



August 29, 2024

Registrar – Commission Registry
Legal and Commission Affairs Branch
Canadian Nuclear Safety Commission
Candace.Salmon@cnsccsn.gc.ca

Sent via email to: candace.salmon@cnsccsn.gc.ca

Aaniin Madame Registrar,

Re: DNNP License to Construct hearings and future CNSC Hearings

For the Commission's consideration, Hiawatha First Nation ("Hiawatha") proposes the following requests regarding the administration and process of the upcoming Darlington New Nuclear Project ("DNNP") hearings, and more generally, future Canadian Nuclear Sustainability Commission ("CNSC") proceedings to bring to your attention. We believe that accommodation of the requests described below are important for the recognition of Hiawatha's Inherent and Treaty Rights and will ensure the Anishinaabe Culture, Laws, and Ways of Life begin to be included in these important proceedings.

1) A 3-part Hearing for the DNNP:

Hiawatha is of the view that the CNSC hearing process has provided an inadequate amount of time for the presentation and consideration of Anishinaabeg Rights, the Honour of the Crown, and the Duty to Consult and Accommodate.

The DNNP Licence to Construct hearing is scheduled for a 2-part Hearing on October 2, 2024 and January 8, 2025. We understand this scheduled was established at the recommendation of CNSC Staff. To the best of my knowledge, neither Hiawatha nor any of the other Michi Saagiig Anishinaabeg Nations were consulted in regard to the Hearing schedule.

Hiawatha's view is that the process would benefit from a 3-part Hearing, with one part dedicated to the Rights of the Michi Saagiig Anishinaabeg. Unlike Stakeholders, who will be heard at the January 8 Hearings, the Michi Saagiig are Rights Holders. Our Rights should not be conflated with the interests of others; it diminishes our standing in the process and unjustly condenses the time allocated for our legal concerns.

We suggest that a third Hearing date, dedicated to the Rights of the Michi Saagiig Anishinaabeg, the Honour of the Crown, and the Duty to Consult and Accommodate, be scheduled with consultation in advance with Hiawatha and the other Michi Saagiig Anishinaabeg Nations providing input on Hearing format and process.

2) Inclusion of Anishinaabe cultural practices and laws in CNSC proceedings, including the DNNP hearing:

Due to colonization and systemic discrimination, the Cultural practices of the Michi Saagiig Anishinaabeg are absent in most legal proceedings. Hiawatha proposes important changes in the CNSC hearing process and to include our Culture in the process.

In the January 2024 DNNP Hearing, there was an exchange of Asemaa (tobacco) and an opening of welcome and thanksgiving from Curve Lake First Nation Chief Keith Knott. This is a good start to the inclusion of our Culture in the process. Other changes we suggest for future hearings include:

- a) Potential for Ceremony prior to the opening of Hearings, such as a smudge or formally incorporating an opening by First Nation Leaders or Elders similar to or expanding on Chief Knott's role in the January 2024 Hearings.
- b) Considering reconfiguration of the physical hearing layout for an Indigenous Rights Hearing to eliminate the Hierarchical setting of a Traditional proceeding. Our Laws are based on a more equal decision-making process, and a Hearing devoted to our issues could be conducted in a Traditional Circle configuration with everyone at the same physical level.
- c) Availability of an Eagle Feather for Indigenous peoples to utilize during proceedings. This is already common practice in courts and tribunals across Canada. We would be pleased to bring our Eagle Feather for a Ceremony and for use before and during this next Hearing process. However in the future, the CNSC could be gifted with the care of an Eagle Feather for use during all proceedings thereafter.
- d) By holding a Rights-based separate hearing, the CNSC can also help ensure adequate speaking time for the Michi Saagiig Anishinaabeg Chiefs, who are otherwise understandably limited in the context of broader Hearings with other groups involved.

It is also worth noting that we are making great efforts to establish a good working relationship with OPG. By adding a Hearing date that incorporates our traditions and is devoted to our Rights and Interests, there will be additional time and incentive for OPG and the Michi Saagiig Anishinaabeg Nations to work through outstanding issues in advance, hopefully leading to a more collaborative discussion.

The nuclear industry has long-excluded our First Nations voices, and we are pleased to see this historical exclusion slowly coming to an end. The DNNP is a particularly important project, introducing new, untested nuclear technology at a crucial time for the energy industry in Ontario. This is the first major infrastructure project proposed, for our Peoples, in our Territories, since the signing of the 2018 Williams Treaties Settlement Agreement.

For these reasons it is of paramount importance that all involved ensure that the process for planning and potentially approving incorporates the best practices we can conceive of in the limited time we have to move the process forward. We hope and trust you will agree that the above requests will assist in achieving these objectives.

We look forward to the Commission's timely responses to the foregoing.

Miigwetch,



Chief Laurie Carr

Cc: Chief Keith Knott, Mindy Knott, Francis Chua (CLFN)
Chief Kelly LaRocca, Don Richardson, Sam Shrubsole (MSIFN)
Chief Taynar Simpson, Julie Kapyrka, Stephanie Zilinski (AFN)
Laura DeCoste, Adam Levine, Emily Janzen (CNSC)