



**CMD 26-H7.49B**

Date: 2026-10-09

## **Supplementary Information**

**Written Submission from  
Michi Saagiig Anishinaabeg  
Nations of the Williams Treaties  
First Nations (MS-WTFNs)**

In the matter of

**Ontario Power Generation Inc.**

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Application to refurbish Pickering Nuclear  
Generating Station and to renew licences  
for the Pickering Nuclear Generating  
Station and Waste Management Facility

**Commission Public Hearing  
Part 2**

October 6-9, 2026

## **Renseignements supplémentaires**

**Mémoire des  
Nations Anishinaabeg Michi  
Saagiig des Premières Nations des  
Traités de Williams (MS-WTFNs)**

À l'égard de

**Ontario Power Generation Inc.**

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Demande concernant la réfection de la  
centrale nucléaire de Pickering et le  
renouvellement de ses permis pour la  
centrale et l'installation de gestion des  
déchets

**Audience publique de la Commission  
Partie 2**

6-9 octobre 2026



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October 8, 2026

**VIA EMAIL**

Candace Salmon  
Registrar  
Canadian Nuclear Safety Commission

Dear : Dear Ms. Salmon and Members of the Commission

**Re: Follow Up to DFO Comments Made on October 6, 2026 – Pickering Nuclear  
Generating Station Licence Renewal (Part 2 Hearing)**

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**Summary of Concerns and Requests**

We write on behalf of the MS-WTFNs to follow up on comments made by Fisheries and Oceans Canada (DFO) during the October 6, 2026 Part 2 Hearing. The MS-WTFNs have two principal concerns. First, the regulatory approach to Ontario Power Generation's (OPG) Fisheries Act Authorization (FAA) for the DWI is fragmented across separate construction, operations, and forebay infill reviews, proceeds on insufficient baseline and design information, and risks losing sight of interconnected and cumulative effects on fish, fish habitat, and the MS-WTFNs' Section 35 rights. Second, DFO's reliance on Sea Lamprey control as a reason to prioritize barriers over ecological restoration has proceeded without any consultation with the MS-WTFNs, without room for the scientific evidence that Sea Lamprey may be native to Lake Ontario, and without a fair accounting of the trade-offs involved. The MS-WTFNs therefore ask the Commission to (1) ensure its licensing decision does not prejudice or foreclose determinations on the sufficiency of information, the adequacy of consultation, or the appropriate mitigation, offsetting, and accommodation associated with OPG's current construction and future operations FAA applications; and (2) require, in its reasons for decision, that DFO work with the MS-WTFNs to integrate Indigenous knowledge and restoration expertise into shared decision-making on mitigation and offsetting requirements.

**1. The Fisheries Act Authorization Process**

**(a) A Fragmented Regulatory Process**

The MS-WTFNs have participated in early engagement on OPG's FAA application. As presently proposed, OPG is pursuing an FAA for construction-related effects only, with operational effects

to be addressed through a subsequent FAA application. A third component of DWI construction, the temporary forebay infill, is to be submitted to DFO for review through a Letter of Advice. Detailed design drawings are being deferred to future submissions and appear to remain under development, and the scope, design criteria, and assessment approach continue to evolve.

Separating the construction and operational reviews risks undermining an understanding of the connected consequences of building an intake whose principal environmental justification depends on its future operating performance. The primary concern at this stage is that the interconnected effects of construction and operations may be lost or diminished at the boundaries of individual application reviews, and that opportunities to avoid or minimize future operational impacts could be foreclosed by decisions made during the design and construction authorization.

### **(b) Cumulative Effects**

The segmented approach may also limit the ability of regulators and Indigenous communities to understand cumulative effects arising from the interaction of construction activities, future operations, waste management activities, and other ongoing developments within the broader PNGS site and the Lake Ontario watershed. An integrated, rights-based assessment across construction, operations, and associated DWI activities is necessary so that these effects are understood as a whole, and so that future offsetting measures and accommodations counterbalance residual effects rather than treating each regulatory component in isolation.

### **(c) Information Gaps and the Adequacy of Consultation**

The FAA review is a key regulatory process within the broader PNGS licence renewal for assessing and addressing effects on fish and fish habitat and the associated potential adverse effects on the MS-WTFNs' rights, including contributions to cumulative effects. Meaningful consultation and accommodation cannot be concluded, nor an authorization decision appropriately made, until sufficient information is available to understand the nature, extent, and significance of those effects. The significant information gaps identified by the MS-WTFNs must be addressed before consultation can reasonably be considered adequate and before DFO makes an informed authorization decision. Where key information remains unavailable, authorization decisions should be deferred until it is available.

For clarity, the MS-WTFNs' support for the DWI does not constitute acceptance of an incomplete assessment, acceptance of unknown adverse impacts on Section 35 rights, or agreement that anticipated aggregate reductions in fish mortality demonstrate that impacts on the MS-WTFNs' cultural and harvesting rights have been adequately assessed or addressed. The MS-WTFNs seek to ensure that residual impacts to fish and fish habitat are appropriately avoided, mitigated, and offset, and that potential adverse effects on their rights and title are comprehensively assessed and, where appropriate, accommodated.

## **2. Sea Lamprey Management**

In response to the Commission's questions at the October 6 Part 2 Hearing, DFO's Bill Glass identified the invasiveness of Sea Lamprey as DFO's main concern. The MS-WTFNs' position on Sea Lamprey management in Lake Ontario rests on three points.

### **(a) No Consultation on Sea Lamprey Management**

The MS-WTFNs have never been engaged or consulted on Sea Lamprey management approaches and control program practices, or on how those programs may infringe Section 35 rights. In 2021, the Great Lakes Fishery Commission (GLFC) was engaged to hear First Nations' and Tribes' beliefs regarding Sea Lamprey as relatives, and how GLFC management has often been incongruent with those belief systems (see <https://www.sciencedirect.com/science/article/pii/S0380133021001775>). Neither through that initiative nor since has the GLFC or the Sea Lamprey Control Centre, DFO's lead arm for the program, engaged the MS-WTFNs to develop a co-management approach, despite DFO indicating that it needs to do so.

### **(b) Sea Lamprey May Be Native to Lake Ontario**

DFO and others have not allowed room in the discussion for the possibility that Sea Lamprey are native to Lake Ontario. While GLFC staff remain firm that the species is invasive, independent academics tend to support the alternative view. Genetic population studies have concluded that Sea Lamprey are likely native to the lake, or demonstrate a unique population structure within Lake Ontario and the historically connected Finger Lakes in New York via the Oswego River (Waldman et al. 2004; Bryan et al. 2005; Waldman et al. 2006; Waldman et al. 2009; Ogden 2021). Bryan et al. state unequivocally that "Populations in Lakes Ontario, Champlain, and Cayuga are native."

The written record also shows that Sea Lamprey have been present since at least 1835. This is not the recent phenomenon alluded to, and predates the dam constructed in 1910. The MS-WTFNs' research indicates that Sea Lamprey entered the local area as a result of improvements to the major trade canals, which long predate 1910.

Taken together, the absence of consultation and the application of Western management approaches to a potentially native species within Lake Ontario are incongruent with a rights-based approach to co-management.

### **(c) The Offsets of Current Practices Have Not Been Fairly Weighed**

DFO has not allowed a full discussion of the offset associated with existing management practices, including negative collateral effects on fish and other aquatic species. DFO's portrayal of the Sea Lamprey concern has been significantly more serious than the science suggests:

- DFO actively maintains barriers on only a subset of watersheds. As Waldman et al. (2009) note, "in Lake Ontario, only 57 of 620 tributaries host sea lampreys."

- In discussions with the MS-WTFNs regarding Morningside Creek, DFO stated that its monitoring has found no juvenile or adult Sea Lamprey in the watershed. DFO has not assessed whether the energy dissipator structure is a barrier to adult Sea Lamprey, nor how many Sea Lamprey could be produced if the barrier were removed.
- The last available assessment for the Rouge River watershed as a whole, into which Morningside Creek flows, estimated only 2,245 larval lamprey in the watershed.
- Precedents for successful barrier removal have existed for decades.
- At the October 6, 2026 Hearing, DFO stated that Sea Lamprey harm Redside Dace—the first time the MS-WTFNs had heard this claim. Although lampicide must be carefully managed to avoid harming Redside Dace, the species is endangered primarily because human disturbance and overdevelopment have caused habitat loss.

Little more than the mere possibility that an opportunity for Sea Lamprey exists appears to be sufficient for Sea Lamprey control to take priority over ecological restoration and to justify the infringement of Section 35 rights.

### 3. Requests of the Commission

The MS-WTFNs will continue to engage in good faith in the FAA consultation process. Nothing in their participation should be construed as limiting future discussions regarding mitigation, offsetting, accommodation, monitoring, or adaptive management measures that may become necessary as additional information becomes available. The MS-WTFNs respectfully request that the Commission:

- (a) ensure that its licensing decision does not prejudice or foreclose determinations regarding the sufficiency of information, the adequacy of consultation, or the appropriate mitigation, offsetting, and accommodation associated with OPG's current construction or future operations FAA applications; and
- (b) require, in its reasons for decision, that DFO work with the MS-WTFNs to integrate Indigenous knowledge and restoration expertise into shared decision-making on proposed mitigation and offsetting requirements, consistent with the United Nations Declaration on the Rights of Indigenous Peoples and the principle of free, prior and informed consent.

Thank you for your consideration of these supplemental submissions.

Yours truly,

**FOGLER, RUBINOFF LLP**



Kate Babony

cc: Oceans and Fisheries Canada  
Ontario Power Generation