



**Written submission from the
Algonquins of Pikwàkanagàn
First Nation**

**Mémoire de la Première Nation
des Algonquins de Pikwàkanagàn**

In the matter of

À l'égard d'

Ontario Power Generation

Ontario Power Generation

**Ontario Power Generation -
Application to amend the Darlington
Nuclear Generating Station power
reactor operating license to allow
production of additional medical
isotopes**

**Ontario Power Generation – Demande
visant à modifier le permis
d'exploitation d'un réacteur de
puissance pour la centrale nucléaire de
Darlington en vue d'obtenir
l'autorisation de produire des isotopes
médicaux supplémentaires**

Public Hearing – Hearing in writing based
on written submissions

Audience publique – Audience fondée sur
des mémoires

March 2025

Mars 2025



*Algonquins of Pikwakanagan
First Nation*

THE ALGONQUINS OF
PIKWAKANAGAN FIRST NATION'S
SUBMISSION ON ONTARIO POWER
GENERATION'S – REVISED
REDACTED APPLICATION FOR
AMENDMENT TO THE DARLINGTON
NGS POWER REACTOR OPERATING
LICENCE 13.03/2025 FOR
ADDITIONAL ISOTOPE
PRODUCTION

February 7, 2025

Prepared by the Algonquins of Pikwàkanagàn First Nation. This submission was funded by the Canadian Nuclear Safety Commission's Participant Funding Program.

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February 7, 2025

The Algonquins of Pikwàkanagàn First Nations comments on Ontario Power Generation's Darlington NGS – Revised Redacted Application for Amendment to the Darlington NGS Power Reactor Operating Licence 13.03/2025 for Additional Isotope Production

Introduction

Algonquins of Pikwàkanagàn First Nation (AOPFN) respectfully submits our review of the above-noted Ontario Power Generation Application for Amendment. Ontario Power Generation (OPG) is applying for an amendment to its existing licence to allow for the processing, storing, and transferring Lutetium-177 (LU-177) and Yttrium-90 (Y-90), as well as continuing to process Molybdenum-99 (MO-99). With respect to AOPFN's rights and interests, the priority focus is on the transport and storage of hazardous materials into and through AOPFN territory, and likely storage of wastes in AOPFN territory. It is AOPFN's understanding that this amendment will allow for the further (and a potential increase in) transport and storage of hazardous radiological material in AOPFN territory. It is also our understanding that these materials will be transported between OPG's Darlington NGS and BWXT Medical facilities, which is in AOPFN's unceded Algonquin territory, and there is the potential for waste storage and/or disposal of this material in our unceded Algonquin territory as well. AOPFN needs to be involved in consultation prior to any of this material entering AOPFN's unceded Algonquin territory, including by the CNSC, OPG and BWXT. Meaningful consultation on these matters has not occurred to date. As a result, we have follow-up requirements of both OPG and BWXT in our submission which we expect to be actioned before decisions are made on the OPG Application.

About the Algonquins of Pikwàkanagàn

The AOPFN are Algonquin peoples of the Ottawa River (Kichi-Sibi) Valley. Algonquin people have lived in the Ottawa River Valley for at least 10,000 years before Europeans arrived in North America.

The AOPFN has never ceded any of our traditional Algonquin territory in Treaty with the Crown. AOPFN members have, since time immemorial, exercised their rights to hunt, trap, fish, gather, and perform other activities integral to their culture and way of life throughout our unceded traditional territory. Members of the AOPFN have long exercised governance and stewardship activities in Algonquin territory.

The AOPFN continues to assert and exercise Algonquin aboriginal title and aboriginal rights to and in all parts of AOPFN unceded traditional territory, including lands under water. The AOPFN has an obligation to our members to plan for the future and to ensure self-determination, self-reliance, and self-governance. The AOPFN is committed

to respecting and protecting our unceded traditional territory and the rights and interests of our members.

We rely on the health of the environment in our territory for our survival. The health of the lands and waters is essential to the continued existence of the AOPFN as a people and our members' health, culture, laws, livelihood, and economy. The AOPFN must be recognized as a rightful, respected, and principled steward of the environment.

AOPFN Comments on the OPG Application

We acknowledge OPG's commitment to respect "Aboriginal and treaty rights and interests and OPG's commitment to developing positive relationships with Indigenous communities remains integral to our operations"¹.

To meet this commitment, OPG must seek to work with AOPFN to achieve FPIC for the transport of hazardous materials through AOPFN territory. At the same time, OPG should be collaborating with BWXT and AOPFN on FPIC matters with respect to the storage and processing of hazardous materials on AOPFN territory, including on waste management.

In communication between OPG and AOPFN, OPG stated that "OPG has no responsibilities for waste; this is the responsibility of BWXT Medical"². It is AOPFN's stance that, since OPG's operations will create the material that will eventually lead to the production of waste (a by-product of the original material), its role as the producer places it in the chain of custody and liability for this material and OPG is therefore responsible to seek collaboration with BWXT and AOPFN to develop a waste management plan and agreement.

We recognize that CNSC and Canadian regulation may have different requirements of OPG. AOPFN has our own regulations and policies that we require proponents to respect. In order to achieve FPIC for this work, OPG must respect these regulations and policies. Attached as Appendix A is a copy of AOPFN's Nuclear Sector Principles and Requirements, ratified by AOPFN's Council in 2021 which must be adhered to by all nuclear sector proponent's with activities in, or whose activities impact upon, AOPFN's unceded Algonquin territory.

AOPFN Requirement #1: OPG and BWXT to review AOPFN's Nuclear Sector Principles and Requirements and engage with AOPFN on whether both

¹ OPG. 2023. P. 6. "ISOTOPE ENGAGEMENT AND COMMUNICATIONS PLAN WITH INDIGENOUS COMMUNITIES". Document number: NK38-PLAN-00120-00018 (Application Attachment)

² OPG. 2025. Email Communication between OPG and AOPFN: Table of Responses to AOPFN questions. Email sent 21 January 2025.

proponents are in adherence with them, such that a follow-up submission to the CNSC can be filed prior to the amendment decision being made by the CNSC.

We ask that CNSC likewise respect AOPFN's FPIC decision on the matter before proceeding with permitting.

A first step towards achieving FPIC is to ensure we have all the information required to make an "informed" decision on the Application. On December 5, 2024, OPG did provide some feedback to initial questions about the radiological material that would come into AOPFN territory from its Amendment Application. AOPFN appreciates OPG's provision of this information. AOPFN has need for additional information to fully understand the nature, scope and implications of these physical works and activities however.

AOPFN notes that we posed questions to OPG about where the material will go, what material from this process will enter and move through AOPFN territory, and whether it will stay in AOPFN territory.

The Amendment Application states that there will be no changes to transportation of the material. The material will follow the same transportation routes, processes, and procedures as under the current permit. The application states that,

"The harvested irradiated target capsules will be loaded into a transportation package of CNSC certified design (shielded flask and overpack) **by OPG staff and loaded for transport to BWXT Medical** for medical isotope processing. BWXT staff will be responsible for transportation from Darlington NGS to BWXT-Medical in Kanata, Ontario."³

In short, irradiated target capsules will be going from OPG to BWXT and the chain of custody appears to be handed over to BWXT prior to the material entering AOPFN territory. At the same time,

"The targets, manufactured by BWXT-NEC, will be received periodically at Darlington NGS to meet medical demand for the isotopes Lu-177 and Y-90. Once irradiated, the targets will be shipped from Darlington NGS to BWXT-Medical for medical processing..."⁴

"At the applicable Darlington NGS unit, the irradiated targets will be loaded into a certified radioactive material transportation package for shipment to BWXT-Medical in Kanata, Ontario, using the flask loader."⁵

There are no details on what the specifics of these routes are. And AOPFN has not been provided information in the past about when, how, and with what protections in

³ Section 1.5 of Amendment Application 3, p. 14 of 60, (emphasis added).

⁴ Section 2.12 of Amendment Application 3, p. 47 of 60.

⁵ Section 2.14.1 of Amendment Application 3, p.52 of 60.

place, this material will be transported into AOPFN territory. This information vacuum is not acceptable to AOPFN moving forward.

AOPFN Requirement #2: OPG and BWXT to collaborate on preparing an information sheet that provides further information to the AOPFN prior to the completion of this CNSC hearing process, including:

- **A detailed overview of the routes and plans for the transfer of radiological material that starts at Darlington NGS into and through AOPFN territory.**
- **A comprehensive outline (and commitment) of how OPG and BWXT will work together to manage the transport of material and waste in AOPFN territory.**
- **Which party is responsible for bringing the materials into AOPFN territory and how they will engage with AOPFN prior to doing so.**
- **Which party is responsible for storage of radiological waste materials related to the Amendment Application, where, and how, as it relates to materials requested to bring into AOPFN territory.**
- **Which party is responsible for disposal of radiological waste materials related to the Amendment Application, where, and how, as it relates to materials requested to bring into AOPFN territory.**
- **How the responsible party (or parties) will engage with AOPFN in planning for, monitoring of, and decisions around transport, storage and disposal of radiological wastes that come into AOPFN territory as a result of the Amendment Application's physical works and activities.**
- **Whether any waste will be stored and/or disposed of at BWXT's facility in AOPFN territory or not, and if so under what conditions and locations. In other words, OPG and BWXT should confirm whether all waste generated from activities at BWXT will then be sent back into OPG's care and control for storage, reuse, and/or disposal outside of AOPFN territory, or whether some will remain in AOPFN territory.**
- **What role OPG and BWXT are committed to providing to AOPFN's Neyagada Wabandangaki Guardian Program in the monitoring of the radiological materials and their associated waste products, when those products (initial and ultimate) are within AOPFN territory.**

From OPG's initial feedback to AOPFN, we have a sense that the waste amounts at any given time will be small in size and short-lived in radioactivity. However, we only have just that – a sense of this, not a certainty. This certainty, including for how long a time period additional radiological material will be entering AOPFN territory, how risky it is, and what will be done with it, is essential to our leaders and our citizens.

In addition, OPG's initial responses to our inquiries seem to indicate that some waste will remain at BWXT; we do not have information about how it will be handled as this time. References by OPG to existing "Waste Management requirements of BWXT Medical's Class IB Nuclear Substance Processing Facility licence" need to be bolstered by direct engagement of BWXT with AOPFN about said existing requirements. That has

not occurred yet. At one point in its initial response to AOPFN, OPG states “BWXT Medical will need to respond in detail” – AOPFN agrees and looks forward to hearing from BWXT.

AOPFN also notes that OPG sent out a single introductory letter to AOPFN about its amendment application without any instructions of what OPG was looking for from AOPFN and no offer of capacity support to engage, and was slow to respond to a follow-up request from AOPFN. This is not exemplary engagement, especially considering that AOPFN’s unceded Algonquin territory is the likely proposed storage and/or ultimate disposal location for wastes that will be generated from Project-related radiological materials, after their use at the BWXT nuclear substance processing facility, also in unceded Algonquin territory.

AOPFN looks forward to working with OPG, BWXT and CNSC to ensure AOPFN’s rights and interests are respected.

AOPFN Requirement #3: OPG and BWXT to convene and properly fund further engagement with AOPFN on radiological material transport, management, storage and disposal, before the completion of this CNSC hearing process.

Closure

AOPFN appreciates the opportunity to comment on the above-noted Amendment Application. As ever, our reasonable requirements are intended to encourage a stronger relationship and greater trust between parties concerning how nuclear facilities are managed in AOPFN territory, and to protect our members’ Aboriginal rights.

Sincerely,



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Manager, Consultation
Algonquins of Pikwakanagan First Nation

CC. Chief and Council, Algonquins of Pikwakanagan First Nation
Kenn Ross, Sr Manager Indigenous Relations OPG
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Appendix A: AOPFN's Nuclear Sector Principles and Requirements



Algonquins of Pikwakanagan First Nation

Consultation, Engagement, and Accommodation
Requirements for all Nuclear Sector Proposed
Developments in AOPFN Territory

Drafted June 30, 2021

Preamble

The Algonquins of Pikwakanagan First Nation (AOPFN) have lived in our unceded traditional territory since time immemorial, practicing our ways and living according to our laws and culture. We are a self-defined people. AOPFN continues to assert and exercise Algonquin aboriginal title and aboriginal rights to and in all parts of AOPFN unceded traditional territory, to which AOPFN has not been a party to a treaty, including lands under water (see map attached as Annex 1 for AOPFN unceded traditional territory boundaries). AOPFN has an obligation to our members to plan for the future and to ensure self-determination, self-reliance, and self-governance. AOPFN is committed to respecting and protecting our unceded traditional territory and the interests of all our members and therefore AOPFN understands the value of establishing relationships while ensuring our Algonquin aboriginal rights, title and interest are fully recognized, respected and protected.

In addition to Algonquin aboriginal title, AOPFN's Algonquin aboriginal rights and interests in AOPFN traditional territory include Algonquin aboriginal rights to hunt, fish and trap, to harvest plants for food and medicine, to protect and honour burial sites and other sacred and culturally significant sites, to sustain and strengthen its spiritual and cultural connection to the land, to protect the Environment that supports our members survival, to govern ourselves, and to participate in all governance and operational decisions about how the land and resources will be managed, used and protected. Our laws require AOPFN to preserve and enhance a mutually respectful relationship with the Environment, to co-exist with Mother Earth and protect this relationship. We have the responsibility to care for our unceded traditional territory for future generations, and to preserve and protect wildlife, lands, waters, air and resources. We rely on the health of the Environment in AOPFN Traditional Territory for our survival. The health of the lands and waters is essential to the continued existence of AOPFN as a people and our members' health, culture, laws, livelihood, and economy.

AOPFN must be recognized as a rightful, respected and principled steward of the Environment. Our input and perspective in any consultation and accommodation process will include the use

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of traditional ecological and cultural knowledge alongside knowledge from western scientific and technical sources.

AOPFN territory, since the 1940s, has seen the rise of one of Canada's largest nuclear sectors. This has been done without AOPFN consultation until recently, and without our consent in every instance to date. The importation, production, use and disposal of radioactive materials has had adverse impacts on the environment and constitutes an infringement of our Algonquin aboriginal rights, title, and interests to a degree that has yet to be assessed let alone recognized or compensated for. The nuclear sector has brought change to our lands and waters, closing off of traditional areas from our access, real and perceived health risks, and alienation and fear associated with the wildlife, vegetation and waters that our members rely on to practice their Algonquin culture and way of life on the land.

As priority Algonquin aboriginal rights holders under the *Constitution Act, 1982*, and as the traditional stewards of the land, these impacts on our Algonquin aboriginal rights, title and interests have always been and remain unacceptable.

With the rise of recognition by Canada that reconciliation with Indigenous peoples is essential to Canada's future, and the embracing of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), we are entering a new era. We have developed the requirements below to reflect our expectations as a Nation, to share openly and transparently with Canada and all proponents who would seek to build, conduct, and decommission nuclear sector-related projects in our AOPFN traditional territory.

AOPFN will update these requirements and communicate changes to Proponents at our discretion. AOPFN expects Proponents and government to stay informed of and respect AOPFN protocols and requirements and their evolution over time.

Evaluation of adherence to the following requirements must be determined jointly between AOPFN and the Proponent. Adherence to these requirements includes respect for AOPFN Free, Prior, and Informed Consent decisions. Accordingly, Proponents cannot assume AOPFN consent; it must be actively sought and explicitly provided. Importantly, while adherence to these requirements does not guarantee AOPFN Free, Prior, and Informed Consent, it does represent a positive initial step in the process for seeking Free, Prior, and Informed Consent and development of a relationship with AOPFN.

Requirements for Nuclear Developments in AOPFN Territory

AOPFN expects that each Proponent seeking to conduct a nuclear sector physical work or activity¹ in AOPFN territory, will adhere to the following requirements. While these requirements may be scaleable to the size, nature and location of a proposed development, this can only be determined through engagement with AOPFN.

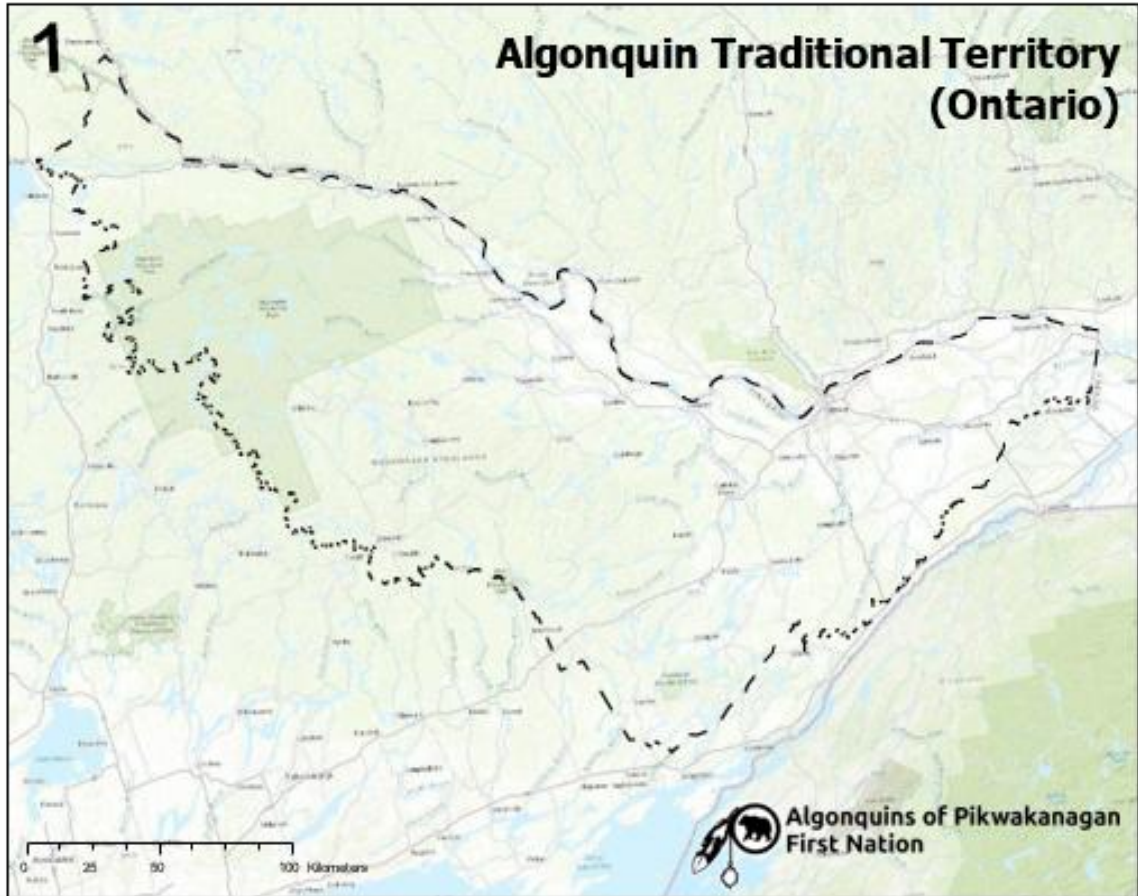
1. Adherence to AOPFN Principles Related to Nuclear Sector Projects (See Annex 2).
2. Adherence to AOPFN's Consultation and Engagement Protocol (Annex 3) and recognition that because only AOPFN can speak for our members, engagement must occur directly with AOPFN.
3. Recognition of AOPFN participation and capacity constraints that may arise from time to time (e.g. Covid-19 or other unforeseen circumstances) and a commitment to both negotiate solutions to accommodate these participation and capacity constraints and to respect the time required for AOPFN to make informed decisions.
4. Commitment to cover all reasonable costs of AOPFN engagement in relation to the planning, assessment, and licencing of the proposed physical work and activity, including process and studies costs as required, through a Contribution Agreement negotiated as early as possible in the planning stage for the proposed project.
5. Commitment to co-develop a collaboration framework to guide engagement for any provincial or federal impact assessment or regulatory process required for the Project. Any collaboration framework developed for a full impact assessment process will require at minimum a commitment for monthly meetings.
6. Commitment to conduct the environmental impact assessment according to the highest current standard of law and practice, and to respect and support AOPFN's expectations for the Nation's involvement in that assessment.
7. Commitment to provide opportunity to AOPFN to participate in a meaningful way in any "alternatives to" and or "alternative means" assessment early in project planning.
8. Commitment to provide right of first refusal and financial support for AOPFN to identify and lead or collaborate on studies or research relevant to the assessment of impacts from the Project. Required studies will be determined by AOPFN on a case-by-case basis but examples include:
 - a. Algonquin Knowledge and Land Use Studies

¹ For greater clarity, this includes any new physical work and activity, or relicensing of existing facilities, that involves the importation, storage, disposal, handling, manipulation or creation of radioactive materials, whether for research, energy production, medical or other purposes, and includes decommissioning of existing facilities that meet the above criteria.

- b. Culture and Rights Studies
 - c. Participation in early biophysical fieldwork and site assessment or inventories.
9. Commitment to provide meaningful opportunities for AOPFN to identify, develop, and implement mitigations or offsets for project impacts specific to AOPFN members. This includes involving AOPFN in a meaningful way in monitoring and management of the proposed project including via AOPFN's Neya Wabun (Guardian) Program (See also requirement 13a).
 10. Commitment to provide meaningful opportunities for AOPFN to identify, characterize, and determine the significance of effects from impacts occurring to AOPFN members and or values in AOPFN territory.
 11. Adherence to the requirements of UNDRIP, including but not limited to adhering to free, prior and informed consent decisions made by AOPFN in relation to the project.
 12. Negotiation in good faith toward a Reconciliation Agreement with AOPFN, with the value of that agreement to be commensurate with the scope of the proposed physical work and activity.²
 13. Financial contributions, commensurate with the scope of the proposed physical work and activity, to:
 - a. Support AOPFN's Neya Wabun Guardian Program;
 - b. Support AOPFN's Risk Communication Program;
 - c. Participation in AOPFN Cultural Awareness Training Program is an requirement;
 - d. Support AOPFN's Skill Inventory and Proficiency Collection Program;
 - e. Support AOPFN's Cultural Revitalization Program; and
 - f. Support AOPFN Community Infrastructure needs.
 14. Working with AOPFN to develop a Project-specific AOPFN Benefits Maximization Plan for employment, education, training and business procurement opportunities associated with the proposed Project.

² Where the parties have an existing agreement, the proponent is expected to commit to update it to reflect any change in scope of the relationship associated with the newly proposed physical work and activity.

Annex 1 – Map of AOPFN Unceded Traditional Territory



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Annex 2 – AOPFN Principles Related to Nuclear Sector Projects

Endorsed by AOPFN Chief and Council, June 22, 2021 and amendment # 1 on August 23, 2023.

AOPFN Principle
1. As a self-governing First Nation, AOPFN's right of free, prior and informed consent for nuclear projects will be respected.
2. AOPFN, as a government retrenching its rightful stewardship and governance responsibilities, will have a co-management role for nuclear projects in AOPFN territory.
3. All projects will contribute positively to educational opportunities critical to AOPFN self-sufficiency, governance and relationships with other parties.
4. To meet the expectation of sustainable development, risks will not be passed on to future generations; radioactive materials cannot ever be abandoned and forgotten in AOPFN territory.
5. AOPFN must be meaningfully involved in any provincial or federal impact assessment for developments occurring in AOPFN territory and any associated studies supporting assessment. Meaningful involvement requires adequate and full funding and reasonable timelines for participation activities.
6. Study Areas and Valued Components for any impact Assessment must be identified in collaboration with AOPFN knowledge Keepers and based on the extent of potential impacts associated with the proposed project.
7. AOPFN will have a meaningful role in monitoring the effects of nuclear projects in AOPFN territory.
8. Algonquin knowledge will be used alongside western science in planning, monitoring and management of nuclear facilities; Indigenous monitors will require access to skills in both Algonquin knowledge and technical monitoring fields.
9. Water must be clean, readily accessible, and trusted by AOPFN members.
10. No nuclear wastes will be moved into or out of AOPFN territory without AOPFN explicit permissions.
11. AOPFN members Algonquin aboriginal rights, title, and connection/relationship to the lands and waters will be protected and promoted, and AOPFN will play a key role in this process.
12. Wildlife and wildlife habitat will be protected and promoted, and AOPFN will play a key role in this process.
13. AOPFN will be meaningfully involved in all aspects of decision-making related to nuclear project planning.
14. AOPFN's cultural and spiritual values and resources will be vigilantly protected and promoted, and AOPFN will play a leading role in this process.
15. AOPFN will be accommodated for Project-specific and cumulative impacts that do occur as a result of nuclear projects, on biophysical and human environmental values and AOPFN Algonquin aboriginal rights, title, interest.
16. AOPFN must be provided adequate and timely access to funding and resources for exercise of its jurisdiction in relation to nuclear projects.
17. AOPFN has the right to preferentially economically benefit from projects that occur on its territory; in order to do so, systemic barriers need to be proactively removed

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AOPFN Principle
18. Nothing is more important to AOPFN members than safe and plentiful Algonquin foods and resources as well as the protection of lands. Impacts on these will be monitored and communicated to AOPFN members in ways that have meaning to them.
19. Reconciliation between Indigenous peoples and Canada will underpin the Nation-to-Nation relationship; each proponent to present to AOPFN and work to refine a "Reconciliation Plan", showing how they will contribute to making life better and a healthy and mutually beneficial relationship with AOPFN.