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**Written submission from the  
Kebaowek First Nation**

**Mémoire de la Première Nation  
de Kebaowek**

**Canadian Nuclear Laboratories**

Regulatory Oversight Report for  
Canadian Nuclear Laboratories Sites:  
2023

**Laboratoires Nucléaires Canadiens**

Rapport de surveillance réglementaire  
des sites des Laboratoires Nucléaires  
Canadiens : 2023

Commission Meeting

Réunion de la Commission

**November 7, 2024**

**7 novembre 2024**

**Kebaowek First Nation Review  
of the Regulatory Oversight Report (“ROR”) for  
Canadian Nuclear Laboratories’ Sites: 2023**

WRITTEN SUBMISSION

presented to  
Canadian Nuclear Safety Commission

October 7, 2024

**NOTE**

This document is the final written submission of the Algonquin Nation of Kebaowek submitted by the Chief and Council on October 7, 2024.

## 1. INTRODUCTION

The following submission is presented by Kebaowek First Nation (KFN) to the Canadian Nuclear Safety Commission (CNSC) in response to CNSC Staff's "Regulatory Oversight Report (ROR) for Canadian Nuclear Laboratories Sites: 2023".<sup>1</sup>

KFN has a high degree of interest in the activities reviewed in the ROR because of the impacts to our section 35 rights CNL's activities pose. Chalk River is located on lands included within KFN's Statement of Asserted Rights and Title Territory.<sup>2</sup> We were never consulted when the first nuclear developments occurred, forever impacting our lands and waters. The operations and activities continue to this day at Chalk River, absent our free and prior consent. The existence of nuclear activities on our lands not only brings routine releases of radionuclides into the environment but also the possibility of accidents and malfunctions. We continue to bear the inequitable effects of nuclear activities in perpetuity, given the inherent danger and toxicity of nuclear materials.

### A. The Focus of this Intervention

This submission sets out a number of updates to the Commission and poses information requests and recommendations. While KFN meets on a regular basis with CNSC Staff, requests to meet with Commissioners have been denied. While some of the topics below remain live discussion topics with Staff, we wish to communicate with the Commission directly, as the Crown, to ensure matters of pressing concern that are languishing are addressed.

In providing these written comments, we also request the opportunity to address the Commissioners at the upcoming ROR meeting scheduled for November 8, 2024.

### B. Who We Are

Kebaowek First Nation is an Algonquin Anishinabeg First Nation and one of the eleven communities that constitute the broader Algonquin Nation. For centuries, the Algonquin Nation occupied the length of the Kichi Sibì (Ottawa River) watershed, from its headwaters in north central Québec, all the way to its outlet in Montreal. Algonquin peoples have long exercised our customary laws and governance, known as Ona'ken'age'win, on our traditional territory. This law is based on Algonquin peoples' mobility on the territory, to

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<sup>1</sup> Canadian Nuclear Safety Commission, Industry Report "Regulatory Oversight Report for Canadian Nuclear Laboratories Sites: 2023" [ROR]

<sup>2</sup> Timiskaming, Wolf Lake and Eagle Village Members of the Algonquin Nation Statement of Assertion of Aboriginal Rights & Title, (11 Jan 2023), [online](#)

hunt, gather, and control the use of the lands and waterways for future generations. The Algonquin Nation has never ceded its traditional territory, and its rights and title have not been extinguished. As Algonquin peoples we regard ourselves as keepers of the land, with seven generations worth of responsibilities for livelihood security, cultural identity, territoriality, and biodiversity.

KFN's reserve lands are on Lake Kipawa, Québec. KFN represents over 1100 registered members living on and off reserve, largely in Québec and Ontario. KFN maintains an office in Mattawa, Ontario for its members.

On January 23, 2013, KFN, Wolf Lake First Nation (WLFN), and Timiskaming First Nation (TFN) jointly released a Statement of Asserted Rights (SAR) which summarizes the Aboriginal rights, including title, which our three First Nations assert and provides detailed evidence to substantiate it including around the Chalk River nuclear site. Copies of the SAR, maps, and background documentation were transmitted to the governments of Canada, Quebec, and Ontario in January 2013.

In summary, our First Nations have not relinquished Aboriginal rights and title over lands that straddle the Ottawa River basin on both sides of the Quebec-Ontario boundary. The importance of this information in establishing consultation processes and the responsibilities of the Crown are affirmed by existing case law. Our historical research supports that mutuality, respect and consultation are integral to Algonquin social and political organization on a number of levels: family to family, band to band, and Nation to Nation. We are an order of government with rights and territorial jurisdiction to our lands to be addressed from a "Nation to Nation" perspective supported by articles of *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP).

## **2. COMMENTS ON THE ROR**

Below are some of the core issues KFN wishes to bring to the Commissioners' attention, including recommendations that are highly relevant to the Commission's regulatory activities and their role in upholding the Honour of the Crown.

### **A. The ROR ought to be co-developed with KFN**

The ROR is a missed opportunity for the Commission to co-develop an ROR which is responsive to KFN's concerns and interests, recognizing we are a rights-bearing community disproportionately affected from legacy nuclear operations, ongoing operations (including research and waste disposal) and radiological risk for incalculable generations to come.

We **recommend** the ROR be:

- **Empowering and cooperative** such that goals and scope of the ROR is mutually defined and outcomes and the information provided, of value to KFN. Currently, the magnitude of risk that we face as well as the perpetual and potential for increased harm, is not reflected in the ROR
- **Timely, open and transparent** so that assessments made by CNSC Staff - lacking any independent, third party review - are well-documented and visible to the public

**B. The multitude of nuclear-related activities occurring in KFN territory highlights the need for a cumulative effects review**

The ROR notes that “CNSC staff are involved in the oversight of several major projects occurring at CNL CRL in 2023” including the:

- Near Surface Disposal Facility
- Advanced Nuclear Materials Research Centre
- Modern Combined Electrolysis and Catalytic Exchange Facility
- Actinium-225 Initial Sales Project
- Land Lease for Commercial Project Development

As a preliminary **request**, KFN **asks** the Commission direct CNSC Staff to provide:

- The status of each project noted above, including any licences held or being sought
- The consultation status of each project, including whether the CNSC believes the Crown’s duty to consult has been triggered, and a full record documenting how the Crown’s duty to consult and accommodate obligations have been / will be fulfilled

Despite the ROR’s admission of there being multiple major projects occurring by CNL, many of which are overlapping at one licensed site, there is no mention nor attempt to assess their cumulative effects. KFN **submits** any assessment of the cumulative effect of nuclear activities on our lands, water and health are being left behind because of the licensee-specific approach adopted by the CNSC and this ROR.

Cumulative effects are generally understood as resulting from “different combinations of actions or pathways that consist of both additive and interactive

processes.”<sup>3</sup> Insights gathered from a cumulative effects assessment are necessary to shape a fuller understanding of a project’s likely impacts, including the nature, intensity, spatial and temporal distribution of the project’s effects. KFN **recommends** the CNSC must require CNL, as the proponent, to quantify cumulative impacts, so that we can understand from the outset, the range of possibilities as to what may happen in the future and what adverse effects may result.

Broader watershed and ecosystem-level would be most helpful in understanding the interaction among the multiplicity of projects and activities occurring in our territory. Environmental sustainability is central Ona’ken’age’win our system of customary law and governance and therefore **recommend** the Commission to direct staff and CNL to undertake a cumulative effects review of all operations occurring in our territory.

### **C. The CNSC’s regulatory approach remains out of step with UNDRIP, the *UNDA* and its Action Plan**

It is unclear to Kebaowek whether the Commission or CNSC staff intend to recognize or implement UNDRIP. As a result of the Commission's lack of attention to UNDRIP during the NSDF hearing, Kebaowek now seeks a judicial review of the CNSC’s decision and this issue is now awaiting a decision from the Federal Court. We continue to seek the CNSC’s position on questions, including:

- How does UNDRIP inform the CNSC’s respect and carrying out of the duty to consult?
- How does the CNSC ensure its regulatory processes are able to seek the free prior informed consent of First Nations concerning the disposal and storage of radioactive waste in their territory?
- What does Parliament's decision in 2021 to adopt UNDRIP into the domestic law of Canada mean to the CNSC as agents of the Crown who are making critically important discretionary decisions that will affect Kebaowek and other First Nations’ unceded lands?

Kebaowek submits Parliament's decision to enact the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDA) and thus adopt UNDRIP into the law of Canada has both procedural and substantive ramifications on the CNSC. It requires much more than the empty words of CNSC Staff who promise future action, but continue to tell us that UNDRIP implementation is outside their control. The CNSC’s inaction on *UNDA* indicates

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<sup>3</sup> B. Noble, “Introduction to Environmental Impact Assessment – A Guide to Principles and Practice,” Oxford: Don Mills (2010), p 201

that as a regulatory body, the Commission has declined to undertake the most basic step of considering how to fulfill Parliament's adoption of UNDRIP into the domestic law of Canada, including the obligation that Canada "shall consult and cooperate in good faith with the Indigenous peoples concerned" ... "in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories or other resources" This is the procedural promise made in article 32 of UNDRIP and reaffirmed by Article 29.2 requiring that states "shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free prior and informed consent". We again reiterate that these articles have been adopted into the domestic law of Canada by virtue of *UNDA*.

As such, KFN **reiterates** the ROR ought to review and assess how the principles of the *UNDRIP* have been upheld by CNL and how it informs the CNSC's oversight and regulation of these nuclear sites and operations. Currently, there is no mention of *UNDRIP* nor the domestic *UNDA* and its accompanying Action Plan in the ROR.

As we raised in our comments pertaining to the ROR for the Use of Nuclear Substances: 2023, for over a year KFN has been requesting the CNSC oblige our proposal to undertake a review of systemic issues within the CNSC regulatory processes as it relates to *UNDRIP* and Indigenous Knowledge (IK). To date, CNSC Staff have not been cooperative of this study which we submit as foundation to the incorporation of KFN's knowledge *prior* to the CNSC undertaking any project specific or regulatory work (such as this ROR or the development/review of any RegDoc).

An *UNDA / UNDRIP* pilot is something Kebaowek has **suggested** to CNSC as part of our Long Term Relationship work plan so that the objectives, detailed below, can be properly articulated in Kebaowek's Rights Impact Assessment and provide for the resurgence of Indigenous methodologies through Anishinaabeg law and land activities. Accordingly, we are **seeking** funding from the Commission for the following research study to review the following three key areas:

### **Study Proposal**

#### **1. Indigenous knowledge policy review**

KFN wishes to review and report on the CNSC's and federal government's Indigenous Knowledge Policy Frameworks to assess whether they adequately address KFN's concerns regarding the incorporation of Algonquin Anishinabeg knowledge in the CNSC regulatory process. KFN wishes to consider how the policies are being applied, identify gaps in incorporating KFN's knowledge, and



propose policy revisions or other solutions. The proposed review will also assess whether CNSC's approach to Indigenous knowledge is consistent with UNDRIP provisions regarding Indigenous Peoples' rights related to our knowledge, including Indigenous laws and languages.

By way of background and to underscore the need for this aspect of the proposed study, Kebaowek has experienced issues with Ownership Control Access and Possession of our Data by CNL. On February 21, 2023, we requested a data sharing agreement with CNL that takes into account Indigenous models for data sovereignty. We provided several models and resources as examples but never heard back from them. The examples we provided included the OCAP model (First Nations' "ownership, control, access, and possession") as developed by the First Nations Information Governance Committee<sup>4</sup> and the international CARE Principles for Indigenous data governance which require that data be "findable, accessible, interoperable, reusable, for the collective benefit, authority to control, responsibility, and ethics" of Indigenous Peoples<sup>5</sup>.

Kebaowek suggests that "ethical space" is created when two societies with disparate worldviews engage with one another. Unfortunately, the NSDF procedural order timeframe did not provide adequate time to discuss our Indigenous-led work methodologies or OCAP in detail with CNL even though it was requested. It was evident from our on-site experience that a framework for dialogue between Indigenous-led assessment and CNL site rules that requires a deep understanding of our diverse cultures and the space between us is necessary. We must recalibrate our ethical relations with each other, and with other ecosystem elements at the Chalk River site from an Indigenous earth jurisprudence point of view. Earth jurisprudence is a way of knowing the world is "sacred" that calls us all to the challenge of rethinking colonial government systems and laws to make something better, to do the long haul work.

The past several years have seen an increasing emphasis on recognizing and applying traditional Indigenous led environmental research methodologies in Canada. The Supreme Court of Canada is on the cusp of a 'paradigm shift' in reconciling the history of Canadian law and specifically how it has been used to dispossess Indigenous peoples from their lands, children and legal traditions. In the final report of the Truth and Reconciliation Commission (2015), it was stated that the reconciliation of Canada must involve the revitalization and recognition of Indigenous laws.

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<sup>4</sup> Online: <https://fnigc.ca/>

<sup>5</sup> Online: <https://www.gida-global.org/care>

## 2. UNDA implementation project

KFN wishes to review and report on the state of UNDRIP implementation in the CNSC regulatory process, including the implementation of *UNDA* Action Plan measures. KFN wishes to consider how UNDRIP is being applied, identify gaps and provide guidance on ensuring CNSC's regulatory process is consistent with the Crown's commitments to implementing UNDRIP. In particular, the proposed work will consider *UNDA* Action Plan measures related to the joint exercise of regulatory authority. The objective is to ensure the systemic issue of UNDRIP implementation is meaningfully addressed prior to carrying out project-specific work.

## 3. Regulatory Document 3.2.2 review

KFN wishes to review and report on Regulatory Document 3.2.2, including the CNSC's policy on Indigenous consultation and engagement. In particular, KFN will assess the CNSC's approach to consultation and accommodation, identify gaps and propose revisions to the Regulatory Document to ensure it is consistent with the latest developments in the law. The objective is to ensure the CNSC implements its constitutional obligations to KFN throughout the regulatory process.

In keeping with s 8(2) of the *Nuclear Safety and Control Act* that recognizes that the CNSC as an agent of the Crown in meeting obligations to consult and accommodate, we **recommend** the Commission direct CNSC Staff to accept KFN's proposal for the above noted study, which strengthens our ability to participate in decisions which directly affect our rights and territory, and thus aids the CNSC in fulfilling its Crown's duty to consult and accommodate. Until the Crown's duty has been fulfilled, the CNSC is not in a position to grant any licensing decision. We submit this study is a necessary precursor to any licensing matter or review the CNSC undertakes.

**KFN also recommends** the Commission direct CNSC Staff to ensure all RORs have mandatory chapters on how licensee activity and CNSC oversight conform to the principles of *UNDRIP* and *UNDA* implementation, including whether:

- Participation with Indigenous peoples was enhanced during the timeframe being reviewed
- Local and Indigenous knowledge was considered and included in the review of licensed activities

- Measures to prevent and address impacts to Indigenous rights were addressed, responsive to community concerns
- Consultation was undertaken which could lead to the setting of measures enabling the exercise of regulatory authority by First Nations<sup>6</sup>

**D. The ROR contains project and informational gaps and thus fails to illustrate the full scope of activities and environmental impacts caused by CNL**

As noted above, the ROR mentions that “CNSC staff are involved in the oversight of several major projects occurring at CNL CRL in 2023” including the:

- Near Surface Disposal Facility
- Advanced Nuclear Materials Research Centre
- Modern Combined Electrolysis and Catalytic Exchange Facility
- Actinium-225 Initial Sales Project
- Land Lease for Commercial Project Development

We address each in turn, below, as well as raise a number of additional projects for which we have questions and concerns to communicate to the Commission.

*i. Section 82 Projects*

KFN is seriously concerned by the complete lack of reference to ‘section 82’ projects in the ROR, despite the CNSC’s active role in assessing such projects for conformance with CNL’s licensing basis and our *repeated* recommendation in prior years for inclusion of s. 82 projects in the ROR.

Section 82 of the *Impact Assessment Act* (IAA) sets out that before a project on federal lands can proceed, it first must be determined whether the carrying out of that project is likely to cause significant adverse environmental effects.<sup>7</sup> While the term ‘significant adverse environmental effects’ is not defined in the *IAA*, section 84 of the Act sets out five factors that must be considered before the determination can be made:

1. Any adverse impact that the project may have on Indigenous rights
2. Indigenous knowledge about the project;
3. Community knowledge about the project;
4. Comments received from the public

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<sup>6</sup> United Nations Declaration on the Rights of Indigenous Peoples Act [Action Plan](#), 30 and 34 [UNDA Action Plan]

<sup>7</sup> An analogous provision was found at section 67 of the Canadian Environmental Assessment Act, 2012 (CEAA 2012).

5. Mitigation measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects of the Project that the authority is satisfied with will be implemented.

Section 86 of the *IAA* also requires that prior to making a decision, the authority making the decision must:

1. Post a notice on the Registry that it intends to make a determination; and
2. Invite public comments for a minimum of 30 days.

Throughout 2023, KFN requested CNL provide a list of all section 82 project assessments having occurred since 2016 at the Chalk River site, with documentation showing when notice and comments periods were held. In all instances except the MCECE, no notice or consultation was provided to KFN (nor the public, per the required 30 day comment period).

We strongly **recommend** the Commission seek an updated list of section 82 projects from CNL. We also use this opportunity to again state our **request for notice and meaningful consultation** when the CNSC undertakes a licence conformance review and from CNL, when it contemplates a section 82 project. We furthermore **ask** the Commission to confirm its approach as to how it undertakes consultation, given its role in assessing the licensing basis as part of AECL/CNL's section 82 project review.

#### *ii. Near Surface Disposal Facility*

Regarding the summary the ROR provides about the Near Surface Disposal Facility, we find it to be critically lacking. For instance, there is no mention of the ongoing judicial review brought by KFN in challenging the validity of the Commission's licensing decision (as described above) nor ongoing activities by CNL which threaten KFN's rights and interests and require our full and fair participation and engagement. This includes, but is not limited to, all pre-construction activities at Chalk River, for which we have grave concerns about activities to harm and harass the bear population, and the CNSC's recent approval of the site's Forest Management Plan, absent any consultation, including review and input, by KFN.

We strongly **recommend** the ROR fully and comprehensively disclose updates regarding the NSDF and not omit relevant information which is directly related to CNL's operations and the CNSC's role as the Crown.

*iii. Advanced Nuclear Materials Research Centre*

Regarding the summary the ROR provides about the Advanced Nuclear Materials Research Centre (ANMRC), the section fails to mention and describe CNL's intention, as communicated in their environmental assessment documentation, for a facility to develop small scale nuclear reactors for use in places like remote mines, and to research and undertake the reprocessing of radioactive fuel.

These are highly significant activities that would introduce new radiological risks to the environment in our territory, but also other lands throughout the country. We **ask** that this section provide a more comprehensive description of CNL's plans and their status (including upcoming engagement opportunities) and how these radiological risks are justified.

KFN **submits** any change to the Chalk River site, including moving ahead with the ANMRC project, triggers the Crown's duty to consult and accommodate KFN's rights and interests. To date, this is not a project for which any engagement or outreach has directly occurred.

*iv. Modern Combined Electrolysis and Catalytic Exchange Facility*

KFN has been pushing to be highly engaged in any decision-making related to the Modern Combined Electrolysis and Catalytic Exchange Facility (MCECE) project being undertaken by CNL.<sup>8</sup>

Not mentioned in the ROR, is that the MCECE would process 935m<sup>3</sup> of contaminated water with a tritium content of up to 10 curies/kg. The 'cleaned' heavy water would have a tritium content of 2 microcuries/kg. The tritium would then be stored in AECL's titanium hydride container called the 'Immobilized Tritium Container' (ITC). Each ITC holds about 50 g of tritium and processing all of AECL's contaminated heavy water inventory would take 7 – 10 years. This new facility would occupy 2400 m<sup>2</sup> while the current facility occupies approximately 800-1000m<sup>2</sup>.

As we understand it, the proposed MCECE facility would release up to 10.7 trillion becquerels of tritium into the environment every year of operation, whereas the contaminated heavy water – when safely stored in appropriate containers – has only minimal environmental releases. As CNL expects "Tritium Oxide Emissions < 2 Ci/week and

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<sup>8</sup> See KFN's comments to CNL and AECL dated February 29, 2024 and July 30, 2024

Deuterium Tritium < 5 Ci/week,” every week up to 74 billion becquerels of tritiated water vapour and up to 185 billion becquerels of tritiated hydrogen gas may be released.<sup>9</sup>

We have a number of outstanding and related concerns that we bring to the Commission attention for your action:

1. There is not a sufficient degree of separation nor independence between the *IAA* federal authority (AECL) and the proponent/licence holder, CNL. While we believe it is fine for CNL to provide comments and recommendations to AECL, it is inappropriate for them to exercise any part or function in relation to the s. 82 decision for the simple fact they are also the recipient, or beneficiary, of the decision. CNL is a private corporation with vested interests and s. 82 projects ought to be reviewed independently by AECL alone (or another competent federal authority), and not jointly with CNL. Kebaowek **requests** the CNSC support our position and recommend to the Minister that CNL *not* undertake any part of the federal authority’s role for s. 82 projects.
2. The CNSC has indicated it has completed an assessment of the licensing basis to ensure the MCECE is within the existing licence’s bounds. We **ask** the Commission to comment on how the inclusion of Indigenous knowledge - as required by federal and international law - informed CNSC Staff’s review.
3. CNSC’s duty to consult with KFN is not a fixed moment in time, but rather imposes an ongoing obligation on the Crown to act honourably. This necessitates CNSC to provide notice and information to us and ensure our equitable inclusion so that we can understand and assess the full range of potential impacts on our rights and have them meaningfully addressed *prior* to any decision being made. We **submit** that the CNSC failed to provide KFN notice of its assessment of CNL’s licensing basis and **request** that for all section 82 projects, notice and un-redacted information be provided to KFN.
4. The ROR’s cursory review of the MCECE fails to capture or mention whether the MCECE poses any proliferation risk. We **ask** the Commission to require CNL to answer whether there are any plans to sell the products which result from the processing of the heavy water? For instance, what revenues are projected, who are the potential buyers and to where would it be transported? CNL has informed us that “due to confidentiality obligations to third parties, sales figures and buyers cannot be disclosed.”<sup>10</sup> As KFN has clearly communicated to CNL, it vehemently

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<sup>9</sup> See KFN’s comments to CNL and AECL dated February 29, 2024

<sup>10</sup> Letter from CNL/AECL, 1 May 2024, p 8

opposes any further expansion of nuclear operations in its territory and we are gravely concerned about the proliferation risk of this project and the potential use of tritium for weapons purposes. At present, the only major market for tritium is for nuclear weapons. In light of this outstanding information request to CNL/AECL, KFN **requests** the Commission direct CNL to provide information that allows us and AECL (as the federal authority) to more fully understand the purpose of the MCECE and uses resulting from its detritiation process. CNL/AECL's failure to disclose information on the basis of being confidential or proprietary undermines our ability to equitably participate and understand the project's impacts, including proliferation risk.

### **E. The ROR ought to include the *Kunming-Montreal Biodiversity Framework* as among the international obligations reviewed**

The Commission is vested with the purpose of achieving “conformity with measures of control and international obligations to which Canada has agreed.”<sup>11</sup> This purpose is also found throughout the Commission's policies, including regulatory document *REGDOC-2.9.1, Environmental Principles, Assessments and Protection Measures*, which describes the Commission's principles for environmental protection, the scope and responsibilities pertaining to environmental review, and guidance to applicants and licensees for developing environmental protection measures.

Section 2.1 of REGDOC-2.9.1 provides that as a guiding principle on protecting the environment, the regulation of nuclear facilities be consistent with Canada's international obligations:

#### **2.1 The CNSC's guiding principles for protection of the environment**

The CNSC regulates nuclear facilities and activities in Canada to protect the environment and the health and safety of persons in a manner that is consistent with Canadian environmental policies, acts and regulations and with Canada's international obligations.

As the Kunming-Montreal Global Biodiversity Framework<sup>12</sup> is among Canada's international obligations, KFN **recommends** the ROR ought to assess and report on whether CNL's activities are assisting or hindering progress towards the central goal of protecting 30 percent of terrestrial, inland water, and coast and marine areas by 2030. As

<sup>11</sup> s 9(a)(iii) of the *Nuclear Safety and Control Act*

<sup>12</sup> United Nations Environment Program, [Convention on Biological Diversity – Kunming-Montreal Global Biodiversity Framework](#), CBD/COP/15/L.25 (2022)

the Global Biodiversity Framework set out, achieving this 2030 target is critical if we are to halt and reverse biodiversity loss, putting nature on a path to recovery by 2050.

Biodiversity “mainstreaming” is the main methodology for ensuring that biodiversity, and the services it provides, are appropriately and adequately integrated into policies and practices that rely and have an impact on it, whether led by a business or government. We **ask** that the Commission require CNSC Staff to report back on Targets 14 – 23 of the Global Biodiversity Framework that set out the tools and solutions for mainstreaming biodiversity. KFN **submits** these targets are directly relevant to Commission as a federal, regulatory body and requests the following actions:

- **Target 14** requires the full integration of biodiversity values into environmental impact assessment, across all levels of government and across all sectors. We **recommend** the CNSC include the Global Biodiversity Framework within its conformance with international obligations, its ERA process and Environmental Protection Safety and Control Area.
- **Target 15** requires that legal and policy measures be taken to encourage companies to (1) regularly monitor, assess and transparently disclose their risks and impacts on biodiversity, (2) promote sustainable consumption and (3) report compliance. KFN **requests** the Commission require CNL to predict the effects of their project on species health and genetic diversity, and comment on follow-up or monitoring programs, to ensure the requirements of Target 15 are being met.
- **Target 21** requires best available data, information and knowledge be accessible to decision makers, practitioners and the public to guide effective government and participatory management of biodiversity (and in this context, traditional knowledge ought only to be accessed with Indigenous peoples’ free, prior and informed consent). This threshold – of best available data – ought to be encouraged and as the record before the CNSC on biodiversity effects is lacking, KFN **submits** there is not a requisite basis for the effective and participatory implementation of biodiversity values.
- **Target 22** specifically requires the equitable, inclusive, effective participation in decision-making, and access to justice and information related to biodiversity by Indigenous peoples and local communities, respecting their cultures and their rights over lands, territories, resources, and traditional knowledge. Target 22 is of primary significance for Indigenous peoples’ participation in decision making and, in this regard, we **recommend** the Commission ought to require CNSC Staff to set out how



it sought and considered information related to biodiversity by Indigenous nations in their ROR process and the licensing assessments therein.

We submit the inclusion of biodiversity is critical, especially given the ecological impact of actions by CNL at the NSDF site. By way of background, since 1867, the provincial governments of Québec and Ontario have introduced forestry extraction and management regimes on Algonquin Nation lands that have profoundly altered Algonquin Anishinabeg rights, access, relations and sustainability of their common pool resources.

Recently, Kebaowek articulated to the CNSC of our expectation that we be meaningfully and effectively included in the CRL Forest Management Plan (FMP). Old-growth forests have dwindled and traditional lands are under increasing forest industry and regulatory pressures. Kebaowek has expressed to CNSC the need to maintain forest cover at NSDF for ecological integrity for cultural continuity. We articulated this in our judicial review as well, and continue to push for space for Kebaowek in the CRL Forest Management Plan, including having the opportunity to adjust the Forest Management Plan concurrent to increased on-the-ground NSDF impacts to both old growth forests and biodiversity and provide GHG credits for climate change mitigation. This is in keeping with Article 10 of the Convention on Biological Diversity (1993) to which Canada is signatory, which calls for each party to adopt measures relating to the use of biological resources to avoid or minimize adverse impacts on biological diversity. Article 10(c) of the CBD goes on to state that Parties shall: (...) “protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements.”

Once again, and as supported by the *UNDA*, we request the CNSC to engage Kebaowek First Nation in consultation on the FMP. CNSC staff informed us they requested approval of the plan from ECCC yet Kebaowek was not consulted by ECCC either. Kebaowek is seeking reconciliation of this matter both through the Federal Court and through *UNDA*, which provides a supporting Action Plan (AP) to support Indigenous-led conservation measures. We note the following pertinent measures:

- AP measures 23 and 27, by facilitating the Algonquin Nation to exercise self-governance with respect to Algonquin land;
- AP measure 28, as it is a community-led initiative for the affirmation and enforcement of Algonquin laws ( no disturbance of active bear dens);
- AP measure 32, would provide a framework to ensure that Indigenous rights and the sacred relationship and responsibilities of Indigenous peoples to their lands are respected (CRL site is in proximity to two sacred sites on Algonquin territory Point au Baptheme and Oiseau Rock;

- AP measure 47, as this project will further Indigenous leadership in conservation;
- AP measures 66 to 73 and as the CNSC should support increased Algonquin participation in decision-making with respect to our land, including free, prior and informed consent;
- AP measures 95 and 96, as Forest Management Planning will contribute to the establishment of Indigenous Protected and Conserved Areas in Algonquin territory and will support on-the-land language and cultural learning by and for Algonquin communities, including youth.

It is our position that an Indigenous Protected Areas within CRL site on unceded lands will sustain ecological integrity and cultural continuity over Algonquin territory, affirm and strengthen Algonquin land use, and enforce Algonquin laws and environmental stewardship customs.