



Oral presentation

Written submission from the Black River First Nation, with input from the Hollow Water First Nation

In the Matter of the

Canadian Nuclear Laboratories Ltd.

Application for the renewal of the nuclear
research and test establishment
decommissioning licence for the Whiteshell
Laboratories site

Commission Public Hearing

October 23-24, 2024

Exposé oral

Mémoire de la Première Nation de Black River avec la participation de la Première Nation de Hollow Water

À l'égard des

Laboratoires Nucléaires Canadiens Ltée

Demande visant le renouvellement du permis de
déclassement d'un établissement de recherche
et d'essais nucléaires pour le site des
Laboratoires de Whiteshell

Audience publique de la Commission

23-24 octobre 2024

Black River First Nation

with input from Hollow Water First Nation

Whiteshell Licence Renewal
Written Intervention



Prepared for:

Canadian Nuclear Safety Commission

Prepared by:

HTFC Planning & Design

500-115 Bannatyne Avenue East

Winnipeg, MB R3B 0R3

P: 204-944-9907

F: 204-957-1467

September 2024

Table of Contents

Contents

1. Introduction.....	1
Black River First Nation.....	1
Hollow Water First Nation	1
Our Understanding of Re-Licensing	2
2. Background and Methodology	3
Intervention Methodology.....	3
3. Community Input.....	4
3.1 Overall Engagement Between BRFN / HWFN and CNL	4
3.2. Environmental Protection and Monitoring, and Community Participation	5
3.3 CNL’s Record on Emergency Management, Fire Safety and Site Standdowns	6
3.4 Procedural Concerns and Employment.....	6
4. Recommendations.....	8
4.1 Recommendation 1 - Clear Communications in Plain Language.....	8
4.2 Recommendation 2 - Education and Employment Opportunities	8
4.3 Recommendation 3 - More Distinct Discussions about Land Use and End State	8
4.4 Recommendation 4 - CNL Indigenous Engagement Hiring and Turnover.....	9
4.5 Recommendation 5 - Support for Independent Environmental Monitoring	9
4.6 Recommendation 6 – Bringing Communities Together	9
5. Conclusions	10

1. Introduction

Black River First Nation

We are Black River First Nation (BRFN), an Anishinaabe community in southeast Manitoba. Our traditional territory encompasses the lands and waters around our community within Treaty 5 and overlapping with Treaty 1 and Treaty 3.

We have occupied these lands and waters for hundreds of years, since long before the arrival of European settlers. Today, we continue to exercise our Indigenous and Treaty Rights here, rights which are guaranteed Constitutional protections under Section 35 of the Constitution Act.

In the 1960's when the Whiteshell Laboratories nuclear research site was constructed, we were not engaged. We were not consulted. This site was created without our consent. Today, we are an active participant in engagements with Canadian Nuclear Laboratories (CNL) and are prepared to be an active participant in eventual Crown-Indigenous Consultations with the Canadian Nuclear Safety Commission (CNSC).

We can participate today for two reasons: First, because our Nations are more capable now than ever to assert sovereignty over our territory and the decisions affecting it, and second, because we have seen governments at all levels taking steps to advance reconciliation between Indigenous and non-Indigenous peoples. Both CNL and the CNSC have made commitments to reconciliation, and we are prepared to hold you accountable for those commitments.

We respectfully acknowledge other Manitoba First Nations and Métis communities who are also participating in this process. We also respectfully acknowledge other Nations in Ontario, including the Algonquins of Pikwakanagan First Nation near the Chalk River Laboratory, where materials may end up after they have been removed from the Whiteshell site. Any licence decision affecting one of us affects us all.

Hollow Water First Nation

Since 2019, Hollow Water First Nation (HWFN) has been working together with BRFN in a joint engagement with CNL. Because our Nations have been working so closely together, some of this submission contains content provided by HWFN members. For a few reasons however, HWFN has elected to formally step back from this written submission.

Currently, HWFN feels more internal consultation is required within their community to generate a position on the Whiteshell decommissioning. HWFN is undertaking a community led process to develop a unified position on the entire Whiteshell Laboratories decommissioning, including all aspects of the project by the end of 2024.

Our Understanding of Re-Licensing

We understand that Canadian Nuclear Laboratories is applying for a three-year licence renewal to complete decommissioning work at the Whiteshell site. We understand that the current licence period expires on December 31, 2024. We also understand that the proposed in-situ decommissioning of the WR-1 reactor is not a component of this licence renewal, and that a separate licence for WR-1 decommissioning will be sought in the future.

At the community level, we would like to remind CNL and the CNSC that the distinction between the current licence renewal, and the separate licence for WR-1 remains a challenge for our community. From an Anishinaabe perspective, layers of licenses, submissions, and comment periods compound to a complex and cumbersome process – not easy for affected rights holders to engage in, even with professional support.

We see CNL, the company leading decommissioning, as having a unique role within the nuclear industry in Manitoba. Under the government-owned, contractor-operated model, CNL has a responsibility greater than a typical project proponent from the private sector. As the lead organization undertaking Indigenous engagements, who may eventually be delegated procedural aspects of consultations, we hold CNL to the same standard that we would hold the Crown in their relationships with our Nations.

With respect to re-licensing, we are pleased to hear that CNL has a stated objective to re-establish their regulatory compliance as a priority over restoration work, following various regulatory actions and penalties. Regulatory compliance is essential; however, we want to emphasize the importance of timely site restoration for our communities. For our community *site restoration*, completed safely and within proposed timelines is the real objective.

We are encouraged to read on page 14, Section 1.1 of CNLs Commission Member Document that CNL intends to:

- “Continue to build on the relationships with Indigenous Nations, communities, organizations, and governments; and”,
- “Ensure that Indigenous and public engagement will be a focus throughout the licence period.”

In these statements, we see that *two out of four* of CNLs objectives pertain specifically to their relationships and engagement with Indigenous communities. If CNLs three-year licence renewal is approved by CNSC, we will be holding CNL to these commitments.

“But it remains to be seen if the decisions in the future will be truly different than the ones made in the past.”

- BRFN and HWFN Traditional Knowledge & Land Use Study, 2019

2. Background and Methodology

Since 2016, Canadian Nuclear Laboratories has been engaging with Black River First Nation on the decommissioning of the Whiteshell Laboratories site located near Pinawa, MB. We are grateful that CNL has adequately funded our participation in these engagements. We are equally grateful to the CNSC for funding other community processes related to this re-licensing application and other decommissioning work.

With respect to engagement activities between CNL, BRFN and HWFN, we point to CNLs summaries reported in 2.1.3 and 2.2 of their Commission Member Document as an accurate representation of the activities to date. We also highlight other relationship building efforts that CNL has undertaken, not strictly related to their decommissioning work, such as:

- Presentations to youth at BRFN and HWFN schools,
- Scholarship opportunities for BRFN and HWFN students entering scientific fields,
- Tree planting events at the BRFN and HWFN schools.

These additional efforts may not be strictly required for decommissioning but are central to the relationship between CNL and our Nations.

Intervention Methodology

While much that needs to be said about the Whiteshell Laboratories decommissioning and re-licensing has already been said and recorded during engagement processes, we understand that our community members thoughts and opinions about the project may change over time. To generate accurate and current input from our community members, we convened a special meeting to discuss the re-licensing application.

On August 27th, members from the project Core Engagement Team (CET) met at the Black River Band Office to discuss the current re-licensing application and provide input. During that meeting, our members heard from CNSC staff and were guided through a series of probing questions to generate input about important topics related to the re-licensing application. A further meeting was held on September 16th to review this final written submission with CET members.

The following section of this document summarizes community engagement feedback about CNLs re-licensing application. This input predominantly reflects that of BRFN, but input from HWFN is also included because of the collaborative nature of the joint engagement. As a reminder, HWFN has elected to step back from this written submission as they complete a community led process to develop a position on the project, expected by the end of 2024. HWFN reserves the right to participate during the oral component of the hearing to expand on this position.

3. Community Input

Community input is at the core of this written submission. When CNL engages with our Nations, they are engaging with our diverse community members, who come from different backgrounds and share different beliefs. Input here is derived from our Core Engagement Teams, made up of Elders, resource harvesters and other community members. Our input also incorporates that of our project liaison, project lead and representation from our Councils.

Community member input in this section is broken down into four categories, each including a short summary followed by a selection of community comments, paraphrased directly from discussions.

3.1 Overall Engagement Between BRFN / HWFN and CNL

Summary: With respect to the overall Indigenous engagement, CNL is improving. CNL staff are learning from our Nations, and we are learning about their processes. However, our Nations continue to have concerns over the perceived high turnover of CNL's Indigenous Engagement staff.

Select Community Comments:

- CNL has been getting better with their engagement. They are doing more of it. They hold weekly meetings with our Coordinator, and host larger monthly meetings for our leadership team.
- CNL has organized tours of the Whiteshell Laboratories site for community members and the Core Engagement Team.
- The information that CNL provides is interesting, but it can be confusing and scientific.
- It can be hard to know sometimes if they (CNL) are being honest or sharing complete information.
- We have concerns about the Nations being pulled apart. At the beginning of the engagement, BRFN and HWFN worked together with Brokenhead Ojibway Nation (BON) and Sagkeeng Anicinabe Nation. We understand that Sagkeeng now has a separate process with CNL, and that BON chose to step back from the engagement by their own choice. We valued CNL's attempts to bring Indigenous groups together in 2021 through an Indigenous Advisory Committee and thought this was a good forum to discuss the project with other Nations. However, we were saddened to see that Indigenous Advisory Committee meetings stopped after several Nations raised concerns. BRFN and HWFN encouraged CNL to make new attempts to bring the Committee together; unfortunately, this never took place.
- There has been significant staff turnover of CNL employees in Indigenous engagement roles in recent years. Over the last five years, there have been at least eight different CNL staff members acting as Indigenous Relations Advisors, Engagement Officers, and Communications Managers.

- Whenever CNL staff in these roles turns over, it also resets the relationship for us. The personal relationship between our communities and CNL engagement staff matters. It is very important.
- We have been caught off guard by these staff changes and have had no explanation from CNL of the reasons for such high turnover.
- BRFN and HWFN have offered to be part of the interview process when CNL is hiring Indigenous engagement staff. They have not taken us up on this offer.

3.2. Environmental Protection and Monitoring, and Community Participation

Summary: Between 2019 and 2024, BRFN and HWFN members have regularly joined CNL to participate in environmental monitoring activities on the Whiteshell Laboratories site. Our Nations' participation included bat monitoring, water sampling, soil sampling, vegetation sampling, fish sampling, blueberry sampling, and mushroom sampling. In September 2022, Elders from our two Nations came to the Whiteshell Laboratories site for a medicine / plant walkthrough. This was a valuable opportunity to support knowledge sharing between community knowledge-holders and CNL staff, as well as for younger generations of our community members to learn about plants from community knowledge holders.

With respect to environmental protection, monitoring and participation by our community members, our Nations greatly appreciate the opportunities CNL provides to participate. However, we continue to have concerns over the complicated language used in reporting and the length of time that it takes for CNL to share information.

Select Community Comments:

- While our Nations have appreciated participating in CNL's environmental monitoring events, we have not been satisfied with the time it has taken for them to share back results of their monitoring. For example, BRFN and HWFN participated in a blueberry sampling event with CNL on July 28, 2022. It took more than 9 months for CNL to provide initial scientific results from that sampling event and 476 days for this data to be published in CNL's annual compliance monitoring reports. Even when published, this information has not been put in a format that community members can easily understand.
- Our Nations expect clearer and easier to understand information from CNL about their environmental monitoring results. In the last two years, CNL has made strides to improve their communication about monitoring results. Their 2023 Environmental Monitoring plain language brochure presented monitoring results in a much clearer way. However, the brochure still does not include findings from berry, mushroom, and vegetation sampling events, which were among the key monitoring events our Nations participated in with CNL.
- We want to be able to take samples and test them independently – and to build our own monitoring programs based on Indigenous knowledge and experience.

3.3 CNL's Record on Emergency Management, Fire Safety and Site Standdowns

Summary: We note that the CNSC has rated CNL's overall Emergency Management and Fire Protection compliance rating for 2022 and 2023 as Below Expectations. CNL Whiteshell Laboratories is still in a phased site safety stand-down following identified issues with their fire response capabilities. CNL is now working towards full operations upon completing the necessary corrective actions in a site multi-phase restart plan.

With respect to CNL's emergency management, safety and standdowns, we see room for improvement.

Select Community Comments:

- When CNL reported a staff member got an electric shock, they shut the site down. Perhaps it was more serious than what CNL reported.
- If there are issues with basic safety, it may be indicative of larger systemic issues with compliance and accreditation.
- We have noted discrepancies between how CNL shares information about safety occurrences with us, and what is reported in the media. The notices that we were given seemed to be incomplete and downplayed the severity of the situation.
- What CNL told us about their safety standdown, and what we learned from CNSC's notice of violation to CNL from October 2023 was different.

3.4 Procedural Concerns and Employment

Summary: We understand the importance of this re-licensing process, however we also understand that the nuclear industry in Canada has limited options when it comes to contractors hired for decommissioning projects. Because of this, our members are concerned that CNSC's options are limited in this re-licensing process. If the Whiteshell Laboratories are going to be cleaned up, it appears that there is only CNL available to do the work.

Our members also have some specific concerns about employment opportunities, and that CNL is not able to value Indigenous knowledge as much as formal education when it comes to hiring our members.

Select Community Comments:

- We are concerned about what would happen if CNSC did not issue the license.
 - We understand that there is nobody else to do this work.
 - We are concerned that means the re-licensing is a forgone conclusion.
- We are concerned about the water. Any effects to water also affect fish, birds, plants. We hope the materials are removed and transported safely.
- We are very aware that everything from Whiteshell could be sent to Chalk River.

- What good would it be to clean up Whiteshell only to contaminate another place where people live?
- We feel that CNL has not committed fully to working with our communities to hire our people.
 - If our people can't get jobs on-site because of a lack of education or credentials, can we get jobs doing off-site monitoring?
 - CNL shares lots of job postings, but we don't have those skills in the community. The postings are not tailored to attract our people, and don't include the on-the-job training programs that would be needed to effectively employ our members in the industry.
 - Our traditional knowledge is worth more than a degree when it comes to monitoring our own lands.

4. Recommendations

Based on community input summarized in the preceding section, we make the following recommendations:

4.1 Recommendation 1 - Clear Communications in Plain Language

We recommend that CNL be required to provide more plain language summaries of environmental monitoring results and other important scientific information of relevance. For example, by using the format of their 2023 Environmental Monitoring plain language brochure. We also recommend that this information be released to us in a timely manner, in both digital and print formats.

We further recommend that CNL be required to develop a communication protocol in event of spills, emergencies or compliance breaches on site, so that Indigenous communities and other interested groups have prompt, accurate and complete information and are not learning about events in the newspaper.

4.2 Recommendation 2 - Education and Employment Opportunities

We recommend that CNL consider job opportunities that they have or will have available at their Whiteshell site, and how specific job requirements could be altered in ways respecting traditional knowledge and skills, allowing more of our members to successfully apply. We propose that on-the-job training and mentorship be offered to support our people in finding employment at the site.

4.3 Recommendation 3 - More Distinct Discussions about Land Use and End State

To date, we feel that CNL has appended many discussions about Land Use and End State at the Whiteshell site to the end of other meetings. We recommend that CNL work with our communities to schedule and hold separate meetings with our Core Engagement Teams to discuss their proposed land use and end state plans, and to understand our community perspectives the eventual ownership of the site. We suggest that these discussions include Atomic Energy of Canada Limited (AECL) participation, as the Crown-corporation and current land owner.

4.4 Recommendation 4 - CNL Indigenous Engagement Hiring and Turnover

The high rates of turnover in CNL's Indigenous engagement team requires a closer look. We recommend that CNL be required to hold exit interviews with all departing staff to identify reasons for the turnover. Where factors are identified, specific plans should be put in place to address them.

We recommend that CNL involve our communities during the hiring process for their staff who will be directly involved in engagements with us. We feel that by including us early in the hiring process, CNL will have more success with hiring and retaining Indigenous engagement staff.

4.5 Recommendation 5 - Support for Independent Environmental Monitoring

We recommend that CNL provide additional support to our communities to undertake independent environmental monitoring. We suggest that this takes the form of a Guardians program, with funding provided by CNL. We understand that CNL has already successfully partnered with other Nations and Indigenous organizations to support Guardians programs.

4.6 Recommendation 6 – Bringing Communities Together

As we have noted in our feedback, the original proposal for an Indigenous Advisory Committee did not materialize. We recommend that CNL work with Indigenous and other communities to arrange for additional opportunities to gather and understand each other.

For example, by holding additional Regional Gatherings, but with enough space for participation from our full Core Engagement Team, not just one or two representatives. We value opportunities to collaborate with our neighbouring First Nations, but also see value in collaborations with municipalities and other interest groups.

5. Conclusions

When the Whiteshell Laboratories were constructed in the 1960s, we were not there. When the most recent licensing decision was made in 2019, our input was not included. Today, we are pleased to provide this document as our written intervention for CNLs three-year licence renewal. We have seen that CNL is investing time into a deeper relationship with our community, as much as we are investing time in our participation with these processes. We would like to continue with this relationship to see the decommissioning project completed.

We remind the reader that this submission has been prepared on behalf of Black River First Nation, with input from Hollow Water First Nation, and that HWFN is currently undertaking an internal community process to determine their position on the entire Whiteshell decommissioning.

Black River First Nation is committed to its participation and is prepared for any eventual Crown-Indigenous consultations required by decision makers.

“CNL is improving as much as we are improving. We are glad that we are active in the process as a stakeholder, rightsholder and partner and that we have a say.”

- BRFN Member, August 2024