*, MSIFN notes that the Crown must obtain MSIFN's free, prior and informed consent (FPIC) for the storage of hazardous materials such as nuclear waste on WTFN



treaty lands and territories (See Article 29-2 of UNDRIP) . MSIFN’s consent is also required by the federal Minister of Natural Resources’ endorsement of Canada’s “Integrated Strategy for Radioactive Waste” and the proposed new facilities at the PWMF to accommodate, process and store up to 100 dry storage containers containing 6-year-old used fuel.

2.0 Background

Ontario Power Generation is seeking approval from the Canadian Nuclear Safety Commission to change the licensing basis for the Pickering Waste Management Facility. OPG currently holds a waste facility operating licence for the PWMF. The current licensing basis authorizes OPG to process and store, at the PWMF, dry storage containers containing used CANDU fuel that has been cooled in wet storage at the PNGS for at least 10 years. OPG has applied for authorization for additional facilities at the PWMF to process and store up to 100 dry storage containers containing 6-year-old used fuel.

The purpose of OPG’s change request is to allow for additional facilities and space in the PNGS-B irradiated fuel bay to support the OPG Safe Storage Project for the PNGS. The processing and storage of dry storage containers containing used fuel that has been cooled for less than 10 years is outside the current licensing basis for the PWMF and requires Commission authorization.

MSIFN has reviewed OPG’s initial application submission as well as the addendum to the Application for Amendment to the Pickering Waste Management Facility, Waste Facility Operating Licence WFOL-W4-350.00/2028. Below are the key concerns identified.

3.0 Key Concerns

There is still no established long-term plan for managing and storing used nuclear fuel in Canada, only interim storage. Given the risks associated with the storage of radioactive waste in the Treaty Territory, possibly indefinitely, MSIFN underscores the necessity of securing its free, prior and informed consent. The proposed license extension for PNGS would result in additional facilities at the PWMF and the generation of more solid radioactive waste than initially anticipated, as Units 5 to 8 would continue to operate until 2026 instead of being decommissioned. Again, it should be emphasized that MSIFN never provided consent to the Pickering Nuclear Generating Station, Pickering Waste Management Facility, or future on-site storage of nuclear waste at the Pickering site. We are now faced with the associated risks.

The purpose of OPG’s licensing change request is to allow for additional facilities and space in PNGS-B to support the OPG Safe Storage Project for the PNGS. It is unclear whether the additional



facilities and space will also be used for the spent fuel generated by the proposed Pickering NGS Life Extension. We are aware that OPG has submitted a Letter of Intent to the CNSC for a license amendment to construct a new storage facility, the Pickering Component Storage Structure (PCSS), at the Pickering Waste Management Facility site. OPG indicates that additional interim storage facilities and space are needed to support the refurbishment of Pickering NGS Units 5 through 8 and decommissioning activities.

MSIFN is concerned that OPG is freeing up capacity for increased nuclear waste storage and planning additional storage structures without having received approval from the CNSC to continue operating Units 5 to 8 until 2026 or approval for refurbishing units at the Pickering NGS. MSIFN has also requested a regulatory roadmap for the PNGS life extension and refurbishment, inclusive of PWMF facilities, on multiple occasions, which has yet to be provided. OPG is moving forward with plans to manage spent fuel at the Pickering site without MSIFN having a comprehensive understanding of the required regulatory process, and leaving MSIFN unable to decide to provide or withhold its free, prior and informed consent. This situation also prevents us from assessing the cumulative impacts of PNGS and PWMF on MSIFN's treaty and traditional rights.

MSIFN emphasizes the necessity of the Commission drafting and implementing a binding provision that not only protects the environment but also upholds the rights of First Nations, particularly concerning UNDRIP and FPIC in relation to the proposed facilities management of nuclear waste at the Pickering Nuclear site. These matters should be thoroughly assessed and addressed through meaningful collaboration between OPG and concerned WTFNs, recognizing them as the primary rights holders of the lands and waters of the Pickering site. It is crucial to remind the Commission that MSIFN has never granted consent for storing any on-site waste at the Pickering site.

3.1 Spent Fuel Management

MSIFN has requested in previous interventions to the Commission that the CNSC require OPG to commit to supporting MSIFN's leadership in a review of international best practices for the management and storage of used nuclear fuel at their reactor sites. MSIFN and OPG have discussed a benchmarking study using international standards, and MSIFN has submitted a proposal. The report would assist MSIFN and other Nations in understanding the following:

- OPG's current approach to spent fuel management for the Pickering and Darlington NGS sites, and the DNNP
- Planning for the possibility that the NWMO is unable to build and operate a DGR, or encounters significant delays in doing so



- Observed best practices in spent fuel management from other Western world nuclear plant operators, and how OPG's practices benchmark against global standards
- Risks that the WTFNs bear with current OPG spent fuel management practices
- The extent of liabilities for spent fuel on surrounding communities

OPG has stated that they agree in principle but have yet to formally commit to supporting MSIFN with this review. We again ask that the Commission require OPG to support MSIFN leadership in a review of international best practices for the management and storage of used nuclear fuel at their reactor sites. This step is fundamental to MSIFN deciding to provide or withhold its free, prior and informed consent for the current application and future applications at PNGS.

3.2 Safety

Nuclear safety is paramount to MSIFN. Nearly every aspect of the nuclear fuel lifecycle occurs within our territory, except for uranium mining. These activities, which did not exist before colonization, have and will continue to impact our community. The responsibility of the CNSC and OPG to ensure the safety of our community members must not be taken lightly.

We are interested in ongoing conversations regarding the safety and security of the PNGS Storage Buildings, as they hold dangerous amounts of high-level radioactive waste which is of concern to our First Nation. MSIFN is particularly concerned about human causes of external hazards such as the effects of harmful substances (e.g. explosive gases), blast waves caused by chemical explosions at nearby facilities and industrial rail/road networks, fires spreading to the facility, aircraft crashes, and various terrorism threats. Any potential for collaboration around these items would be beneficial to both MSIFN and OPG/CNSC.

MSIFN is the only First Nation community located within the 50 km Ingestion Planning Zone (IPZ) for distribution of potassium Iodide (KI) pills in the event of an emergency at the PNGS. MSIFN has asked CNSC staff whether there is any scenario in which there could be an atmospheric release from the waste storage facilities on the Pickering site requiring ingestion of KI pills. CNSC staff replied that there are no scenarios for the waste management facilities where KI would be required. We understand that potassium iodide pills can be used to protect the thyroid gland from radioactive iodine that may be released into the air in the event of a radiological emergency. Given that spent nuclear fuel still contains radioactive iodine, it is unclear how there are no cases in which KI would be required for accidents or malfunctions at the PWMF that result in atmospheric releases. Furthermore, the requested licensing change would allow OPG to store fuel that is less than 10 years old, introducing additional unknown safety risks. The aforementioned



benchmarking study of international best practices for the management and storage of used nuclear fuel at their reactor sites would assist MSIFN in understanding these risks.

3.3 Collaborative Planning

Overall, we request that OPG and the CNSC engage in activities that embody a collaborative planning approach with MSIFN and other interested Williams Treaties First Nations concerning all aspects of safety and emergency response planning. Such a process would ensure that interested First Nations are kept informed about operations and issue management at the PWMF and are invited to collaborate on initiatives such as community-specific plans or emergency response working groups. This is critically important to our Nation and the safety and rights of the MSIFN community. Such a collaborative planning approach is fundamental to MSIFN’s decisions to provide or withhold its free, prior and informed consent for such Crown decisions. Our understanding of collaborative planning is rooted in the International Association for Public Participation’s (IAP2) spectrum of public participation (see figure below).



developed by the international association for public participation

	INFORM	CONSULT	INVOLVE	COLLABORATE	EMPOWER
PUBLIC PARTICIPATION GOAL	To provide the public with balanced and objective information to assist them in understanding the problem, alternatives and/or solutions.	To obtain public feedback on analysis, alternatives and/or decision.	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.	To place final decision-making in the hands of the public.
PROMISE TO THE PUBLIC	We will keep you informed.	We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision.	We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.	We will look to you for advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.	We will implement what you decide.

Collaborative planning requires OPG to partner with MSIFN in each aspect of its decision-making process for major projects and the operation of major facilities, including the development of alternatives and the preferred solutions. Collaborative planning also means OPG looking to MSIFN for advice and innovation in formulating solutions, and incorporating MSIFN’s advice and recommendations into its decisions to the maximum extent possible. OPG has demonstrated, on



occasion, that it is interested in true collaborative planning with MSIFN, and needs to enshrine such collaborative planning in its corporate policies.

3.4 Rights, UNDRIP, and Consent

The constitutional protection afforded to MSIFN under section 35(1) of the Constitution Act, 1982, is a critical aspect that demands attention in this context. This section not only recognizes but also affirms the existing Aboriginal and treaty rights of the Aboriginal peoples of Canada, thereby imposing a duty of careful consideration on regulatory processes for projects like PNGS. In parallel, UNDRIP plays a pivotal role.

3.4.1 Implementation of UNDRIP and Action Measure #34 under the Nuclear Safety and Control Act

As noted above, given the recent Supreme Court of Canada's unanimous decision and opinion (2024 SCC 5 (CanLII)) that the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is now incorporated into Canada's domestic positive law by the *United Nations Declaration on the Rights of Indigenous Peoples Act*, the Crown must obtain MSIFN's free, prior and informed consent (FPIC) for the storage of hazardous materials such as nuclear waste on WTFN treaty lands and territories (See Article 29-2 of UNDRIP). MSIFN's consent is also required by the federal Minister of Natural Resources' endorsement of Canada's "Integrated Strategy for Radioactive Waste" and the proposed new facilities at the PVMF to accommodate, process and store up to 100 dry storage containers containing 6-year-old used fuel.

The Commission must consider UNDRIP and its provision for "free, prior and informed consent" (FPIC) in interpreting section 35(1). Furthermore, the *UNDRIP Act, 2021* (UNDA) has introduced new legal perspectives, marking a significant evolution in Aboriginal law in Canada. Specifically, it underscores the recognition of Indigenous peoples as sovereign entities, thereby shaping their legal and constitutional landscape. In essence, this means that UNDRIP is, today, now part of Canadian law, applicable to federal, provincial, and territorial law.

The CNSC has yet to embrace and incorporate UNDRIP and FPIC in its policies and regulations, despite the SCC interpreting the *UNDRIP Act* as recognizing UNDRIP as a pre-existing set of rights that must continue to animate Canadian law. The CNSC must now officially recognize and respond accordingly to the SCC's interpretation of UNDA as recognizing UNDRIP as a pre-existing set of rights. MSIFN understands that the CNSC is involved in broader efforts by the Government of Canada to continue advancing implementation of the UN Declaration, including through the efforts to implement UNDA and the 2023 – 2028 Federal UNDA Action Plan. MSIFN is concerned



that current and near future CNSC decisions including this decision on the license extension application for Pickering NGS and the current application should be, but may not be, informed by the SCC's position on UNDRIP as "domestic positive law".

MSIFN understands that the CNSC is committed to working in consultation and cooperation with Indigenous communities, including MSIFN, and relevant Federal departments and agencies to support the implementation of measures in the UNDA Action Plan that intersect with the CNSC's mandate, including measures that relate to further guidance on the Federal Government's approach to Free, Prior, and Informed Consent (FPIC). We understand that CNSC staff look forward to continuing discussions regarding the UNDA Action Plan and UNDRIP implementation as part of the CNSC's policies, regulatory framework and practices. However, these activities should not prevent the CNSC from applying UNDRIP to current and future decisions now that the Supreme Court of Canada has provided a unanimous decision and opinion that UNDRIP is incorporated in Canadian domestic positive law.

Considering this, in conjunction with the SCC's comments on UNDRIP, MSIFN would like to bring to the CNSC's attention Action Measure #34 of UNDA, including the steps to achieve the objectives of the measure¹². Action Measure #34 states that the Canada Energy Regulator (CER) will "work in consultation and cooperation with First Nations, Métis and Inuit communities, governments and organizations to (i) enhance the participation of Indigenous peoples in, and (ii) set the measures that could enable them to exercise federal regulatory authority in respect of, projects and matters that are currently regulated by the Canada Energy Regulator."

To achieve these objectives, UNDA tasks the CER and Natural Resources Canada (NRCan) to complete the following:

- Develop regulations respecting the Minister of Natural Resources Canada's power to enter into arrangements that would enable Indigenous governing bodies to be authorized to exercise specific powers, duties and functions under the Canadian Energy Regulator Act.
- Amend the Canadian Energy Regulator Onshore Pipeline Regulations and Filing Manuals applicable to the lifecycle (design, construction, operation and abandonment) of CER-regulated infrastructure, in a manner that:
 - o "Incorporates specific localized knowledge held by Indigenous peoples, as well as Indigenous laws, policies, practices, protocols, and knowledge."

¹ OKT Law, 2024, UNDRIP is now part of Canada's "domestic positive law". What does this mean? - <https://www.oktlaw.com/undrip-is-now-part-of-canadas-domestic-positive-law-what-does-this-mean/>

² Canada Energy Regulator, 2023. "Walking the Talk Toward Reconciliation," accessed on April 24, 2024, from <https://www.cer-rec.gc.ca/en/about/news-room/feature-articles/2023/collaboration-co-development-walking-talk-toward->



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- “Strengthens measures to prevent and address impacts to Indigenous rights and interests, including in relation to heritage resources and sites of Indigenous significance.”
- Develop a systemic model to enhance Indigenous peoples’ involvement in compliance and oversight over the lifecycle (design, construction, operation and abandonment) of CER-regulated infrastructure. The model should integrate learnings from existing structures and relationships.
- Consult and cooperate to identify and take the measures needed to support Indigenous governing bodies, and/or the potential establishment of new Indigenous decision-making institutions, to exercise regulatory authority on projects and matters regulated by the Canada Energy Regulator, including:
 - “Co-develop with First Nation, Métis and Inuit communities, governments and organizations and relevant federal department and regulators the mandate of such bodies or institutions, as well as the mechanisms required for empowering them with certain regulatory authorities.”
 - “Identify the actions and allocate the resources required to further develop capacity and expertise for the exercise of regulatory authority by such bodies or institutions.”
- “This work could lead to other federal departments, regulators or institutions, similarly working in consultation and cooperation with First Nations, Métis and Inuit communities, governments and organizations, to:
 - “Enhance the participation of Indigenous peoples.”
 - “Set the measures that could enable them to exercise regulatory authority, in respect of federally regulated natural resource projects.”

MSIFN asserts that the above referenced work of Action Measure #34 and the recent Supreme Court of Canada unanimous decision and opinion should lead regulators, such as the CNSC, to work now in consultation and cooperation with Indigenous communities, governments and organizations, to (i) enhance the participation of Indigenous peoples, and (ii) set the measures that could enable Indigenous governing bodies to exercise regulatory authority under the *Nuclear Safety and Control Act*, in respect of federally regulated nuclear energy projects, including the development, production and use of nuclear energy and the production, possession and use of nuclear substances.

Action Measure #34 is a fitting model that could be molded swiftly under the *Nuclear Safety and Control Act*, given that the Minister of Natural Resources administers the Act in question. Additionally, NRCan is responsible for implementing UNDA measures, including Action Measure



#34, and can work with other regulators, such as the CNSC, to enable Indigenous governing bodies to exercise regulatory authority. MSIFN asserts that Action Measure #34 is a fitting model that could be molded under the *Nuclear Safety and Control Act*, given that the Commission has existing powers to (i) enter into arrangements, (ii) establish advisory, standing and other committees, and (iii) certify persons to carry out duties under the *Nuclear Safety and Control Act*. Furthermore, the Commission has the authority to issue, renew, suspend in whole or in part, amend, revoke, replace or redetermine a licence to carry out any activity described in the *Nuclear Safety and Control Act*. Consequently, MSIFN affirms that our ability to exercise regulatory authority, understanding the Minister's and Commission's powers and abilities, can meaningfully shape the outcome of regulatory proceedings and establish new consultation standards exceeding those identified in REGDOC 3.2.2 Indigenous Engagement.

Separately, MSIFN understands that the provisions enacted by the *Nuclear Safety and Control Act* are to be construed as upholding the rights of Indigenous peoples recognized and affirmed by section 35 of the Constitution Act, 1982. In 2018, the recognition of pre-existing treaty and harvesting rights of the Williams Treaties First Nations, including MSIFN, were affirmed by the Government of Canada through the WTFN Settlement Agreement. The Settlement Agreement underscores the recognition of inherent, Aboriginal and Treaty Rights within MSIFN's Treaty and Traditional territory thereby reshaping MSIFN's legal and constitutional position in Canada. MSIFN's Treaty and Traditional territory encompasses numerous nuclear facilities and nuclear waste facilities. Additionally, MSIFN's Treaty and Traditional territory features major waterbodies and waterways, including Lake Ontario and the Trent Severn, as well as linear transportation routes, including and the CN Rail and Highway 401 (which is actively used to transport nuclear waste and other nuclear materials).

MSIFN asserts that our ability to exercise regulatory authority under the *Nuclear Safety and Control Act*, in conjunction with the Federal government, will enhance participation in the regulatory process. This will respect MSIFN's rights, including our right to self-determination and self-government, and considerably advance legal pluralism, including honouring and recognizing the spirit of the Treaties. Additionally, the ability to exercise regulatory authority under the *Nuclear Safety and Control Act*, in conjunction with the Federal government, will considerably advance other UNDA measures, including Action Measure #32.

Considering all of the above, MSIFN requests that CNSC staff and the Commission immediately initiate Action Measure #34 specific discussions with MSIFN and other interested Indigenous communities, understanding that the CNSC is committed to working in consultation and cooperation with Indigenous partners, including MSIFN, and relevant Federal departments and agencies to support the implementation of measures in the UNDA Action Plan that intersect with



the CNSC's mandate. Furthermore, MSIFN requests that the Commission require CNSC staff to initiate discussion with the Treasure Board of Canada Secretariat, given that they oversee the Cabinet Directive on Regulations and set out the expectations and requirements for the development, management, and review of federal regulations.

3.4.2 Consent

It is imperative to acknowledge that MSIFN and other Williams Treaties First Nations were never consulted by the Crown or facility operators during the initial decision-making processes for the establishment and operation of the PNGS, the Pickering Waste Management Facility (PWMF), or most other facilities regulated by the Canadian Nuclear Safety Commission (CNSC) on our treaty lands. The absence of consultation is a matter of considerable concern, as it has a direct impact on the MSIFN community and limits the exercise of pre-existing treaty rights of WTFNs, which were reaffirmed in 2018 under the Williams Treaties First Nations Settlement Agreement.

The CNSC continues to acknowledge its commitment to consultation and cooperation with Indigenous partners, as well as aligning the implementation of the federal government's United Nations Declaration on the Rights of Indigenous Peoples Act Action Plan (UNDA Action Plan), particularly concerning free, prior, and informed consent on natural resource projects, which includes both existing and proposed nuclear initiatives. Nevertheless, the ongoing absence of mention regarding free, prior and informed consent for project activities is notable within the CNSC's submission (CMD: 24-H5), OPG's submission (CMD 24-H5.1), and OPG's supplementary submission (CMD 24-H5.1A) despite MSIFN having raised this request on several occasions.

MSIFN understands that the PNGS has been operating since 1971 within our treaty area, without seeking consent for ongoing operations, creation of new structures on site, or changes to the project and/or its lifecycle. For reasons noted above, we strongly urge the Commission to make it mandatory for OPG to secure the free, prior and informed consent of MSIFN and other WTFNs before approving any licensing changes associated with the PNGS, including changes requiring new facilities and space for the storage of nuclear waste. MSIFN have inherent and Treaty rights and interests in the lands and waters in our traditional territory, and our input and consent must be sought and respected in all matters that may affect our traditional lands and peoples.

MSIFN strongly urges the Commission to consider establishing a provision for First Nation consent, to be enforced by the Commission itself, regarding the management of nuclear waste at the PNGS/PWMF sites. Furthermore, MSIFN emphasizes the necessity of drafting and implementing a binding provision that not only protects the environment but also upholds the rights of First Nations, particularly concerning the management of nuclear waste at the Pickering Nuclear site.



These matters should be thoroughly assessed and addressed through meaningful collaboration between OPG and concerned WTFNs, recognizing them as the primary rights holders of the lands and waters of the Pickering site. MSIFN suggests that a First Nation consent provision should be formulated and enforced by the Commission for the management of nuclear waste at the Pickering site.

4.0 Conclusion

4.1 Requests for Accommodation

MSIFN reiterates the requests made throughout the above text, mainly, MSIFN requests:

- 1. CNSC require OPG to obtain consent from MSIFN and other WTFN for changes to the PNGS and PWF projects, prior to issuing license amendments or approvals.**
 - MSIFN never provided consent to the Pickering Nuclear Generating Station, Pickering Waste Management Facility, or future on-site storage of nuclear waste at the Pickering site.
 - We urge the Commission to make it mandatory for OPG to secure the consent of MSIFN and other WTFNs prior to approving any licensing changes associated with the PWF. MSIFN have inherent and Treaty rights and interests in the lands and waters in our traditional territory, and our input and consent must be sought and respected in all matters that may affect our traditional lands and peoples.
- 2. OPG and the CNSC engage in a collaborative planning approach with MSIFN concerning safety and emergency response planning.**
 - OPG and the CNSC should engage in activities that embody a collaborative planning approach with MSIFN and other interested Williams Treaties First Nations concerning all aspects of safety and emergency response planning.
 - This would ensure that interested First Nations are kept informed about operations at the PNGS/PWF and are invited to collaborate on initiatives such as community-specific plans or emergency response working groups.
- 3. CNSC require OPG to provide MSIFN with a regulatory roadmap for the Pickering NGS Life Extension, Refurbishment, and any new nuclear waste facilities**
 - MSIFN anticipates several hearings, reviews, and submissions related to Pickering NGS in the coming year, with likely more as PNGS progresses towards either decommissioning or refurbishing its remaining reactors.



- This fragmented approach burdens First Nation communities and does not allow for fulsome understanding or meaningful consultation, as it fails to adopt a holistic perspective or consider the project's cumulative effects.
 - We request OPG's assistance in understanding this process by providing a regulatory roadmap for all Crown approvals for the future of the Pickering Nuclear Generating Station and associated waste management facilities.
- 4. OPG formally commit to supporting MSIFN's leadership for a review of International Best Practices for the management and storage of used nuclear fuel at reactor sites**
- OPG should meet with MSIFN leadership to review an MSIFN managed comparison and contrast assessment of current international best practices for the management and storage of used nuclear fuel with OPG's practices, and provide capacity funding to hire international experts to conduct the benchmarking study.
 - This would allow MSIFN to better assess the risks and potential impacts, accidents, malfunctions and terrorist threats at the waste facility on the MSIFN community and understand OPG's standards.
- 5. CNSC staff initiate Action Measure #34 specific discussions with MSIFN and other interested Indigenous communities.**
- Action Measure #34 is a fitting model that could be molded under the *Nuclear Safety and Control Act*, given that the Commission has existing powers to enter into arrangements, establish advisory, standing and other committees, and certify persons to carry out duties under the *Nuclear Safety and Control Act*.
 - MSIFN requests that CNSC staff initiate Action Measure #34 specific discussions with MSIFN and other interested Indigenous communities.
 - We also request that Commission require CNSC staff initiate discussion with the Treasure Board of Canada Secretariat, given that they oversee the Cabinet Directive on Regulations and set out the expectations and requirements for the development, management, and review of federal regulations.

In addition to the above, MSIFN also asks that the CNSC acknowledge the following accommodations previously requested for the PNGS:

1. OPG provide greater clarity and a comprehensive consultation and collaborative decision-making plan for nuclear waste generated at its facilities.



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2. OPG collaboratively work toward the implementation of a Cumulative Effects Assessment that encompasses all facilities within the WTFNs Treaty Territory.

MSIFN is committed to ensuring the CNSC and OPG advance the PNGS project in the right way. At the forefront of this should be the rights and consent of impacted First Nations, protection of the environment and human health by adhering to the highest standards, and long-term planning for safe storage and management of nuclear waste. We look forward to continuing these discussions.

Sincerely,

MSIFN Consultation Office

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