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**Written Submission from the
Passamaquoddy Recognition
Group Inc.**

**Mémoire du
Passamaquoddy Recognition
Group Inc.**

In the matter of the

À l'égard du

**Regulatory Oversight Report for
Canadian Nuclear Power Generating
Sites for 2024**

**Rapport de surveillance réglementaire
des sites de centrales nucléaires au
Canada : 2024**

Commission Meeting

Réunion de la Commission

March 2026

Mars 2026

**Submission by the Passamaquoddy Recognition
Group Inc.**

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**To the Canadian Nuclear Safety Commission (CNSC)
Regarding the 2024 Regulatory Oversight Report (ROR) for Nuclear
Power Generating Sites**

2026-01-28

A Peskotomuhkati member asked for us to share the following essay with the CNSC.

“Colonial Fragility”

Cited here with permission, credit to Maskwasis (Polar Bear Cub) Aka Joe Boyish, Jr.

Today I'd like to discuss colonial fragility, colonial fragility is not simply emotional discomfort, it is a patterned response rooted in power and white supremacy here in North America. When Indigenous people name the realities of colonization, things like land theft, treaty violations, genocide, forced assimilation and ongoing structural inequities, settlers experience this as a personal threat rather than historical or systemic truth.

This reaction is what scholars refer to as “COLONIAL FRAGILITY,” and it's associated with cognitive dissonance where when someone has been taught that Canada is the friendliest country on earth, and then suddenly, they're confronted by Canada's crimes against Indigenous people and Indigenous truth. They will often reject it, deny it, and argue against it. This is a byproduct of the colonial education system, undereducated people are not teaching about them at all, but colonial fragility is manifesting itself in predictable ways.

Defensiveness: immediate denial that colonialism continues to shape present conditions.

Individualization: redirecting systemic critiques into personal narratives, like, “I didn't do it”.... to avoid engaging with structural responsibility.

Minimalization: dismissing harm as in the past, despite unmistakable evidence of its contemporary impacts.

Race centric: shifting the conversation to the feelings and comfort of settlers instead of the lived experience of Indigenous people.

These responses serve an important function; they protect the legitimacy of the colonial state by shutting down critical dialogue before it can challenge existing power structures. Fragility in this sense is not weakness; it is a mechanism of maintaining control.

Indigenous truth telling however is not an attack, it is a necessary step towards understanding accountability and structural change. Confronting colonial histories and their ongoing legacies is uncomfortable, yes, but discomfort is not harm. In fact, it is the first stage of learning.

In conclusion, growth begins the moment defensiveness ends. When people choose humility over fragility, listening over reaction, and responsibility over comfort. That is when real reconciliation becomes possible.

Table of Contents

[1. Introduction – Passamaquoddy Recognition Group: Honouring Our Past, Protecting Our Future](#)

[2. Background](#)

[2.1 Occupation of Qinusqinusutk \(Point Lepreau\) — Place of the pointed land that extends into the ocean](#)

[2.2 CNSC's Commitment to UN Declaration and UNDA](#)

[2.3 Measurability and Accountability under UNDA — Outcomes versus Outputs](#)

[3. Response to ROR 2024](#)

[3.1 Change in Land Acknowledgement](#)

[3.2 Concerns about context](#)

[3.3 Identified areas in the 2024 ROR in need of additional context](#)

[3.4 Concerns about Quality of Environmental Monitoring Data at PLNGS and Questions about its Oversight & Jurisdiction](#)

[3.4.1 No Mention in 2024 ROR](#)

[3.4.2 Whose Authority?](#)

[3.4.3 The Grandfather Clause in PLNGS FAA Must be Amended](#)

[3.4.4 The Question of Real Numbers for Fish Death at PLNGS](#)

[3.4.4.1 Solution: Advancing Impingement and Entrainment Monitoring at PLNGS](#)

[3.5 Federal Law Reform Impacting Nuclear Projects and Impact Assessment](#)

[3.6 Framing of 'New Nuclear' Projects in the ROR and Information Gaps](#)

[4. Denial of Meaningful Participation](#)

[4.1- Unrealistic Timelines Bar Meaningful Participation](#)

[4.2 - Lack of Capacity Funding Erodes Community Capacity](#)

[4.3 - Exclusion from Licensing Hearings Denies Procedural Fairness and Being Heard](#)

[5.0 Critical Concerns about the CNSC's Approach to Indigenous Engagement](#)

[5.1 - Indigenous Knowledge Policy Framework](#)

[5.2 - Indigenous Engagement](#)

[5.2.1 Accessibility of Detailed Indigenous Engagement Reporting in 2024 ROR](#)

[5.3 "Have to disagree" — Our disagreement is our way through: our disagreement lights our path forward:](#)

[5.4 CNSC Method of Evaluation of Indigenous engagements](#)

[5.5 Concerns about CNSC's Indigenous Engagement capacity](#)

[5.7 The Affect and Effect of CNSC Website Changes:](#)

[5.7.1 UN Declaration](#)

[5.7.2 Gentilly](#)

[5.7.3 Providing crucial Information to PRGI through weblinks](#)

[5.6 - CNSC Listening Tour](#)

[5.7 Accountability & Measurability in the CNSC-PRGI Issue Tracker](#)

[5.7.1 Solution](#)

[5.8 The ROR Appendix — Issues and Concerns](#)

[5.8.1 Solution:](#)

[5.9 Non-Engagement with PRGI for New ROR Design Process](#)

[5.9.1 Solution:](#)

[6.0 Concerns about Adequate Oversight of Proponent Activities](#)

[6.1 Concerns about Culture of NDA deployment by Proponents on CNSC's Regulatory Watch](#)

[6.2 Concerns about NBP Financial Guarantee Lapse on CNSC watch](#)

[7.0 Conclusion](#)

1. Introduction – Passamaquoddy Recognition Group: Honouring Our Past, Protecting Our Future

Conservation is our sector, and thriving, protected indigenous ecosystems is our mission. We aim to explore our history, share our stories, and protect our past and future. We are honoured and committed to meet the challenges of tomorrow based on the teachings of yesterday.

Our goal is to help re-establish the means to coexist with nature, eliminating the struggles caused by 20th and 21st century human pressures. Our strategies utilize modern best practices, alongside traditional methods.

We foster innovative practices, principled creativity, and proactive means to help ensure our traditional ecosystems can re-establish themselves into healthy, sustainable, and thriving wildernesses.

In our tradition, authority is always accompanied by responsibility, and rights are accompanied by obligations. As an example, if we have the right to fish, that right is not ours alone: it also belongs to future generations of our people. For them to have a meaningful right to fish, there must be fish for them to catch. We have the responsibility to ensure that there will be healthy air, lands and waters for human and natural populations in the future.

2. Background

Please accept our written submission on the Review of ROR 2024. We appreciate the funding support through the Participant Funding Program which made this review possible.

This submission is filed by the Passamaquoddy Recognition Group Inc (PRGI), in response to the *Canadian Nuclear Safety Commission's ("CNSC")* request for comments on the *2024 Regulatory Oversight Report (ROR) for Nuclear Power Generating Sites (NPGS)* which provides an overview of regulatory efforts related to CNSC-licensed nuclear power plants and waste management facilities in Canada in 2024.

We believe the ROR provides a pertinent opportunity to highlight concerns and advance discussion on areas of outstanding concern. In fact, it is our only opportunity to meet with decision-makers, CNSC Commissioners, since the most recent licence renewal of Point Lepreau Nuclear Generating Station (PLNGS) has extended the time between public hearings, and the CNSC has recently cancelled hearings related to financial guarantees.

We call attention to the continued need to add context to the ROR, and for a third time, request that this be discussed with intervenors and the results of these discussions be reported back to intervenors, as opposed to what we understand will be happening for the 2025 ROR — that it will just be presented in a changed format, without the opportunity for Rightsholders to co-design or even review a draft version. This does not align with the need for early engagement. **We expect engagement on any changes that could reduce our interaction with Commissioners, and request documentation leading up to this decision, and a draft of the 2025 ROR.**

The passage of Bill C-5 on June 26, 2025, and the subsequent effort by the Federal government of Canada to enact its timescale and values, has thrown the regulatory landscape of Canada into disarray. This loss of procedural coherence has had far-reaching consequences on the ability of intervenors, especially those Rightsholders from Indigenous communities, to respond sufficiently and by their own standards to proposed projects and regulatory oversight requirements.

Bill C-5 in practice has constrained intervenors' capacity to intervene, precisely at the moment when that intervention — its public service — is most needed. This effect was known, widely publicized, discussed, and critiqued *prior to the bill taking royal assent*. This weakening of public and Indigenous response capacity was foreseen, and is now occurring. As an example, the Nation and many others find themselves attempting to balance their knowledge, time and investment in their responses to both the ROR and the Initial Project Description regarding the Deep Geological Repository, which have deadlines 4 days apart.

2.1 Occupation of Qinusqinususitk (Point Lepreau) — Place of the pointed land that extends into the ocean

Since time immemorial, the Peskotomuhkati have lived and thrived on the shores of the once-bountiful Bay of Fundy, including the lands and waters now and forever occupied and exploited by the NB Power Corporation. For generations, medicines, foods, and teachings coming from these lands, sky and waters were available to our people until they were given the sole purpose of facilitating the PLNGS. Additionally, Qinusqinususitk (Point Lepreau) has become the unacceptable location for two proposed small modular nuclear reactor (SMNR) technologies, and/or a proposal for 600 MW of undisclosed nuclear technologies.

PLNGS occupies Qinusqinususitk (Point Lepreau), a mere 45 km from our sacred capital, Qonasqamkuk (St. Andrews) and 47 km and 90 km respectively from Peskotomuhkati communities of Sipayik (Pleasant Point) and Motahkomikuk (Indian Township).

We would like to bring to your attention that consent was never sought, nor granted from our people, for the development of the PLNGS on the shores of the Bay of Fundy. Refurbishment of the station was completed against our will. **Operation continues, and toxic waste stockpiles grow, absent any effort by the CNSC to seek our consent.**

In 2022, in opposition to our stated request and offers to work together during a 3-year operating licence, (a period longer than **NB Power's average licence length of 2.44 years**) **PLNGS was instead granted a 10-year operating license by the CNSC.** We believe the extended licence length was requested and authorized to, in part, enable an efficient co-siting of proposed SMNRs within the PLNGS site.

We believe the projects (both existing and proposed) at the Point Lepreau Nuclear Generating Station site must only continue/move forward if Free, Prior and Informed Consent is provided by the Peskotomuhkati Nation at Skutik. NB Power plans must be reviewed comprehensively — especially given cumulative and compounding effects. **To accomplish a comprehensive review, the Nation must have full access to all information regarding proposed developments. Proponents and government agencies must ensure the Nation has the capacity to lead their own assessment of such developments.**

2.2 CNSC's Commitment to UN Declaration and UNDA

PRGI invokes CNSC's commitment to join a whole-of-government approach in the implementation of the United Nations Declaration on the Rights of Indigenous Peoples. This commitment is further specified in "Shared Priorities measure 3" by Justice Canada as necessitating an ongoing changing and altering of Canadian structures of assessment even and especially in events already under way,

Shared Priorities measure 3 emphasizes that for statutes that relate to the rights in the UN Declaration that are already subject to review processes, these reviews provide an opportunity to ensure consistency with the UN Declaration in consultation and cooperation with Indigenous peoples¹

Shared Priorities measure 3 describes a broad legal obligation that is characterized by ongoing openness to change in the midst of regulatory process, foreseeing the many incentives to forestall such changes due to capital concerns and timelines for business profits. And yet Justice Canada makes Measure 3 mandatory as law in precisely what might be considered as an inconvenient place in the regulatory production pipeline, on purpose.

This principle is already embedded in Canadian law. The United Nations Declaration on the Rights of Indigenous Peoples Act (UNDA) was passed into law in Canada in 2021, with an action plan released in 2023. Taken together, these legislative and policy instruments provide a window into the legal and logistical specificities by which Canada has committed its departments to engage in a "whole-of-government approach"² to implement UN Declaration through the Canadian legal mechanism of UNDA and its associated governance implementation plan, the UNDA Action Plan (2023-2028). **In UNDA, CNSC is committed by Natural Resources Canada (NRCAN) to recognize in an ongoing way that engagement must necessarily interrupt current processes and timelines:** "Implementing the UN Declaration requires intentionally moving beyond existing ways of doing things and work that is already underway."³

As is made clear in both legal mandates of UNDA and the supporting material from subsequent

¹ Justice Canada, *Annual Report UN Declaration Implementation (2024)*

² Ibid.

³ Justice Canada, *United Nations Declaration Act Action Plan (2023–2028)*, June 6, 2023, <https://www.justice.gc.ca/eng/declaration/ap-pa/ah/p1.html>

Justice Canada UNDA reports, a key and ongoing responsibility for federal agencies and departments is to move away from business as usual, to interrupt it mid-stream, and move concretely toward a new horizon. **PRGI requests to know what movements away from business as usual for the CNSC are being planned, or are currently being implemented.**

With this legal mandate clear, other legal prescriptions aimed at upholding Indigenous rights as set out in made by UNDA for federal departments or agencies including the CNSC, follow:

- “the role of treaties, agreements and alliances as **foundational** to our ongoing nation-to-nation, Inuit-Crown and government-to-government relationships” (emphasis added)⁴
- “the truth about the grave harms against Indigenous peoples committed as part of settler colonialism and extensively documented by the Royal Commission on Aboriginal Peoples, the Truth and Reconciliation Commission, and the National Inquiry into Missing and Murdered Indigenous Women and Girls”⁵
- “All doctrines, policies and practices based on or advocating the superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences, including the doctrines of discovery and *terra nullius*, are racist, scientifically false, legally invalid, morally condemnable and socially unjust”⁶
- “the Government of Canada rejects all forms of colonialism and is committed to advancing relations with Indigenous peoples that are based on good faith and on the principles of justice, democracy, equality, non-discrimination, good governance and respect for human rights”⁷
- “the Government of Canada recognizes that all relations with Indigenous peoples must be based on the recognition and implementation of the inherent right to self-determination, including the right of self-government”
- “the Government of Canada is committed to taking effective measures — including legislative, policy and administrative measures — at the national and international level, in consultation and cooperation with Indigenous peoples, to achieve the objectives of the Declaration”
- “the Declaration [UNDRIP] is affirmed as a source for the interpretation of Canadian law”

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

- “there is an urgent need to respect and promote the rights of Indigenous peoples affirmed in treaties”
- “The UN Declaration Act mandates the Government of Canada to not only consult with Indigenous peoples, but also cooperate with them. **This means that Indigenous peoples have the opportunity, including through their representative organizations, to participate in and to positively influence federal decision-making processes with adequate time and supported by adequate resources**” (emphasis added)
- “The UN Declaration Act states that ‘measures to implement the UN Declaration in Canada must take into account the diversity of Indigenous peoples and, in particular, the diversity of the identities, cultures, languages, customs, practices, rights and legal traditions of First Nations, Inuit and the Métis and of their institutions and governance structures, their relationships to the land and Indigenous knowledge’”
- “The work of implementing the UN Declaration must also ensure, in all aspects and at all stages, the intentional and meaningful inclusion of First Nations, Inuit and Métis, Elders, youth, children, women, men, persons with disabilities, gender-diverse people and two-spirit individuals, as well as those residing in urban/off-reserve areas. The specific needs, experiences, identities, abilities, and knowledge of these populations will be respected and taken into consideration with the aid of an inclusive and intersectional approach that considers the principles of gender-based analysis plus (GBA+) as well as the social determinants of intersecting identities.”
- “Consistent with article 37 of the UN Declaration, honourably implement historic and modern treaties, self-government arrangements, agreements and constructive arrangements – see specific measures found in subsequent chapters. **(All departments)**”⁸ (emphasis in original)
- “The Government of Canada fully respects Indigenous title and rights, and the sacred relationship and responsibilities of Indigenous peoples to their lands, waters and resources, including through its laws, policies and practices.”⁹
- “Develop guidance on engaging with Indigenous peoples on natural resources projects, including in collaboration with provinces, territories, and industry, that:
 - Aligns with the UN Declaration, including article 32(2), **which calls for consultation and cooperation in good faith with the Indigenous peoples**

⁸ Ibid.

⁹ Ibid.

concerned in order to obtain free, prior and informed consent, prior to the approval of any project affecting their lands or territories and other resources (emphasis added)

- Provides practical recommendations for **successful free, prior and informed consent implementation** (including in situations where multiple regulatory processes are involved) consistent with the outcome(s) of action plan measure 66 (emphasis added)
- Supports the integration of specific, localized knowledge held by Indigenous peoples in the design and governance of projects
- Informs improved and enhanced engagement processes with Indigenous peoples on natural resources projects. **(Various departments)**” (emphasis in original)

While the above quotes seem to make many action-based policies possible, there is a well-recognized resistance from within different government departments, including the CNSC, to authentically and professionally consider these as requirements rather than as obstacles to avoid. As one 2025 article states,

Katie Brack, a partner at First People’s Law in Ottawa, says that four years on, First Nations still often have to explain their rights, the law, how consultation works, and what *UNDRIP* requires, to the Crown over and over again.

“It’s very frustrating,” she says.

While Ottawa has touted a whole-of-government approach to reconciliation and consultation, that’s not happening on the ground. Crown agencies don’t coordinate with one another or share information, and staff don’t have the same training, background knowledge or information on the latest jurisprudence from the courts.

Brack has been in meetings where they’ve had to pull up the government’s own policies on how consultation is supposed to work and how information should be shared.

“It’s hard to implement *UNDRIP* and talk about free, prior and informed consent, when the people you’re talking to haven’t even read the basic backgrounder and policies their employer has created,” she says.¹⁰

¹⁰Dale Smith, "Implementing UNDRIP," *National Magazine*, 2025, <https://nationalmagazine.ca/en-ca/articles/law/in-depth/2025/implementing-undrip>

PRGI resonates deeply with the sentiments expressed in the above quote. CNSC needs to innovate beyond trying to tick boxes for “Indigenous content” and instead embrace the governance innovations that Indigenous communities have developed in a prior and parallel process to Canada’s main legal traditions. The article continues to this point,

A.J. Carstairs, chair of the Canadian Bar Association’s Aboriginal law section, says while the report shows meaningful progress, including the *Haida Nation Recognition Act* and a new non-derogation clause in the *Interpretation Act*, it also reveals the Crown’s consultative shortcomings.

“If we, together, cannot write a focused, diligent, two-eyed-seeing report, how can we hope to consult using such an approach?” she said in an email.

She believes we need to circle back in time to examples like the wampum tradition, which was “law in action” and included ceremonial exchange, interpretation, deliberation, and consent. It also recognized that this process needed to be constantly renewed.

Carstairs says consultation with Indigenous peoples must be done through Indigenous laws and be collective, deliberate, and relational. Further, reconciliation requires following the rules of those whose jurisdiction you enter. The Crown once respected this through the wampum tradition.¹¹

PRGI provides for the reader’s convenience information shared by CNSC staff in response to PRGI requests for information relevant to UN Declaration. CNSC staff write,

While there are no CNSC-led measures in the UNDA Action Plan, the CNSC is committed to supporting relevant federal departments and agencies who are working in consultation and cooperation with Indigenous peoples, on the implementation of measures that may also intersect with the CNSC’s mandate. This includes measures that relate to free, prior and informed consent on natural resource projects (Action Plan Measure (APM) Shared Priority (SP) 32) and supporting a whole-of-government approach to the rights of Indigenous peoples to participate in decision-making (APM SP 66). APM SP 32 and 66 are listed as the responsibility of ‘various departments’ in the Action Plan, this includes the CNSC’s supporting role.¹²

PRGI acknowledges the mandates UNDA assigns to CNSC and other federal departments. However, the CNSC’s assertion that “...CNSC is committed to supporting relevant federal departments and agencies who are working in consultation and cooperation with Indigenous

¹¹ Ibid.

¹² *PRGI-CNSC Issue Tracker*, accessed Jan 24, 2026.

peoples...” appears inconsistent with its own actions, as Indigenous groups attempting to implement shared solutions have so far been ignored.

While many granular aspects of the implementation of UN Declaration through UNDA and UNDA’s Action Plan remain unclear from logistical perspectives, the list of quotes from the Action Plan are hardwired into Canada’s own legal expectation of itself through the chain of UN Declaration→UNDA→UNDA Action Plan (2023-2028). These expectations include the sharing of relevant information with PRGI and other Indigenous Nations about progress or lack of progress, not just through Justice Canada’s annual Action Plan Update but through the actions of its Departments. In this last regard, Justice Canada has distributed guidance to government officers on how to assess the cross over of UN Declaration and UNDA with government departmental initiatives.¹³ Consequently, PRGI also expects this same posture from Canada’s CNSC, their commissioners, and their staff.

Furthermore, PRGI counsels that CNSC must be careful to not substitute UNDA for UN Declaration. We agree with the following statement by the Assembly of First Nations,

The Crown’s obligations to continue to engage, consult, obtain consent and respond to the priorities of First Nations rights-holders respecting Declaration implementation cannot be limited to, or restrained by, the Action Plan. The critical legal standards that must be respected lie in the Declaration and the broader international law framework apply regardless of the content of the Action Plan. in which it is situated.¹⁴

2.3 Measurability and Accountability under UNDA — Outcomes versus Outputs

UNDA states that UN Declaration implementation by federal bodies must be “measurable and accountable.”¹⁵ PRGI continues to question the measurability and accountability offered to PRGI from the CNSC. Even with multiple requests from PRGI to add measurable accountability structures that fulfill CNSC legal obligations, the actions of the CNSC do not seem to be

¹³Justice Canada, *Guide to Completing the UNDA Action Plan*, accessed January 24, 2026, <https://www.justice.gc.ca/eng/declaration/ap-pa/guide/completing-effectuer.html>

¹⁴Assembly of First Nations, *Observations on Canada’s Implementation Performance respecting the United Nations Declaration on the Rights of Indigenous Peoples*, 2025, https://afn.bynder.com/m/4ace0bd6477f9c98/original/UNDA_Progress_Report_ENG.pdf

¹⁵Justice Canada, *United Nations Declaration Act Action Plan (2023–2028)*, June 6, 2023, <https://www.justice.gc.ca/eng/declaration/ap-pa/ah/p1.html>

improving in that regard. UNDA states,

Actionable and sustained UN Declaration implementation must include **co-developed accountability mechanisms and evaluation tools** and frameworks that reflect Indigenous ways of knowing and understanding. This will help ensure that implementation is flexible, sustainable and adaptive to the evolving needs and priorities of Indigenous peoples. **Regular assessment and reporting must utilize clear and specific indicators and timelines that have been co-developed with Indigenous peoples, and be supported by data collection and reporting methods that prioritize Indigenous data governance and sovereignty.** (emphasis added)

Outputs describe that something happened but not necessarily with any impact relevant to the parties involved; outcomes describe a change in the state of things; outcomes describe real impact. With outcomes, something important has changed. There is no way that outputs should be recorded as proof of Indigenous engagement in the CNSC processes, when nothing material has changed, with no imprint of our sovereignty within CNSC processes. This is ironic, since throughout communications between CNSC and PRGI, there are many documented instances where PRGI has made clear its opposition to the current mechanisms used by the CNSC. CNSC outputs have not contributed to any shared or PRGI-based desired outcomes.

Current CNSC practice in this important regard is inadequate and does not meet legal standards. Current CNSC practice does not require CNSC to move toward cooperative outcomes, but rather allows CNSC to report interactions between CNSC and PRGI as legitimate and measurable accountability, to pass, when they are nothing but vague outputs.

In the 2025 UNDA Progress Report, Justice Canada states,

Tangible outcomes are important to measure success of government commitments, particularly in addressing persistent inequities. Measures need to be designed to reflect diverse perspectives ensuring that progress is inclusive and representative of community needs (emphasis added).¹⁶

In the same section, titled “measuring progress,” Justice Canada continues,

¹⁶Justice Canada, *Measuring progress, in Implementing the United Nations Declaration on the Rights of Indigenous Peoples Act (2025)*, <https://www.justice.gc.ca/eng/declaration/report-rapport/2025/p5.html>

Government reporting is a critical tool to measure milestones, benchmarks, and **outcomes**, to ensure that federal actions remain aligned with the transformative goals of implementation. Indigenous partners suggest more detailed, clear and frequent reports, that could foster public engagement and build trust in the government's commitment to implementation of the UN Declaration Act and Action Plan (emphasis added).¹⁷

CNSC will notice that “outcomes” are mentioned as essential, and “outputs” are not mentioned at all. If the CNSC does not agree that their practices are falling below current legal standards and expectations, we request that the CNSC share with us the CNSC mechanisms that value outcomes rather than outputs in their relationship with PRGI. To date, we cannot identify CNSC's measuring and accountability efforts which show that CNSC engagement efforts align with UNDA's legal mandate for all federal departments and agencies.

Finally, as stated by Justice Canada in their August 2025 progress report on the implementation of UN Declaration under UNDA,

Overall, we heard that more work is needed to ensure that progress on implementation is monitored in ways that are both measurable and aligned with how Indigenous peoples understand the objectives of the APMs. As of this year, only 50 APMs (28% of all APMs) had at least one indicator developed to measure progress on implementation. Among these, 20 APMs (11% of all APMs) had at least one indicator developed in consultation and cooperation with Indigenous peoples and 19 (10% of all APMs) had an indicator that can be disaggregated to monitor the impacts for specific communities.

This was the first year departments were asked to report on indicators, and we intend to work with others to see these numbers grow in the years ahead.¹⁸

PRGI requests to receive the CNSC report delivered to Justice Canada on indicators in order to compare transparently CNSC's description of the quality of engagement with PRGI's experience.

¹⁷ Ibid.

¹⁸ Ibid.

3. Response to ROR 2024

3.1 Change in Land Acknowledgement

PRGI recognizes an important change in the standard ROR Land Acknowledgement section. CNSC states for the first time,

We also recognize that when these sites were originally constructed, Indigenous consultation and engagement did not meet today's standards.¹⁹

While we recognize the change in the text from earlier versions that erased Peskotomuhkati experience, it is ultimately regrettable that the new change seems to have fallen victim to some fearful editing. The ending phrase of the acknowledgement is striking for the distance it attempts to create between CNSC's past actions and its current responsibilities.

The ending statement of the revised ROR land acknowledgement states, "... engagement **did not meet today's standards**" (emphasis added). This obscures the historical record, painting Canada as an unknowing benevolent power. The statement is remarkable also for what it leaves out: any sentiment that could be construed as CNSC taking responsibility for the impacts of that long-standing erasure of Peskotomuhkati agency.

It was approximately 35 years, from the time that PLNGS was built, before the Peskotomuhkati were in any sort of discussion with the CNSC or its predecessors, regarding nuclear power generation and its consequences in the Peskotomuhkati Homeland. The ending statement in a land acknowledgement is often the part where the acknowledging party might say, "and that was wrong what our organization did." Instead, we have the not-so-groundbreaking admission that past engagement did not meet today's standards.

This is not news to PRGI. And though we appreciate the small addition and assume that this took more work than the smallness of the text conveys, perhaps the labour of CNSC employees to move it through the layers of bureaucracy, perhaps even including NRCAN's Legal Service Unit, and ministerial approval. Nevertheless, it remains deeply important that we not let this

¹⁹Canadian Nuclear Safety Commission, *Regulatory Oversight Report (ROR) 2024*, 6.

matter ossify with the implementation of this text change. The text change in the land acknowledgement in the 2024 ROR is a beginning, not a conclusion.

It is our hope that what follows from this beginning is a **shared CNSC/PRGI understanding of the impacts of the planning, construction, and running of PLNGS without Peskotomuhkati engagement for over 35 years, and the current operation and storage of hazardous waste without Peskotomuhkati consent.** This deeper understanding is necessary because the ROR land acknowledgement edit could communicate one of two CNSC positions: (1) the change signals CNSC is ready to continue the conversation with Indigenous nations about what further needs to be acknowledged, supported by the belief that this progressive mutual understanding will form an important part of our Nation to Nation relationship going forward; or (2) it could mean that CNSC would like this version to be the final, which would then mark our conversations and relationship between our Nations with an indelible abdication of historical realism.

In addition, we note that it is problematic that the land acknowledgement names no Indigenous Nations in the acknowledgement itself (instead it points the reader to an index at the very end of the document). Here again the story of what happened is unjustifiably muddled, and so too, becomes the CNSC's intent. Therefore, **PRGI requests a description of the internal process and labour that it took to make this Land Acknowledgement change so we can grow our understanding. We also request that the land acknowledgements for future RORs bear further changes in response to our comments.**

3.2 Concerns about context

Historical and cumulative impacts need to be fully understood because the shared Nation-to-Nation understanding of the PLNGS site needs to grow and innovate beyond its current technical perspective. An understanding of the environmental degradation caused by PLNGS and other pressures within Peskotomuhkatikuk must be considered alongside a deeper understanding of the cultural and spiritual harms, both past and present, resulting from the same activities. The current ROR has no space allocated for analyses of cumulative effects on the homeland and its diverse peoples, Indigenous and non-Indigenous, as well as non-human relations. The CNSC's mandate includes protection of health; but without any analyses of cumulative effects, there can be no success in protecting health.

As requested previously, the ROR needs further context, which will be reviewed by Commissioners, and available to the public and Rightholders in perpetuity. This is all the more crucial as new nuclear assessment processes are being rushed through across Canada.

3.3 Identified areas in the 2024 ROR in need of additional context

To support CNSC in advancing both truth-telling and the inclusion of additional context that we consider necessary for the ROR, we offer the following examples.

Figure 1 is misleading when examined in light of the exceptional PLNGS shutdown from April 6 to December 11, 2024. Although the figure description states, "...It also indicates the type of waste stored at each WMF...", it actually does not. Furthermore, the figure gives the impression that PLNGS operated for most of 2024, which is inaccurate. We recommend adding a distinct icon to indicate when a plant is non-operational for more than half a year.

Section 1.4 correctly notes that PLNGS was non-operational from April 6, 2024, to December 11, 2024, and offers an opportunity, we suggest, to include the "additional context" we believe is necessary in the ROR. For example, while Figure 2 provides a concise overview, the text beneath the figure — where specific Nuclear Power Plants (NPPs) are described in more detail — would be an ideal location to include a summary for each NPP, encompassing all license periods and refurbishment periods throughout its operational history.

In Section 1.4.1.1, The Darlington New Nuclear Project (DNNP), the second paragraph concludes with the statement: "Throughout the 2023 calendar year, CNSC staff reviewed OPG's licence to construct application, issuing numerous requests for supplemental information to OPG for resolution." We maintain that this represents an ideal opportunity to improve transparency — at a minimum by providing an appendix or a link to these information requests and OPG's responses.

In section 1.6.3 Periodic safety reviews, we see an example of where context has actually been removed. In the 2023 ROR, the very first sentence in the report included these words: "and is usually concluded prior to the end of the licensing period (which are currently also 10 years) so that it can be used as an input to support an application for licence renewal." **In the 2024 ROR,**

this context was removed, and we ask for an explanation.

We do note that the additional context added in 2024 regarding 1.7.3 Inspections is appreciated.

Table 20 reveals another opportunity for contextual information. It summarizes the number of inspections performed at Point Lepreau in 2024, revealing that 22% of inspection findings were non-compliant, compared with 20% in 2023. Prior to 2023, these statistics were reported differently and would require additional analysis to calculate comparable rates. By examining trends over time — rather than a single-year “snapshot” — we can identify potential early warning signs of negative patterns. This underscores the importance of including contextual information in the ROR.

On page 108, the ROR presents a bullet-point list, noting that “...applied a temporary repair to the remaining stator bars, and reassembled the generator. CNSC staff are satisfied with the actions taken.” Appropriate additional context would include a description of the steps CNSC planned to ensure that the temporary repair would be made permanent within a suitable timeframe and under proper conditions.

The list from page 108 also states, “In 2024, CNSC staff *continued the follow-up* of an Action Item related to an inspection report which included a non-compliant finding to ensure adhesive/duct tape requirements are followed to prevent the accumulation foreign material and preserve the function of the Emergency Core Cooling strainers.” As it stands, this statement, with no additional context, is terrifying. In relation to nuclear power, no one in the world wants to hear ‘duct tape’ and ‘emergency’ in the same sentence. But our concern runs even further, why would CNSC need to ‘continue’ to follow up? This wording has us contemplating why this Action Item needs further action — why hasn’t it already been dealt with? **Context is necessary. Since ‘tape’ is referred to 3 times in this ROR, all in relation to PLNGS, please forward to PRGI the CNSC staff report (discussed on page 116) regarding the use of tape for leak mitigation (provided to NB Power on May 8, 2024).**

In Section 2.7.4, Safety Analysis, regarding the Probabilistic Safety Assessment (p. 111), the ROR states: “CNSC staff were satisfied with these corrective actions, and no further enforcement action is needed at this time. However, CNSC staff recommended that NB Power consider industry best practices and relevant Quality Assurance standards for the development,

verification, and implementation of the risk monitor.” **In response, we ask the Commission to direct CNSC Staff to set out how they plan to assess and follow-up on whether NB Power follows “industry best practice.”**

In Section 2.7.5, Physical Design – Fuel Design (p. 114), the ROR discusses “...observed elevated defect rate,” as well as “...the number of bundles with endcap stop marks, although still elevated, has trended down from 2022. This is also true for the number of sheath scrapes observations.” **We recommend these types of issues are further discussed in a briefing appended to the ROR, so the issue can be more thoroughly understood, saving the reader from having to search for other documents which may have an additional part of the story.** Moreover, in this section (second bullet point) the ROR further states, “Overall, the inspection observations show a general improvement in the fuel conditions, and they **do not appear** to be indicative of any safety issues.” **Does this statement mean that there is no verification that there are no safety-related issues?**

On page 115, we identify another opportunity to provide additional context. The second bullet point states: “NB Power met and exceeded the expectations for the number of fuel bundle inspections and has established a strategy to address the recent elevated defects levels. Overall, the inspection observations show satisfactory fuel condition. CNSC staff will continue monitoring NB Power mitigating strategies to resolve the elevated fuel defect rate.” **We recommend that NB Power’s strategy to address the recent elevated fuel defect levels be discussed further in a briefing appended to the ROR. This would allow the issue to be more thoroughly understood, preventing the reader from having to consult additional documents to obtain the full context. We also do not understand whether the NB Power rate of 4 defects in 2024 is considered a “non-compliance” as this result exceeds the CNSC expected defect rate of 1 defect per unit per year.**

On page 116 the ROR states: “The critical deficient maintenance backlog was above the industry average (noting that the industry average improved in the last 5 years) but has been significantly reduced since middle of 2024.” Understanding that the term ‘critical’ has meaning in the nuclear industry that is not commonly used in layman’s terms, **PRGI needs additional context relative to how the CNSC deems that items on a critical deficient maintenance backlog can still maintain their safety function. PRGI requests the criteria for an item being added to the critical deficient maintenance backlog.**

On page 117, under *Equipment Fitness for Service/Equipment Performance*, the ROR states: “CNSC staff confirmed that all systems Important to Safety, including Special Safety Systems, for Point-Lepreau met their Actual Past Unavailability (APU) targets in 2023, except for the Heat Transport Pressure and Inventory Control (PIC), Boiler Pressure Control (BPC), and End Shield Cooling (ESC). CNSC staff are satisfied with NB Power’s corrective actions to address the APU exceedances and will continue monitoring these actions.” **This statement of satisfaction (“all systems..met their...targets in 2023...except...”) is specifically about all systems Important to Safety, yet NB Power reports deficiencies. The “satisfaction” of CNSC staff must be contextualized.**

Page 123, under *2.7.13 Safeguards and Non-Proliferation* identifies that, “The IAEA was not able to fully attain its objectives for the verification of loadings of nuclear material before transfers to dry storage due to a lack of sufficient inspections and therefore could not draw a positive conclusion.” **PRGI requests to know the reason why the IAEA experienced “a lack of sufficient inspections”.**

3.4 Concerns about Quality of Environmental Monitoring Data at PLNGS and Questions about its Oversight & Jurisdiction

When preparing for this CNSC response, PRGI staff reviewed last year's submission and transcripts and found that during the 2025 hearing for the 2023 ROR, when the issue of Lepreau’s Fisheries Act Authorization was brought up, a significant question remained unanswered.

Rereading the transcript (pp. 184–188), it appears that the CNSC-Commissioner-led discussion focused primarily on the accurate measurement of flow and velocity. When Member Hardie asked CNSC staff, “...how are you ensuring that NB Power is staying within those bounds that they are required?” staffer Eric Lemoine responded in terms of flow and velocity, stating: “We do receive an annual report on the fishery authorizations, and it explains clearly what those velocities and flows are, how they’ve changed, what the rationale is for those changes. Our site office actually reviews that information and then we send that along to specialists within the CNSC as well for review.” While this answer was sufficient from the Commissioners’

perspective, who moved on, our written and oral comments were concerned with marine fauna — specifically, dead fish. The question therefore remains: **how does the CNSC verify the amount of dead fish?** Our review indicates that they do not, and cannot, because there is no appropriate data available for this purpose.

In December 2024, the Department of Fisheries and Oceans Canada published *Determination of the Significance of Proponent-Reported Annual Mortality at the Point Lepreau Generating Station*.²⁰ The findings of this DFO analysis have direct relevance to NB Power's claims regarding the integrity and sufficiency of their environmental data. NB Power has submitted a series of reports as *proof* in regulatory proceedings, including original data collected under contract from 2013 to 2015, initial data reports from 2015²¹ and 2016²² (Arcadis), and subsequent analysis in the 2017 NB Power self-assessment (Eco-Metrix).^{23 24}

In the 2024 DFO review, a science-based critique is mounted regarding NB Power's group of reports, with the DFO document indicating significant deficiency in NB Power's methods and conclusions. This finding also calls into question the quality of compliance verification work done by CNSC regarding this data — which had been affirmed by CNSC as a foundational basis for PLNGS approval at different points between 2013 and 2024.²⁵

3.4.1 No Mention in 2024 ROR

The 2024 ROR was authorized as final on September 24th, 2025. This means there was 9 months available for CNSC to interact with the DFO's review of PLNGS' environmental monitoring data quality — released in December 2024. There was time for the CNSC to author

²⁰Fisheries and Oceans Canada, *Determination of the Significance of Proponent-Reported Annual Mortality at the Point Lepreau Generating Station (2024)*
https://publications.gc.ca/collections/collection_2025/mpo-dfo/fs70-7/Fs70-7-2024-037-eng.pdf

²¹ARCADIS, *Point Lepreau Generating Station Final: Entrainment Monitoring Plan and Implementation for Point Lepreau Generating Station*, March 2016.

²² Ibid.

²³EcoMetrix Incorporated, *Self-Assessment of I&E Losses at Point Lepreau Generating Station*, prepared for New Brunswick Power, January 13, 2017.

²⁴ Fisheries and Oceans Canada, *DFO Review*, December 2024, 2. "Sampling was undertaken at the PLNGS to determine which species are susceptible to impingement (being trapped against screens) between October 2013 and August 2014 and to entrainment (being drawn into and through the cooling system) between October 2014 and October 2015. Based on these results, total numbers of each species that were impinged or entrained in the system were estimated. Subsequently, models were used to estimate losses of age-1 equivalents, foregone production, and potential losses to fisheries"

²⁵Fisheries and Oceans Canada, *First Fisheries Act Authorization and Second Fisheries Act Authorization*

an update on the DFO review as part of the 2024 ROR. PRGI would have hoped to be informed in the 2024 ROR regarding CNSC's awareness of the DFO review, and to read the outline of any steps the CNSC was taking to address these disturbing findings — whether through a corrective action plan approach, or through other, more serious mechanisms. **PRGI requests more information from CNSC regarding its decision to not publish any updates related to the 2024 DFO science review,** especially in light of CNSC's MOU with DFO (first signed in 2013, with the most recent version signed in 2023).^{26 27}

As a federal regulator, the CNSC has an obligation to act in the public interest and to maintain public trust in the integrity of environmental oversight. When another federal body raises concerns about the quality of environmental monitoring data, transparency regarding how those findings are addressed is essential to ensuring accountability and enabling communities to remain informed and protect the affected environment, and its inhabitants.

3.4.2 Whose Authority?

PRGI requests information on who is responsible, between CNSC and DFO, for managing corrective actions related to the information revealed in the DFO's 2024 review. PRGI notes this 2022 quotation from CNSC's Environmental Protection Review Report for PLNGS,

The Minister of DFO remains accountable for decisions made under the habitat provisions of the *Fisheries Act*, for protecting aquatic species listed under the *Species at Risk Act* (SARA), and for issuing FAAs. **However, DFO relies on CNSC staff to review draft applications for FAAs, make recommendations to DFO related to potential impacts of nuclear activities in those draft applications, and conduct compliance verification (when authorizations are issued)**^{28 29} (emphasis added)

²⁶Canadian Nuclear Safety Commission, *Environmental Protection Review Report: Point Lepreau Nuclear Generating Station*, December 2022, <https://www.cnsccsn.gc.ca/eng/resources/publications/reports/plngs/#sec-2-5>

²⁷Fisheries and Oceans Canada and Canadian Nuclear Safety Commission, *Memorandum of Understanding between Fisheries and Oceans Canada and the Canadian Nuclear Safety Commission*, 2023, <https://api.cnsccsn.gc.ca/dms/digital-medias/DFO-CNSC-MOU-September-2023-eng.pdf/object>

²⁸Canadian Nuclear Safety Commission, *Environmental Protection Review Report: Point Lepreau Nuclear Generating Station*, December 2022, <https://www.cnsccsn.gc.ca/eng/resources/publications/reports/plngs/#sec-2-5>

²⁹Canadian Nuclear Safety Commission, *Regulatory Oversight Report 2021*, 21. "The CNSC has a memorandum of understanding (MOU) with Fisheries and Oceans Canada, whereby **CNSC staff are responsible for monitoring activities and verifying compliance for FAAs**. The Minister of Fisheries,

If scientists from DFO concluded in their December 2024 review that the data gathered and analyzed by NB Power from 2013 until today, and submitted in support of the PLNGS FAA, is deficient in many respects, then **what Canadian department is responsible for addressing this deficiency?** The above quote seems to make clear that it is CNSC staff who are responsible for conducting “compliance verification” for the PLNGS’ FAA. PLNGS is operating now, and more nuclear power generation — meaning more killing of marine fauna — is planned for the site. This cannot wait another 10 years, nor even 1 year. To be explicit, it cannot wait another 6 years for the 2032 PLNGS license renewal application process.

PRGI finds the DFO review helpful in assessing the veracity of assertions made by NB Power that it is meeting its regulatory commitments in the area of impingement and entrainment (for which PLNGS has had a Fisheries Act Authorization since 2021). **But the review is also relevant in calling for a reassessment of PLNGS’ marine monitoring program more broadly.**

How is it that CNSC allowed NB Power to utilize this data as reliable proof for over 10 years without adequate data quality assessment?

This data was first collected by NB Power between 2013-2015, with a first report from NB Power accepted by CNSC in 2016 as part of NB Power’s application to renew the operating license of PLNGS.^{30 31 32} As a further part of this same application process, the EcoMetrix 2017 report was

Oceans and the Canadian Coast Guard is responsible for enforcing the authorizations in the event of non-compliance”.

³⁰Fisheries and Oceans Canada, *DFO Review*, December 2024, 2. “Description of the cooling water (CW) system at the PLNGS was summarized from information from multiple sources, notably: the self-assessment report (EcoMetrix 2017), the impingement study report (Arcadis 2016a), the entrainment report (Arcadis 2016b), and the CW system design manual (Albery Pullerits Dickson and Associates 1982)”.

³¹Ibid., 6. “All field observations were recorded on field data sheets, then backed up in an electronic format. All field sheets and electronic copies were reviewed by Arcadis personnel prior to being incorporated into the final dataset. Daily records were taken of observations, conditions, and events that could have affected the collected data. Additionally, two site visits were conducted by Arcadis supervisors to observe sampling procedures (September 2014 and October 2014)”

³²Ibid. “For data QA/QC of sorting and identification of the entrainment samples, 10% of the samples were re-picked by personnel at the HMSC and approximately 40% of the samples were re-checked for accurate identification. Samples that were re-checked included all larvae collected between October 17, 2014, to May 8, 2015, and 23.5% of samples with eggs and larvae from May 13, 2015, to October 29, 2015. Corrections made by HMSC can be found in Appendix A of the entrainment document (Arcadis 2016b).”

produced by NB Power as a self-assessment and technical interpretation of those 2013-2015 monitoring data. During this time, the CNSC approved the license, and specified:

CNSC staff provided the Commission with information about the FA authorization process, noting that, as per a CNSC-DFO Memorandum of Understanding, CNSC staff would oversee NB Power's self-assessment and draft application for the FA authorization³³

It was under the specification of this relationship that it was disclosed that a very large amount of fish were being killed annually by PLNGS operations, so much so that a Fisheries Act Authorization would be needed from DFO. As a part of the hearings for the PLNGS license renewal in 2017, CNSC staff informed the Commissioners that the fish kill numbers were too high,

CNSC staff reported that, based on an updated FA authorization self assessment submitted by NB Power in January 2017 [EcoMetrix], CNSC staff opined that an FA authorization would be required in accordance with subsection 35(1) of the FA³⁴

CNSC staff further noted to Commissioners that the

CNSC staff provided the Commission additional information about how NB Power mitigated the impact on fish from PLNGS operations, noting that, since there were no population-level impacts, the PLNGS was licensable under the NSCA.³⁵

This recommendation by staff was made to the commissioners based on the veracity of the data undergirding the NB Power reports, veracity which is now called into question by the DFO Review. This recommendation was accepted by the Commissioners.

Commissioners also accepted as reliable data the following statement by NB Power, which the Commissioners quote,

The NB Power representative added that the PLNGS used the best available technology to prevent the impingement and entrainment of fish

³³ Ibid., 54.

³⁴ Ibid.

³⁵ Ibid.

and that the data that NB Power submitted for the FA authorization self-assessment was very conservative.³⁶

NB Power's claim that its data was "very conservative" is now being called into question by the DFO Review. PRGI notes that the above submission by an NB Power representative was referenced in detail by the Commissioners in their 2017 Record of Decision for PLNGS' license renewal. Many other submissions were not referenced by the Commissioners at all. **PRGI requests that CNSC share information about policies and practices surrounding the interpretive responsibility granted to staff in situations where they give statements of confidence in a certain data's quality, a confidence which is then issued as such by CNSC staff in the form of recommendations to CNSC Commissioners. What data verification practices are followed when information is interpreted by staff and delivered as recommendation to Commissioners? Are there further data checks after this point?**

This is a deeply important issue that we raise today, as both of PLNGS' FAAs were issued based on the reliability of this data (2022, 2023).³⁷ In addition, in July 2022, the renewal of NB Power's operating license for PLNGS was approved based on this data, which NB Power cited in its application to substantiate its proposed offsetting strategy.³⁸

This situation is wholly unacceptable. For more than a decade, key regulatory decisions — including the issuance of FAAs, the renewal of PLNGS' operating license, and the evaluation of proposed offsetting strategies — have relied on data now demonstrated to be deficient. That such deficiencies went unaddressed, despite the CNSC's obligations for compliance verification, represents a serious lapse in regulatory oversight.

³⁶Ibid.

³⁷Canadian Nuclear Safety Commission, *Regulatory Oversight Report 2021*, 163–164. "In October 2019, NB Power submitted an application to the Department of Fisheries and Oceans Canada (DFO). In December 2019, DFO deemed the Fisheries Act authorization (FAA) to be complete. However, the 90-day time limit (within which a decision had to be made with respect to the application) had ceased to apply due to requirements for Indigenous consultation not being met. As DFO is the primary regulatory agency, CNSC staff intend to meet with DFO and NB Power in the fall of 2021 to discuss the progress of Indigenous consultation to date."

³⁸New Brunswick Power, *Application to Renew the Operating Licence for the Point Lepreau Nuclear Generating Station*, June 30, 2021, <https://www.nbpower.com/media/1490873/2021-06-30-application-by-new-brunswick-power-for-the-renewal-of-170-1-2022.pdf>

PRGI questions how it is possible that the poor quality of this core data set was not addressed earlier than 2024. 10 years. It grieves the hearts of the Nation to think of all the fish killed during this time that have not been accounted for.

3.4.3 The Grandfather Clause in PLNGS FAA Must be Amended

In August 2022, DFO granted the first version of an Fisheries Act Authorization to NB Power's PLNGS operations that specifies a limit of 29 annual tons of killed fish:

The death of approximately **29,900 kg (29.9 MT)** age-1 equivalent fish and macroinvertebrates per year, due to impingement and entrainment. These values do not include any aquatic species at risk listed as Threatened or Endangered on Schedule 1 under the *Species at Risk Act* and species listed on the Aquatic Invasive Species Regulations.³⁹

Even though issued in 2022, PLNGS's FAA was grandfathered in under the 2012-era *Fisheries Act* — which only values sellable fish. The 2019 Fisheries Act specifies that proponents who had already started their application prior to the coming-into-force of the modernized *Fisheries Act* be allowed to apply under the rules of the 2012 Fisheries Act. The 2012 rules only require FAAs for CRA fisheries (fish that can be sold). The 2019 Fisheries Act was instituted to repeal this unecological rule, but PLNGS slid under the line based on the date on their application.

In Nov 2023, DFO granted a second, amended version of PLNGS' FAA, allowing an increase from 29 to 38 annual tons of killed CRA fish:

The death of approximately **38,700 kg (38.7 MT)** age-1 equivalent fish and macroinvertebrates per year, due to impingement and entrainment. These values do not include any aquatic species at risk listed as Threatened or Endangered on Schedule 1 under the *Species at Risk Act* and species listed on the Aquatic Invasive Species Regulations.⁴⁰

Four years after the coming-into-force of the modernized *Fisheries Act*, DFO did not choose to amend the grandfather provision in NB Power's FAA at what would have been an opportune time: when PLNGS' FAA was already open to amendment.

³⁹Fisheries and Oceans Canada, *Paragraph 35(2)(b) Fisheries Act Authorization (a deemed paragraph 34.4(2)(b) Fisheries Act authorization issued under the amended Fisheries Act)*, 2022, 2.

⁴⁰Fisheries and Oceans Canada, *Amendment of Point Lepreau Nuclear Generating Station—Ongoing Operation: Notice of Amendment*, 2023, 2.

In Dec 2025, a *Fisheries Act* review is conducted, and PRGI submitted the following relevant recommendation:

Recommendation: Remove transitional grandfathering and require all ongoing operations to meet current Fisheries Act prohibitions (s. 34.4 and 35.1–35.2). We suggest the following new clause:

182(6) Notwithstanding any prior submission, all works, undertakings, and activities that cause the death of fish or the harmful alteration, disruption or destruction of fish habitat shall, upon the coming into force of this Act, be subject to the prohibitions and requirements of sections 34.4(1) and 35.1–35.2, and no exemption or transitional grandfathering shall apply.

The modernized *Fisheries Act* came into force in August 2019. It is now 2026, and the reasonable duration of any “transition period” has passed. All projects, whether their FAA was approved before or after 2019, should now be required to comply with the modernized Fisheries Act. **PRGI requests that CNSC support in writing our recommendation to the Fisheries Act Review Panel to require all FAAs be brought up to 2019 standards.**

3.4.4 The Question of Real Numbers for Fish Death at PLNGS

Given the deficiencies identified in the regulatory framework and supporting data, the prevailing assumption that there is no serious problem with impingement and entrainment at PLNGS should be fundamentally questioned, and any supporting sources for said assumption laid bare for public inspection. We ask CNSC if there is any factual basis for this assumption that does not rely on NB Power’s own data, data and analysis which DFO has now formally critiqued as severely deficient in its data collection (2013-2015), initial report (2016), and further analysis (2017). **PRGI requests that new studies be ordered. After 42 years of operation, we should understand the truth.**

3.4.4.1 Solution: Advancing Impingement and Entrainment Monitoring at PLNGS

The 2024 Fisheries and Oceans Canada (DFO) Science Response on impingement and entrainment (I&E) at the Point Lepreau Nuclear Generating Station (PLNGS) makes clear that the **primary limitation is not the absence of impacts, but the weakness of the underlying**

monitoring dataset. DFO identifies small sampling volumes relative to intake flow⁴¹, clustered and infrequent sampling⁴², long gaps requiring interpolation, untested assumptions about intake mixing, and the absence of uncertainty bounds as fundamental constraints on interpretive confidence.⁴³ These are not marginal issues; they are structural features of the data collection design that materially limit the reliability of annual entrainment estimates and the conclusions that can be drawn from them.

Crucially, these limitations are not novel, nor are they unique to PLNGS. They mirror, almost exactly, the methodological shortcomings identified by peer reviewers of earlier entrainment studies at Ontario Power Generation's Darlington Nuclear Generating Station (DNGS) in 2004 and 2006. In those studies, entrainment sampling typically collected less than 200 m³ of water over 4–8 hours within a 24-hour day. Reviewers concluded that such sampling represented only a very small fraction of total intake flow, inadequately captured diel variability in egg and larval distribution, and had low power to detect low-abundance species. The reviewers' conclusion was explicit: the sampling volumes and durations were not adequate to characterize entrainment.⁴⁴

PRGI considers OPG's response to that critique instructive for the situation at PLNGS. Rather than defending the sufficiency of legacy data, OPG redesigned its entrainment monitoring program at Darlington in 2015–2016. The redesigned program implemented continuous 24-hour sampling, paired day-night coverage, year-round sampling over a full 12-month period, and a dramatic increase in sampled volumes. Total entrainment sample volume increased from approximately 1,800–2,000 m³ in the 2004 and 2006 studies to approximately 67,500 m³ in the 2015–2016 study — an increase of more than an order of magnitude.⁴⁵

The results of this methodological improvement were decisive. **The redesigned Darlington study detected substantially more eggs and larvae, identified additional species not previously observed (including species of conservation concern), resolved diel and seasonal patterns that had been obscured in earlier work, and reduced variability associated with short-duration, low-volume sampling.** The authors explicitly attribute these

⁴¹Fisheries and Oceans Canada, *Science Response 2024/037: Review of Impingement and Entrainment at the Point Lepreau Nuclear Generating Station*, 9–11.

⁴² Ibid., 11–14.

⁴³ Ibid., 14–18.

⁴⁴P. H. Patrick, M. Di Giuseppe, H. Manolopoulos, M.-K. Tai, J. S. Poulton, and J. Wright, "Entrainment of Fish Eggs and Larvae at an Operating Nuclear Generating Station Using Improved Methodology," *Lake and Reservoir Management* (2020): 3.

⁴⁵ Ibid., Table 4, 11.

improvements to increased sampling frequency, increased sampling volume, and continuous 24-hour coverage, and they recommend these features as appropriate practice for large water-withdrawal facilities.⁴⁶

When the experiences of PLNGS and Darlington are placed side by side, the conclusion is unambiguous. **PLNGS is operating with an impingement and entrainment data foundation that is methodologically analogous to OPG’s pre-redesign Darlington studies, trailing by 20 years the standard set by current Canadian Nuclear Environmental Monitoring.** The very issues DFO highlights at PLNGS in 2024 — small sample volumes, limited temporal coverage, sensitivity to interpolation, and insufficient characterization of uncertainty — are the same issues that peer reviewers identified at Darlington nearly two decades earlier, and which OPG addressed through a deliberate increase in monitoring intensity.

This comparison matters because it demonstrates that the challenges identified by DFO at PLNGS are not abstract or intractable. They have been encountered before, evaluated by peer reviewers, and resolved through concrete changes to monitoring design. The solution is not conceptual refinement of existing datasets, but **more data of higher quality**, generated through increased sampling volume, increased frequency, and improved temporal coverage.

A persistent legacy argument suggests that impingement and entrainment (I&E) at ocean-side nuclear generating stations warrant less concern than at freshwater facilities because large receiving waters provide “dilution.” **The scientific literature does not support this distinction.** In an article published in *Environmental Science and Policy* in 2013, Lawrence Barnthouse explains that impingement and entrainment are mechanical mortality processes occurring at the intake structure itself, governed by intake flow, hydrodynamics, and organism behavior, and therefore are not mitigated by downstream dilution or mixing.⁴⁷ While dilution may affect concentrations of dissolved stressors, it does not reduce the absolute number of organisms removed or killed at the point of withdrawal, nor does it affect the probability of encounter between fish and PLNGS operations within the intake’s zone of influence.⁴⁸ Accordingly, Barnthouse concludes that I&E impacts must be evaluated based on withdrawal volume, intake

⁴⁶Ibid., 9–11.

⁴⁷L. W. Barnthouse, “Impacts of Entrainment and Impingement on Fish Populations: A Review of the Scientific Evidence,” *Environmental Science & Policy* (2013): 150–152.

⁴⁸ Ibid., 151–153.

design, and temporal overlap with eggs and larvae, regardless of whether the receiving environment is freshwater or marine.⁴⁹

From PRGI's perspective, the path forward is therefore clear and proportionate. Strengthening I&E monitoring at PLNGS through increased sampling intensity is a known, technically feasible, and precedent-supported response to the deficiencies identified by DFO. It aligns with evolved nuclear-sector practice, supports regulatory confidence, and provides a more credible foundation for future assessments under both the Nuclear Safety and Control Act and the Fisheries Act.

PRGI has already stated elsewhere in this response that the seriousness of the 2024 DFO Science Response must be addressed within CNSC's Regulatory Oversight Reporting framework. This section is not intended to restate that seriousness, but to **demonstrate that the response required is practical and actionable**. Increased monitoring is not a speculative request; it is the demonstrated solution adopted elsewhere in the Canadian nuclear industry when faced with the same technical problem.

Accordingly, PRGI seeks to engage with CNSC in focused, action-oriented discussions over the coming year on how enhanced I&E monitoring at PLNGS could be planned, staged, and implemented. These discussions could address appropriate monitoring intensity, phasing, integration with existing oversight mechanisms, and coordination with DFO. The objective is straightforward: to move from critique to execution, and to ensure that PLNGS is no longer operating far behind established sector practice when the tools to close that gap are already well understood.

3.5 Federal Law Reform Impacting Nuclear Projects and Impact Assessment

PRGI is also concerned that recent federal-provincial cooperation frameworks — including those advanced through Bill C-5 and related “One Project, One Review” approaches — are being relied on to justify the continuation of a colonial, top-down approach that denies Peskotomuhkati

⁴⁹ Ibid., 154.

inherent rights and excludes the Nation from decision-making directly impacting Peskotomuhkatikuk.⁵⁰

As outlined in PRGI's recent submission to the federal government, this approach directly undermines Indigenous sovereignty, Treaty relationships, and the requirement for free, prior, and informed consent — particularly in the context of nuclear activities that have already occurred within Peskotomuhkati territory absent consent.

Federal-provincial cooperation agreements and legislative changes such as Bill C-5 have material implications for how nuclear projects are reviewed, who participates in decision-making, and what standards govern oversight. Thus, excluding discussion of these recent and significant law reform initiatives from the ROR obscures how broader regulatory restructuring may further limit PRGI's participation and protection of our rights and interests.

Given the CNSC's statutory role in protecting the environment, health, and safety of present and future generations — and its obligation to act in the public interest — transparency about how cooperation frameworks affect assessment integrity, Indigenous rights, and accountability is essential. Failure to address these issues risks normalizing regulatory shortcuts that have long-term, irreversible consequences for lands, waters, and Treaty relationships. **For these reasons, it's critical that law reform and legal developments be a core and standard inclusion of all ROR reporting.**

3.6 Framing of 'New Nuclear' Projects in the ROR and Information Gaps

PRGI is concerned that the ROR includes discussion of proposed and emerging "new nuclear" projects — most notably small modular reactor (SMR) proposals at the Point Lepreau site — while simultaneously asserting that no regulatory oversight activities related to these projects fall within the scope of the report. This framing creates a substantive gap: new nuclear projects are presented as contextual or informational, rather than as developments with foreseeable regulatory, environmental, and rights-based implications that warrant transparent scrutiny and reporting.

⁵⁰*Comments on the "Draft Cooperation Agreement Between New Brunswick and Canada": The "One Project, One Review" Discussion Paper*, November 7, 2025.

As set out in section 1.4.1 of the ROR, CNSC staff describe proposed new nuclear projects, including NB Power's ARC-100 SMR at Point Lepreau, noting that the project is undergoing provincial environmental review and that CNSC review is proceeding under the *Nuclear Safety and Control Act*, without a federal impact assessment. The ROR further records that a federal designation request under the Impact Assessment Act was denied by the Minister in December 2022. However, the ROR does not acknowledge or engage with the substantive concerns raised by Indigenous Nations — including PRGI — regarding the reasons which support our request for this impact assessment.

This omission is particularly concerning given PRGI's longstanding and well-documented position that new nuclear projects at Point Lepreau must be subject to a federal impact assessment. In PRGI's April 2023 letter to the Minister of Environment and Climate Change, PRGI clearly articulated that existing CNSC and provincial processes are not capable of adequately assessing cumulative impacts, alternatives, waste streams, long-term decommissioning risks, or impacts to Indigenous rights and the Bay of Fundy ecosystem.⁵¹ PRGI further emphasized that SMRs present novel risks — particularly where multiple reactors may be deployed at a single site — that demand precaution and forward-looking, cumulative assessments.⁵²

By treating new nuclear projects as peripheral to regulatory oversight reporting, the ROR risks understating the significance of their impacts and yet-to-be-made decisions that critically implicate our lands, water and rights. For PRGI, nuclear activities continue without our consent and to propose new nuclear development that would further entrench this systemic disregard of our rights and interest, again calls into question the CNSC's commitment to uphold the UN Declaration Article 29.2 which imposes a positive obligation on the Crown to ensure that activities involving hazardous materials — including radioactive substances and nuclear waste — do not proceed on Indigenous lands or territories without our Free, Prior and Informed Consent.

⁵¹Passamaquoddy Recognition Group Inc., *Letter of Support—Request to Designate New Brunswick SMNR Demonstration Project for an Impact Assessment*, letter to the Honourable Steven Guilbeault, Minister of Environment and Climate Change, April 27, 2023.

⁵² Ibid.

4. Denial of Meaningful Participation

4.1- Unrealistic Timelines Bar Meaningful Participation

Due to the Peskotomuhkati Nation's responsibilities to the natural world and its inhabitants, PRGI must have the ability to engage on nuclear-related topics of the Nation's concern. At present, the CNSC's approach to engagement and regulatory oversight makes our meaningful engagement unattainable.

For instance, we find ourselves forced into an untenable position of having to comment on matters which pose significant impacts to our rights and interests, while also balancing our knowledge, time, and investment in our responses to the ROR, the Initial Project Description regarding the Deep Geological Repository, and the federal lands assessment for Gentilly-1 (G-1)^{53 54} — all occurring within seven days of each other.

This cumulative burden, imposed without coordination or accommodation, undermines any realistic possibility of informed, meaningful engagement.

4.2 - Lack of Capacity Funding Erodes Community Capacity

What's more, PRGI has experienced a systematic denial and reduction of participant funding that has materially impaired our access to participate in these proceedings. Although funding envelopes remain available under multiple Participant Funding Program (PFP) streams for G-1 and G-2, and despite the absence of **any** Indigenous Nations among approved recipients, PRGI was still denied funding. Even when PRGI has appealed these decisions by CNSC, we have been denied further support.

PRGI's two most recent funding applications were cut by approximately 62% and 42%, with the most significant reductions applied to legal and subject-matter expertise. Denying PRGI the

⁵³Impact Assessment Agency of Canada, *Impact Assessment Registry: Decommissioning of the Gentilly-1 Waste Facility* (Reference No. 90092) <https://iaac-aeic.gc.ca/050/evaluations/proj/90092?culture=en-CA>

⁵⁴Impact Assessment Agency of Canada, *Impact Assessment Registry: Deep Geological Repository (DGR) for Canada's Used Nuclear Fuel Project* (Reference No. 88774) <https://iaac-aeic.gc.ca/050/evaluations/proj/88774?culture=en-CA>

opportunity to access participant funding effectively silences our voice and our ability to participate. Denying funding to support legal advice and representation is an example of continued colonization, reminiscent of a not-so-distant past when the federal government effectively banned Indigenous peoples from seeking legal representation.⁵⁵

4.3 - Exclusion from Licensing Hearings Denies Procedural Fairness and Being Heard

PRGI wishes to inform the CNSC of its serious concerns regarding its exclusion from meaningful participation in the Gentilly-1 and Gentilly-2 decommissioning and licensing processes, including the denial of participant funding under the CNSC's Participant Funding Program (PFP) and provision of hearing documents in English, so that we have a real opportunity to understand the matter before us and have a say.

Regarding access to hearing documents for G-2 in English, in August 2025 PRGI requested:

- Current and Proposed Licence and Licence Conditions Handbook
- Unredacted copies of the Preliminary and Detailed Decommissioning Plan
- Any documentation regarding the licensee's Waste Management Plans and Environmental Protection Programming
- All documents referenced in the licence applications (i.e all documents noted in the Reference List or Footnotes)

In response, we were informed by the Commission Registry that documents for G-2 were available in French only. It is deeply troubling to PRGI that the CNSC has been unwilling to provide key regulatory documents in a language the Nation is able to understand. This refusal creates a practical barrier to comprehension, undermining PRGI's ability to meaningfully assess and respond to matters deeply relevant to its ability to protect its Indigenous and Treaty rights in relation to nuclear activities affecting its lands and waters.

⁵⁵Amy Swiffen, "How the Indian Act's 'Blackout Period' Denied Indigenous Peoples Their Legal Rights," *The Conversation*, October 11, 2022, <https://theconversation.com/how-the-indian-acts-blackout-period-denied-indigenous-peoples-their-legal-rights-191040>

The Supreme Court of Canada has held that consultation cannot be meaningful where Indigenous Nations lack access to understandable information necessary to assess impacts and thus respond in an informed manner. We bring this to the attention of the Commissioners in the context of this ROR so that the denial of our right to be informed, to have a say, and to be heard can be immediately remedied, and the documents we requested — now some 6 months ago — can be provided in English.

Regarding the lack of funding required for PRGI to build its capacity to engage *and* sustain minimum levels of engagement necessary to remain apprised of decisions and activities at the Point Lepreau site, we continue to be barred from engagement by virtue of being denied capacity support necessary to participate. Despite PRGI's documented, long-standing engagement with the CNSC on nuclear oversight matters — and despite the CNSC's own acknowledgement that Gentilly-1 licensing decisions set precedent for nuclear facilities elsewhere — the CNSC determined that PRGI's interest was "unclear" and that the Nation was too geographically distant from the project to warrant funding.

PRGI submits that this reasoning is inconsistent with both established CNSC practice and the realities of nuclear regulation. As PRGI has repeatedly explained to CNSC staff, nuclear licensing decisions do not remain confined to a single site or province. Decisions made at Gentilly-1 regarding decommissioning standards, waste management, financial guarantees, and oversight directly inform and shape regulatory expectations at the Point Lepreau Nuclear Generating Station, which is located in PRGI's homeland and where PRGI's rights and interests are unquestionably engaged. Excluding PRGI on the basis of "distance" ignores first, CNSC's inclusion of the Wabanaki Confederacy within CNSC's own funding call, and second, the interconnected nature of the nuclear fuel cycle and the precedential role of CNSC decisions as a federal regulator and court of record.

PRGI therefore requests that the CNSC acknowledge in its ROR the exclusion of PRGI from Gentilly-1 proceedings and explain how participant funding decisions align with the CNSC's reconciliation and public-interest obligations. **The obligation rests with the CNSC to fulfill Crown consultation obligations, and *not with* PRGI to fund the CNSC's own regulatory oversight and engagement efforts. We again request the reconsideration of our funding application and ask the CNSC commit to the full, fair, and funded participation of PRGI**

such that we can communicate our views, concerns and interests in the regulatory process for G-1.

5.0 Critical Concerns about the CNSC's Approach to Indigenous Engagement

5.1 - Indigenous Knowledge Policy Framework

According to the CNSC Indigenous Knowledge Policy Framework, which is referenced in 3 different sections of the 2024 ROR:

CNSC staff should be **flexible** when facilitating the gathering and consideration of Indigenous Knowledge. The CNSC recognizes that the processes and protocols that govern matters related to Indigenous Knowledge may come in many forms (e.g. formally documented or communicated orally or through ceremony). The CNSC should be **flexible** in accommodating the provision of Indigenous Knowledge in an Indigenous language or through forms other than the written form (emphasis added).⁵⁶

It is good that CNSC recognizes that it must be open to Indigenous Knowledge being shared in a manner or form unlike CNSC's expectations of how knowledge can arrive. CNSC must be "flexible" because they may not know how to understand Indigenous Knowledge when it is shared with them. This recognition helps us when reading the CNSC Framework's definitions of Indigenous Knowledge with which it begins.

Without the humility stated in the above quotation, the definitions of Indigenous Knowledge at the beginning of the Framework fall very short of the reality of what it means for an Indigenous community to be a "Nation" in its own right.

We share a selection of quotes from these CNSC definitions in pursuit of a further point we want to express. The CNSC Framework states:

Indigenous Knowledge is a body of knowledge gathered by generations of Indigenous Peoples living in close contact with their traditional territories and

⁵⁶Canadian Nuclear Safety Commission, *CNSC Indigenous Policy Framework*, <https://www.cnsccsn.gc.ca/eng/indigenous-relations/indigenous-knowledge-policy-framework/>

resources. Indigenous Knowledge is cumulative and dynamic. It is built on the historic experiences of a people and adapts to social, economic, environmental, spiritual and political change.

And,

Indigenous Knowledge forms part of a larger body of knowledge that encompasses knowledge about cultural, environmental, economic, health, political and spiritual inter-relationships. Indigenous Knowledge must also be understood in the context of, and not separate from, the language, perspectives and world views of the knowledge holders. Indigenous Knowledge can be considered both tangibly (e.g., knowledge of wildlife species or traditional plants) and intangibly (e.g., quiet enjoyment of the landscape or sites used for teaching). Intangible values are often linked with spiritual, artistic, aesthetic and educational elements that are frequently associated with the identity of Indigenous Nations and communities. These intangible aspects of Indigenous Knowledge are deeply rooted within Indigenous cultures and ways of life.

And finally, CNSC's Framework embraces UNESCO's definition. The CNSC Framework states:

Local and indigenous knowledge refers to the understandings, skills and philosophies developed by societies with long histories of interaction with their natural surroundings.... This knowledge is integral to a cultural complex that also encompasses language, systems of classification, resource use practices, social interactions, rituals and spirituality (emphasis added).

Now let us go to the source of the UNESCO quote, because PRGI can be very precise with what it wants to communicate to CNSC at this moment, simply by quoting the **entire** UNESCO quote **without ellipses**. The original from UNESCO reads:

Local and indigenous knowledge refers to the understandings, skills and philosophies developed by societies with long histories of interaction with their natural surroundings. **For rural and indigenous peoples, local knowledge informs decision-making about fundamental aspects of day-to-day life.** This knowledge is integral to a cultural complex that also encompasses language, systems of classification, resource use practices, social interactions, rituals and spirituality (emphasis added).

We wonder why CNSC chose to remove the passage from UNESCO that links Indigenous Knowledge with decision-making. We wonder why the other two definitions — penned by CNSC

— make no mention of the core Indigenous skill and ability of cooperative decision making. We wonder why it is so difficult for CNSC to even repeat back to us what we say in our continued sharing with CNSC staff and commissioners on this fact. **We wonder how other stipulations in the CNSC Framework can be effectively utilized — as the ROR states — when the foundational definition of Indigenous Knowledge that the Framework relies upon erases a key component of that Knowledge in the world.**

The CNSC Framework, through a reliance on its own definitions of Indigenous Knowledge and through selective edits of secondary sources, seems determined to cast Indigenous Knowledge as primarily related to knowledge about the physical environment. The Framework also seems to seek public acceptability and an increase in public trust through quotation of a popular organization like UNESCO. But the Framework diverges from UNESCO in precisely the core policy most important to Indigenous peoples — decision-making — all while pretending it is in line with UNESCO.

We have endeavoured to tell you, time and time again, that Indigenous Knowledge is the cooperative enacting of our responsibilities to the lands and waters of our Homeland. Indeed, the Peskotomuhkati do have unique knowledge of the lands and waters of Peskotomuhkatikuk. But we also have unique knowledge about how to make decisions collaboratively and for the greater good and longer term. These kinds of Indigenous Knowledge are inseparable.

To further express how PRGI would like to be engaged, let us go a little further into the UNESCO article which was selectively cited for use in the Framework by the CNSC. Here we find a perspective that does not parse so neatly “Western science” from Indigenous Knowledge, as the Framework does. UNESCO writes of the history of the Western recognition of Indigenous Knowledge by quoting the findings of the World Conference of Science in 1999 (27 years ago):

traditional and local knowledge systems ... make and historically have made a valuable contribution to science and technology... there is a need to preserve, protect, research and promote this cultural heritage and empirical knowledge.

In direct opposition, the CNSC Framework positions Indigenous Knowledge in some unknowable spiritual place that needs “flexibility” in order to “accommodate” it — this positioning problematically sets Indigenous Knowledge in contrast with the CNSC’s description of itself as “a technical, evidence-based organization”:

[the CNSC] recognizes that **different types of knowledge exist and that they can overlap, intersect, complement and inform one another. Indigenous Knowledge needs to be considered alongside other knowledge, including Western science** (emphasis added).

We wonder why it is difficult for CNSC to celebrate Indigenous Knowledge in the text of the Framework, as UNESCO's full definition does. Instead, the Framework's text evokes enduring Canadian tropes of the "Vanishing Indian," an Indian who recognizes, much to the relief of the settler, that the settler's coming was ordained by a great spirit, and that the native will now with nobility recede into the mists of time, die out so that the settler can take the torch and fulfill their destiny as rulers of the earth and cultivators of civilization.⁵⁷

PRGI is concerned that the CNSC Indigenous Knowledge Policy Framework, as it currently stands, does more harm than good, tells more fairytales than truth about Indigenous people, and that its contents are being used to counsel proponents and CNSC staff in their engagement efforts with Indigenous communities. A review of the Framework's content finds a concerning amount of regressive thinking. When we read your Framework, it seems that the Indigenous Knowledge PRGI wants to give is not the Indigenous Knowledge CNSC wants to receive. PRGI has specified in the "Solutions" section of this response a series of proposals to address this and other concerns in our relationship with Canada and the CNSC.



American Progress, John Gast, 1872



Reversing Manifest Destiny, Charles Hilliard, 2021

⁵⁷University of Saskatchewan, *Gladue Rights Research Database*, <https://gladue.usask.ca/settlercolonialmyths> "The 'Vanishing Indian' is an influential cultural myth in Canada and the U.S. that Indigenous peoples would inevitably either disappear physically due to 'susceptibility to western diseases,' or that they would disappear culturally through assimilation."

5.2 - Indigenous Engagement

The description of Indigenous engagement in the 2024 ROR is severely deficient from the perspective of PRGI.

As stated by Justice Canada in their August 2025 progress report on the implementation of UN Declaration under UNDA,

Overall, we heard that more work is needed to ensure that progress on implementation is monitored in ways that are both measurable and aligned with how Indigenous peoples understand the objectives of the APMs. As of this year, only 50 APMs (28% of all APMs) had at least one indicator developed to measure progress on implementation. Among these, 20 APMs (11% of all APMs) had at least one indicator developed in consultation and cooperation with Indigenous peoples and 19 (10% of all APMs) had an indicator that can be disaggregated to monitor the impacts for specific communities.

This was the first year departments were asked to report on indicators, and we intend to work with others to see these numbers grow in the years ahead.⁵⁸

PRGI requests to receive the CNSC report delivered to Justice Canada on indicators in order to compare transparently CNSC's description of the quality of engagement with PRGI's experience.

An important background to this ROR response that follows from the aforementioned discussion of Bill C-5 is the question of the legal legitimacy of *any* Indigenous engagement process carried out under the current deployment of Bill C-5. In the context of PRGI and CNSC, it becomes a question of the legality of any declarations made by the commissioners of the CNSC as to the completion or fulfillment of any Indigenous engagement process undertaken in this same period. Accordingly, PRGI **recommends that the CNSC commissioners consider and contemplate whether current CNSC actions interpret Bill C-5 with too little emphasis on good process as a proven risk-mitigation strategy.** Tomorrow's leaders may see the sufficiency of today's rationales for decisions very differently from today's status quo. PRGI counsels the commissioners to consider how we might together use foresight to better manage the

⁵⁸Justice Canada, *UNDA Progress Report 2025*, <https://www.justice.gc.ca/eng/declaration/report-rapport/2025/p5.html>

implementation of C-5 to meet future challenges, and not succumb to the current reactionary posture.

There is a diversity of approaches that different Indigenous Nations take in their participation in Indigenous engagement processes. PRGI respects the processes of autonomous Nations, and affirms place-based knowledge. Each Indigenous Nation must decide for themselves, and by their own processes, whether engagement is considered complete. This is a key aspect of the use of Indigenous Knowledge across Turtle Island.

Indigenous Knowledge is, among many things, the Indigenous-specific community process that is able and competent to come to, and then express, legal decisions on behalf of that community. This right and responsibility to practice Indigenous Knowledge through good governance of territory cannot be stripped and transferred to other regulatory bodies. Commissioners may decide from their perspective that an engagement is complete or of an appropriate quality on any specific project, but this determination has nothing to do with the free determination held by Indigenous peoples as traditional and ongoing custodians of the land and waters of Turtle Island.

5.2.1 Accessibility of Detailed Indigenous Engagement Reporting in 2024 ROR

In the 2024 ROR, CNSC characterizes its Indigenous engagement activities that took place in 2024. PRGI wishes to respond to a number of elements present in this theme.

We begin this section with a discussion of how Indigenous engagement efforts were structured within the 2024 ROR, and the effects that this structuring will have on the readership of those efforts.

2024 CNSC engagement efforts are purported to be cited and linked in the 2024 ROR, and are therefore an official part of the 2024 ROR. However, this action has brought to the surface two related issues.

First, we note that the classification of CMD 25-M9.A — cited and linked in 2024 ROR — is tied to the 2023 ROR and not to the 2024 ROR. This is especially strange when we see that CMD 25-M9.A was written in 2025. PRGI requests information as to the desired outcome of tying

CNSC's 2024 engagement efforts to a 2023 document, but writing that document in 2025. If the rationale here was for CNSC to tie these processes together in the minds of the readers, it was not successful. PRGI suggests that clearer and more accessible tools are available than those currently used by the CNSC to provide readers with a comprehensive, dashboard-style view of Indigenous Issues and Concerns.

Second, PRGI points out that these engagement efforts are *only* described in this completely separate document (CMD 25-M9.A) and not in the main body of the ROR text at all.⁵⁹ PRGI is concerned that this move of separating reporting about Indigenous Engagement from the main ROR document can only lead to less people reading about CNSC's Indigenous engagement efforts undertaken, for the simple reason that accessing the content requires further commitment from the reader. This practice could obstruct engagement rather than enhance it, and PRGI recommends that further feedback is sought by CNSC from Indigenous Nations as to the overall experience of this dynamic. PRGI requests information on the rationale for citing rather than including the text from CMD 25-M9.A in the 2024 ROR.

5.3 “Have to disagree” — Our disagreement is our way through: our disagreement lights our path forward:

In the supplement to the 2024 ROR, CNSC staff respond to PRGI's concerns from the 2023 ROR in the following fashion:

CNSC staff acknowledge that not all concerns have been addressed to date, but that progress has been and will continue to be made. CNSC staff note that there are times when CNSC staff and PRGI will have to disagree on points if a common ground cannot be achieved through ongoing dialogue and engagement. CNSC staff have indicated to PRGI that these differing views will be documented in the issues tracking table and that each party has the ability to present their differing views to the Commission, who will take into consideration all evidence and information submitted to it as part of a proceeding.⁶⁰

⁵⁹Canadian Nuclear Safety Commission, *CMD 25-M9.A, 2025: Supplement to 2023 Regulatory Oversight Report, cited as reportage in 2024 ROR*, <https://api.cnscccsn.gc.ca/dms/digital-medias/CMD25-M9-A-eng.pdf/object>

⁶⁰Canadian Nuclear Safety Commission (CNSC), *CMD 25-M9.A, 2025: Supplement to 2023 Regulatory Oversight Report, cited as reportage in 2024 ROR*, 9, <https://api.cnscccsn.gc.ca/dms/digital-medias/CMD25-M9-A-eng.pdf/object>

CNSC staff propose we “have to disagree.” But it is precisely the quality of CNSC’s “ongoing dialogue and engagement” which remains an issue and on display, even here in this quote.

The above quote relies on what seems a backward logic, with CNSC suggesting that if PRGI and CNSC fail to collaboratively produce the outcome of “common ground” around certain issues, then it is a sign that further engagement on those issues should be discontinued. But there’s a problem: the engagement mechanism used by the CNSC — its policies, evaluation methods, and staff training programs — is precisely the mechanism that PRGI is attempting to improve through critique and discussion. It is precisely because CNSC’s current mechanism is insufficient to create “common ground” that PRGI critiques it, and suggests pathways to improvement. Far from abandoning anything, this quote from CNSC staff makes clear that we are on the right track.

Critiquing a broken mechanism *as broken* is not good cause to cease discussing it. PRGI notes the irony of the context within which CNSC staff request a cessation of discussion on issues it deems intransigent, a larger historical engagement context with PRGI in which Free, Prior, and Informed Consent (FPIC) is almost never brought up, unless it is by PRGI. If further discussion ensues, it is framed by the CNSC as only a source of guidance. But if it is a source of guidance, it should be followed once in a while. CNSC staff’s response to PRGI in the above quote asks us to abandon our eyes, our ears, and our knowledge. The CNSC appears to respond to process failures by limiting, rather than strengthening, opportunities for process improvement.

Are CNSC staff suggesting that PRGI should refrain from raising concerns, and abandon expectations of collaboration, simply because common ground has not been achieved through the very engagement mechanisms that PRGI has identified as deficient? If the engagement process is failing and we are drawing attention to those failures, why is the response to discourage efforts to remedy them?

The above quote is an example of poor engagement because it actively forecloses opportunities **for** meaningful engagement **through** its mode of engagement. Effective collaboration requires compromise from all parties. As PRGI has made significant compromises in previous years, it is now appropriate for the CNSC to reciprocate by creating meaningful opportunities for decision-making in areas of concern to PRGI.

5.4 CNSC Method of Evaluation of Indigenous engagements

PRGI requests that the CNSC provide the criteria used to evaluate Indigenous engagement efforts reported in this ROR (or in connection with it, as with CMD 25-M9.A specifically). What scope of detail is required from staff reporting on engagements? PRGI further requests that future RORs evaluate annual Indigenous engagement efforts in terms of outcomes developed in partnership with Indigenous Nations.

5.5 Concerns about CNSC's Indigenous Engagement capacity

PRGI questions if the CNSC is currently experiencing capacity issues. We understand that the CNSC receives its funding through licensee cost-recovery fees⁶¹ and federal government budget allocations, and yet, we have experienced a significant decline in funding necessary to support our **minimum inclusion** — let alone a stable, sustained source of funding to support our **meaningful inclusion**.

We ask if the capacity challenges CNSC is facing are causing knock-on challenges in the organization to meet obligations for engagement. If this is so, it must be said out loud, so it can be addressed. As an example specific to the 2024 ROR, the report's documentation of Indigenous feedback is summarized and buried in a link. Our experience with the CNSC's disregard for meaningful engagement is shared by others and is systemic, extending beyond our own interactions with the Commission.

The issue at hand is: how can PRGI support the CNSC in fulfilling its obligations so that all parties can move forward collaboratively? Without an improved engagement process — one that prioritizes measurable outcomes rather than ambiguous outputs — the CNSC cannot credibly claim that the Indigenous engagement processes surrounding PLNGS meet the Government of Canada's obligations under the Treaties of Peace and Friendship or fulfill its responsibilities under the United Nations Declaration on the Rights of Indigenous Peoples.

⁶¹Canadian Nuclear Safety Commission, *Cost Recovery Fees Regulations*, SOR/2003-212.

5.7 The Affect and Effect of CNSC Website Changes:

PRGI has made use of the Internet Archive's Wayback Machine to pursue an understanding of how CNSC uses its website for crucial information dissemination to both Indigenous Nations and the Canadian public. This was initiated because of conflicting information we had received from the CNSC. To determine the confusion and initiate communication about it, we provide two relevant examples here as part of our 2024 ROR response.

First, to note, we understand the need to be able to make marginal edits of online texts without having to inform Indigenous Nations. But these are instances where the text was shifted in ways materially different from previous versions. "Materially different" here means that a change of meaning occurred in the texts describing CNSC's UN Declaration commitments.. The degree of change in meaning between the two versions, and the lack of communication about the change, is significant enough to suggest a reassessment of whether CNSC's engagement efforts can be truthfully reported as "meaningful," by PRGI's understanding of the word, or by the definition that CNSC gives to it for regulatory purposes. This is pertinent because the "meaningful" self-ascription was attached by CNSC to the Indigenous engagement sections in the 2024 ROR and its supporting documents.

5.7.1 UN Declaration

PRGI invites CNSC staff and Commissioners to inspect the following elements (both links and screenshots are provided):

- CNSC UN Declaration page - **August 2025** version:
<https://web.archive.org/web/20250808230640/https://www.cnscccsn.gc.ca/eng/resources/aboriginal-consultation/undeclaration/>

And,

- CNSC UN Declaration page - **January 2026** version:
www.cnscccsn.gc.ca/eng/resources/aboriginal-consultation/undeclaration

Note that the URLs are identical.

Implementing the United Nations Declaration on the Rights of Indigenous Peoples for major nuclear projects in Canada

This webpage outlines our dedication to meaningful collaboration with Indigenous Nations and communities. We incorporate the principles of the [United Nations Declaration on the Rights of Indigenous Peoples](#) (UN Declaration), including that of free, prior and informed consent, into our consultation and engagement processes for major nuclear projects.

Our commitment to Indigenous consultation

We are committed to working collaboratively with Indigenous Nations and communities to ensure that their voices are heard and that their concerns are addressed. Building trust and advancing reconciliation are key priorities. Where appropriate, we will:

- **seek to obtain the free, prior and informed consent (FPIC)** of Indigenous Nations whose rights and interests may be impacted by major nuclear projects
- **collaborate with Indigenous Nations to ensure that their FPIC position is properly understood and communicated**, and to better understand and implement their processes for decision making
- **work with Indigenous Nations to adapt and adjust our processes and procedures** based on their protocols, culture, laws and requests
- **develop and implement mitigation and accommodation measures** to address concerns raised by Indigenous Nations and communities throughout the consultation process
- **ensure that proponents and licensees have [clear and updated guidance](#)**, and that they collaborate with impacted Indigenous Nations and communities to address concerns, build partnerships, and work towards agreements that seek to secure FPIC

Through these efforts, we aim to demonstrate our commitment to a transparent, inclusive and collaborative approach to nuclear safety and Indigenous consultation and engagement.

UN Declaration on the Rights of Indigenous Peoples and the CNSC

The Canadian Nuclear Safety Commission (CNSC) applies the principles of the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) while working with Indigenous Nations and communities. We ensure meaningful consultation, participation and inclusion in our regulatory processes.

On this page

- [Our commitment](#)
- [Our approach](#)
- [UN Declaration Act](#)
- [Free, prior and informed consent](#)
- [Expectations for licensees and applicants](#)
- [Consultation process](#)

Our commitment

Building trust and advancing reconciliation are key priorities. We work collaboratively to ensure the voices of Indigenous Nations and communities are heard and concerns are addressed.

Our approach

The CNSC is guided by the UN Declaration and the *United Nations Declaration on the Rights of Indigenous Peoples Act, 2021* (UN Declaration Act). These frameworks help us build respectful, long-term relationships with Indigenous Nations and communities. We strengthen our consultation approach by reflecting the principles of the UN Declaration.

We collaborate with other federal departments and agencies and consider Canadian court decisions, to inform implementation of the UN Declaration Act and its action plan. We also work with Indigenous partners and federal departments to support measures in the action plan that connect to our mandate.

Our goal is to ensure the rights, perspectives and knowledge of Indigenous Peoples are recognized and meaningfully included in our regulatory activities. The UN Declaration Act is one of the important frameworks that helps guide our approach and responsibilities.

The changes over the last year on CNSC's UN Declaration and FPIC-related page show a **regressive rhetorical movement in relation to UN Declaration implementation, not a progressive movement in support of FPIC development as called for by Justice Canada's annual progress reports. PRGI requests that CNSC staff account for why a shift in language in its UN Declaration approach was called for, and whether and to what extent this recent historical shift in language is expressive of CNSC shifts in approach to its responsibilities regarding UN Declaration and UNDA.**

PRGI is concerned that these examples of CNSC shifting its language online without notification to Indigenous Nations, or a data trail for readers, may be contributing to a diminishing of procedural fairness at the CNSC, and thus a diminishing of "meaningful" rights-holder involvement. **Questions remain about the internal process of CNSC in this UN Declaration page change, and PRGI extends a number of those questions here, though they should not be understood to be the sum total of inquiries PRGI will make into this matter.**

- **Was the change transparent?**
- **Was the previous wording archived publicly?**
- **Did Indigenous Nations or rights-holders have an opportunity to review or comment on the change (especially as the language shift concerns Indigenous rights, rights-impacts, and regulatory policy)?**

5.7.2 Gentilly

In reference to website changes related to the PFP for Gentilly-1, our application for both G1 and G2 were started and completed when the website stated, "[t]he Gentilly-1 Waste Facility is located in the municipality of Bécancour, Quebec, and on the traditional and unceded territory of the Abenaki people **and the Wabanaki Confederacy** and the traditional land of the Huron-Wendat."

October 10, 2025

Participant funding for Canadian Nuclear Laboratories' application to amend the Gentilly-1 Waste Facility licence

Status

This participant funding opportunity is open from May 12 to July 11, 2025.

Participant funding notice

The Canadian Nuclear Safety Commission (CNSC) will conduct a hearing based on written submissions in July 2026 to consider an application from Canadian Nuclear Laboratories (CNL) for the amendment of its waste facility decommissioning licence for the Gentilly-1 Waste Facility. The amendment being sought would authorize CNL to proceed with activities related to the decommissioning. These proposed activities are also subject to a federal lands assessment under the *Impact Assessment Act*. The CNSC will be acting as an authority for this assessment. As a prerequisite to the licensing decision, the Commission must make a decision as to whether the proposed activities are likely to cause significant adverse environmental effects. The Gentilly-1 Waste Facility is located in the municipality of Bécancour, Quebec, and on the traditional and unceded territory of the Abenaki people and the Wabanaki Confederacy and the traditional land of the Huron-Wendat.

The CNSC is offering participant funding to assist Indigenous Nations and communities, members of the public and

Today, the website looks like the following (see image below) and refers to G-2 in a description for G-1 funding, and removes references to the Wabanaki Confederacy.

Participant funding for Canadian Nuclear Laboratories' application to amend the Gentilly-1 Waste Facility licence

Status

This participant funding opportunity is open from May 12 to August 11, 2025.

Participant funding notice

The Canadian Nuclear Safety Commission (CNSC) will conduct a hearing based on written submissions in July 2026 to consider an application from Canadian Nuclear Laboratories (CNL) for the amendment of its waste facility decommissioning licence for the Gentilly-1 Waste Facility. The amendment being sought would authorize CNL to proceed with activities related to the decommissioning. These proposed activities are also subject to a federal lands assessment under the *Impact Assessment Act*. The CNSC will be acting as an authority for this assessment. As a prerequisite to the licensing decision, the Commission must make a decision as to whether the proposed activities are likely to cause significant adverse environmental effects. The CNSC acknowledges that the Gentilly-2 facility is located on the traditional and unceded territory of the Abenaki people under the council of the W8banaki, and the traditional land of the Wendat.

The CNSC is offering participant funding to assist Indigenous Nations and communities, members of the public and interested parties in reviewing CNL's application and associated documents, including any documentation related to the federal lands assessment, and in participating in the Commission hearing process by providing topic-specific interventions in writing to the Commission.

Up to **\$75,000** in participant funding will be **disbursed among all** successful applicants. Funding will be awarded for:

5.7.3 Providing crucial Information to PRGI through weblinks

Countless times in the past, PRGI has requested pdf versions of information to be shared by the CNSC, without such requests being honoured. Due to the situation, the CNSC approach to information sharing and public record keeping has been a source of frustration, additional work, and additional cost to PRGI staff for a number of years.

PRGI understands that the current approach by CNSC is intended to make the CNSC website always a repository of current CNSC thinking. But **the lack of transparency into the editing process is both practically inefficient and problematic in terms of the standards Indigenous Nations expect when they deal with federal agencies.**

The practice by CNSC of providing crucial information to Indigenous Nations and the public through the CNSC website, where versions and URLs are routinely changed without notice or data trail, must be amended.

5.6 - CNSC Listening Tour

Building on the concerns articulated above, we also wish to provide the Commissioners with a reflection on the preparation, meeting and follow up regarding a meeting that was held in May 2025.

In March of 2025 PRGI raised their interest in reviving a 2022 proposal to the CNSC which CNSC had not funded at the time — to bring nuclearized nations together for discussion. PRGI suggested that in 2025, this could potentially be planned concurrently to CNSC's annual in-person meeting with PRGI.

As of March 19, 2025 PRGI understood that the meeting scheduled for May would be similar in context and agenda to past annual in-person meetings. However, in conversations with CNSC staff, and later confirmed via email, it was clarified that the May meeting was intended as the “kickoff” for the CNSC's new initiative, the *Listening Tour*, announced at the Canadian Nuclear Association Conference in April. PRGI noted to CNSC that the time allotted for the meeting would likely be insufficient to cover the in-depth topics associated with the Listening Tour.

CNSC staff recommended applying for ISCF Stream 3 funding to support the PRGI proposal. The proposal was submitted, and PRGI responded to three rounds of questions while revising

the proposal multiple times. PRGI also raised concerns that, although the budget reflected actual costs, it remained relatively high. The CNSC confirmed that there was no cap for Stream 3 applications. By this time, it was May — the month of the planned annual CNSC visit — and we were informed that a funding decision could be expected within 45 days.

In May, PRGI, together with the many Wabanaki Chiefs, elders and youth they had convened, met with the CNSC. PRGI covered the costs associated with the meeting, as had been outlined in their application to the CNSC.

At the 45-day mark (from the application submission), in the second week of July, when PRGI expected to hear about funding, we were instead asked another round of questions. **Within five days, PRGI responded to the questions and submitted a 47-page document to the CNSC detailing the May meeting**, understanding now that perhaps PRGI was at risk of not being funded for the meeting just held.

In the meantime, questions that were asked by numerous Chiefs and Elders gathered for the May meeting, remained unanswered. Eight CNSC staff attended the meeting (at least 2 CNSC staff with PLNGS linked to their title), and none could answer questions such as, “how much water does PLNGS intake annually?” and “how much waste is on site?”

PRGI received a funding offer on September 9, 2025, for 42% less than the proposed budget. Additionally, there was an associated note with the funding which stated,

One-time Retroactive Funding Conditions:

*To ensure fairness, transparency, and responsible stewardship of public funds, **the FRC emphasized the importance of timely submissions and signed contribution agreements for future funding eligibility.** All future applications must be submitted within a reasonable amount of time in advance of any work commencing, deliverables being produced, or events being held (ideally 45 business days before).*

PRGI was dismayed, as they had been trying to attain funding for a similar-type gathering since 2022, and it was the CNSC who recommended the submission for this funding at this time.

On September 11th PRGI received the CNSC-prepared meeting minutes from May, which noted that the Listening Tour topics were not covered at the May meeting. The minutes described, “...The time with the CNSC was focused on general issues that the community has with nuclear and industry, rather than the topics from the Listening Tour discussion guide...” a situation CNSC staff had been warned would likely happen, due to the depth of the topics.

On September 11th PRGI also received a letter from Colin Moses, Vice-President of the Regulatory Affairs Branch and Chief Communications Officer. It included an update on the Listening Tour and **a CNSC request for any additional feedback or follow-up comments within 8 business days.**

On October 9, PRGI submitted a written appeal of the funding decision. On November 27, PRGI received a written response denying the appeal, while still offering to honor the previous Contribution Agreement.

On December 23, 2025, PRGI signed the Contribution Agreement offer for 42% less than the proposed budget.

PRGI notes there were many times inquiries regarding this file were met with kindnesses from individual staff, however, the overall experience was not positive.

At the May meeting, the Peskotomuhkati Nation gathered respected and influential Peskotomuhkati and Wabanaki leaders, Chiefs and Elders, as well as youth — some who traveled long distances — who prepared for the meeting through research and conversation, and who then engaged in a day and a half long pre-meeting conference with subject matter experts in nuclear energy and environmental management.

CNSC, on the other hand, sent staff, not leaders, who could not answer basic questions about the only nuclear generating station outside of Ontario.

For CNSC staff to have arrived unprepared for an audience with Indigenous leaders who represent thousands of people, is deeply disconcerting — particularly given Wabanaki peoples’ good-faith efforts to participate in the CNSC’s ‘Listening Tour.’

Experiencing, then sharing this summary of the events related to the Listening Tour has been exhausting. However, the listening tour experience is not unique in this manner.

During these same number of months, PRGI applied for support to be involved with the Review of *RegDoc 3.2.2, Indigenous Engagement*. PRGI applied for funding support on February 20 2025, for a document that was intended by CNSC to be entering public consultation in the spring. On August 25, 2025 (a wait period of approximately 6 months) PRGI received a Contribution Agreement offer. The concern related to *RegDoc 3.2.2, Indigenous Engagement*, was regarding work planning. The original expectation was for the review to be conducted in the spring of 2025, this expectation was then updated to an “early fall” release, which was then rescheduled to the end of November, and then to December. PRGI must engage staff and consultants to work on these reviews, ensuring the Nation’s voice is heard. This type of delay has cascading negative effects.

In this same vein, we share that PRGI applied for a second round of support through the ISCF Stream 1, for which the application was due in July of 2025. In early fall the CNSC staff were expecting to share news regarding funding by the end of October. CNSC staff were only finally able to offer a contribution agreement on January 22, 2026. This represents a gap in funding to support the PRGI nuclear team of over 10 months since the end of the previous ISCF Stream 1 funding. The funding offer from CNSC has been reduced by 62% relative to the previous agreement.

Finally, we ask the CNSC to note that funding received for ROR submissions and engagement is to be finalized and reported on before PRGI ever gets to see or interact with the CNSC staff responses. How is PRGI expected to have its nuclear team interact with CNSC staff on such matters?

Our trust in the CNSC and its oversight of nuclear sites is predicated on the integrity of the CNSC’s Indigenous engagements.

5.7 Accountability & Measurability in the CNSC-PRGI Issue Tracker

UNDA states that UN Declaration implementation by federal bodies must be “measurable and accountable.”⁶² PRGI continues to question the measurability and accountability present in CNSC’s issue tracker implementation with PRGI to date. Even with multiple requests from PRGI to add measurable accountability structures that fulfill CNSC legal obligations, the ‘tracker’ remains a failure in that regard. UNDA states:

Actionable and sustained UN Declaration implementation must include **co-developed accountability mechanisms and evaluation tools and frameworks that reflect Indigenous ways of knowing and understanding.** This will help ensure that implementation is flexible, sustainable and adaptive to the evolving needs and priorities of Indigenous peoples. **Regular assessment and reporting must utilize clear and specific indicators and timelines that have been co-developed with Indigenous peoples, and be supported by data collection and reporting methods that prioritize Indigenous data governance and sovereignty.** (emphasis added)

But as we have highlighted in past communiqués, and which we will endeavour to further explain here, the CNSC’s issue tracker with PRGI is not a mechanism that reflects “Indigenous ways of knowing and understanding.” Note the UNDA language is not about the content of issues, but about the “mechanisms” themselves. Here PRGI submits to the commissioners that the current CNSC issue tracker is a mechanism that values outputs rather than outcomes, and that this problematic characteristic of CNSC’s measuring and accountability efforts to date makes CNSC engagement efforts foundationally out of line with UNDA’s legal mandate for all federal departments and agencies.

Within the CNSC–PRGI issue tracker, there are numerous documented instances in which PRGI has expressed opposition to the tracker’s current design. The tracker merely records whether CNSC has responded to PRGI’s questions and statements in any manner it chooses, without evaluating how those responses contribute to shared objectives or PRGI-defined outcomes. In its present form, the issue tracker is inadequate both in practice and under Canadian legal

⁶²Justice Canada, *United Nations Declaration Act Action Plan (2023–2028)*, June 6, 2023, <https://www.justice.gc.ca/eng/declaration/ap-pa/ah/p1.html>

standards: it does not require the CNSC to pursue cooperative outcomes, but instead allows the CNSC to treat interactions with PRGI as measurable accountability, even when they consist solely of vague outputs.

As will be made clear in the “Solutions” section of this response, PRGI has moved from critiquing the inadequacy of the issue tracker mechanism as deployed by CNSC, and is now focused on suggesting ways to redesign the issue tracker so that it functions as a tracker of cooperative outcomes, which *are* able to measure the success of cooperation and the crafting of constructive solutions.

The CNSC issue tracker as it stands is out of line with Canadian law⁶³, precisely because its **output-focused reporting creates a skewed account of the relationship between Canada (CNSC) and PRGI.**

5.7.1 Solution

Structural Metrics Addition to “Issue Tracker” shared template. PRGI has created 3 new columns in the PRGI-CNSC shared issue tracker. We request a formal agreement that both parties utilize the issue tracker template in full and according to stated roles, as it now stands with our additions.

One of our key communication-focused issues with CNSC is the quality of the answers that we receive from CNSC (as we have discussed in our response to 2023 ROR). In past versions of the PRGI-CNSC Issue Tracker, there is a single column for CNSC staff responses, and that column has no instructions for what kind of response is expected by CNSC staff.

This under-designed context has created the conditions for communications from CNSC to PRGI which we find subpar at both professional and diplomatic levels. In order to collaborate or to be constructive, communication must be rich and it must be real, from both parties.

Frustrated with slow communication by CNSC *about* communication issues, PRGI decided to make some additions to the shared Issue Tracker in a proactive and constructive spirit, with the hope that designing our shared communication space a little bit more would improve the effectiveness and quality of our relationship.

The proposed metrics follow:

⁶³Justice Canada, *United Nations Declaration Act Action Plan (2023–2028)*, June 6, 2023, <https://www.justice.gc.ca/eng/declaration/ap-pa/ah/p1.html>

- a. **Metrics (Columns) - Box to Fill for CNSC staff**
- Metric 1 (Column F):** How does each CNSC response in Column E further advance self-determination for the Peskotomuhkati, including recognition of decision-making authority held by the Peskotomuhkati nation over its lands? If the comment does not further self-determination, simply answer, "this comment does not address advance Peskotomuhkati self-determination."
 - Metric 2 (Column G):** How does each CNSC response in Column E manifest concrete actions that advance nation-to-nation relationships? Explain WHY and HOW the CNSC response in each row should be considered a concrete action.
 - Metric 3 (Column H):** HOW does the CNSC response in Column E facilitate Peskotomuhkati's more informed participation in decision-making? Was specific information or data shared that directly answered a question of the Nation? If no direct answer, specific information or data is being offered, simply state, "no direct answer, specific information or data is being offered"

F	G	H
Peskotomuhkati Nation – Issues Tracking Table		
METRIC ONE (TO BE COMPLETED BY CNSC BEFORE SENDING TO PRGI): How does each CNSC response in Column E further advancements in self-determination for the Peskotomuhkati, including recognitions of decision-making authority held by the Peskotomuhkati nation over its lands? If the comment does not further	METRIC TWO (TO BE COMPLETED BY CNSC BEFORE SENDING TO PRGI): How does each CNSC response in Column E manifest concrete actions that advance nation-to-nation relationships? Explain WHY and HOW the CNSC response in each row should be considered a concrete action.	METRIC THREE (TO BE COMPLETED BY CNSC BEFORE SENDING TO PRGI): How does each CNSC response in Column E confirm concrete progress on the disclosure and sharing of information to facilitate our Nation's more informed participation in decision-making? What specific

The additions created by PRGI were drawn verbatim from specific feedback from PRGI on the 2022 ROR and subsequent Issue Tracker.

- iv. **2022 ROR - The initial suggestion of additional metrics by PRGI**
- Advancements in self-determination, including recognitions of decision-making authority held by the Peskotomuhkati nation over its lands**
 - Concrete actions to advance nation-to-nation relationships**

c. Progress on the disclosure and sharing of information to facilitate our Nation's more informed participation in decision-making

Our suggestion was entered to Issue Tracker, CNSC did not respond but lumped it into its UN Declaration response (PRGI's suggestion was made in the context of a larger section on the applicability of UN Declaration): "The CNSC is supporting the federal gov't implementation of UN Declaration and UNDA Action Plan and ensuring the processes are in line with changing policy landscape" and "We look forward to discussing further with PRGI the CNSC's ongoing work to support the implementation of UN Declaration through the action plan."⁶⁴

No further conversations were initiated by CNSC.

In the 2023 PRGI ROR Response PRGI restated the suggestion as a request⁶⁵

That "the metrics outlined above become built into the structure of our diplomatic relation,"

And said again, more specifically:

"[F]or the CNSC to benchmark their and licensee actions against the UN Declaration and Action Plan, and Canada's Truth and Reconciliation efforts, starting with our specifically recommended metrics

This request was entered into the Issue Tracker by CNSC staff along with their response:

"CNSC staff are open to further dialogue with PRGI on how these metrics can inform our ongoing engagement. We welcome continued input on how to enhance the sharing of information to support participation in the CNSC's regulatory processes."⁶⁶

However, no further conversation was initiated by CNSC.

In response to the 2024 ROR we again submit this request and expect the outcome will include:

- i. Proactive and constructive solution making
- ii. PRGI will receive the kind of accountability from CNSC that PRGI has been requesting
- iii. PRGI will receive clarity in language from CNSC, even if the direct style of the answers we request is not typical to CNSC's communication style.
- iv. This addition will give the CNSC the chance to engage with the values of PRGI in its indigenous consultation processes, to learn from and with them, and to experiment with

⁶⁴Canadian Nuclear Safety Commission, *E-doc #6957534 (Tracker)*.

⁶⁵Passamaquoddy Recognition Group Inc., *2023 Regulatory Oversight Report Response*, 11.

⁶⁶Passamaquoddy Recognition Group Inc. and Canadian Nuclear Safety Commission, *PRGI-CNSC Issue Tracker*, accessed January 24, 2026.

ways to make our relationship stronger by actually following a substantive PRGI proposition instead of only noting the existence of concerns or critiques.

We ask that the CNSC agree to use the metrics for their responses regarding the 2024 ROR and then discuss with PRGI. PRGI and CNSC will then review the Issue Tracker annually for improvements on PRGI's preferred metrics.

5.8 The ROR Appendix — Issues and Concerns

“CNSC staff have responded to all PRGIs recommendations and comments made in relation to the 2022 and 2023 ROR and, as part of incorporating feedback received, CNSC staff added an appendix which summarizes the issues and concerns (as PRGI noted in their intervention). CNSC staff look forward to continuing discussions with PRGI on this topic and incorporating feedback received into subsequent RORs where appropriate”.⁶⁷

PRGI appreciates CNSC's provision of the appendix within the last 2 ROR reports, and would recommend this practice to continue. **PRGI also recommends that the form of this appendix be considered a matter of ongoing collaborative co-design between CNSC and nuclearized Indigenous Nations.**

Regarding the form of this appendix, PRGI wishes to emphasize that, while it is commendable that the Appendix of Issues & Concerns exists, it should not be considered a finalized version. PRGI feels the need to clarify this point because there have been no discernible improvements in the quality of information presented, starting from the real improvement of the initial introduction of the Issues and Concerns Appendix in ROR 2022, to the appendices of ROR 2023 or ROR 2024, which do not endeavor to improve on ROR 2022. The 2024 ROR appendix still, like the 2 RORs before it, does not provide enough relevant detail of intervention content, as well as not enough categorical and thematic cross-comparison between interventions. We see that some thematic comparison is provided, and this is a good start.

5.8.1 Solution:

There is a great breadth and depth of research available on effective evaluation and visual information communication that makes the proposal and expectation of ongoing improvements

⁶⁷Canadian Nuclear Safety Commission (CNSC), *CMD 25-M9.A, 2025: Supplement to 2023 Regulatory Oversight Report, cited as reportage in 2024 ROR*, 10, <https://api.cnscccsn.gc.ca/dms/digital-medias/CMD25-M9-A-eng.pdf/object>

to the ROR Issues and Concerns Appendix a very doable engagement task for the CNSC. Other categories should be introduced to the appendix's format to increase the referenced data's resolution for the reader of the ROR, and these categories should be determined collaboratively by CNSC staff and each Indigenous Nation.

Perhaps this can be the way forward: with each ROR dedicating a section where Nation's hold the pen, framing their concerns, responses and contribution. Over time, we'd then expect to see positive actions to implement or act on the concerns raised. This would be a prime example of both "constructive solutions" and "common ground" outcomes. To this point, **PRGI requests to be included in the co-design and refinement process of future ROR engagement structure and evaluation and we reiterate that our comments from this and past years be relied upon in finding a way forward that is procedurally just.**

5.9 Non-Engagement with PRGI for New ROR Design Process

PRGI hopes that many of the comments offered within this section regarding engagement will have already been fully or partially addressed in the upcoming ROR overhaul. However, PRGI states for the record that the design process of that new ROR structure is an example of where PRGI would have liked to be engaged — and indeed must still be engaged if the Indigenous engagement efforts of the CNSC and the proponents it oversees are to make the impact that they must under the law.

5.9.1 Solution:

Though we feel that the "early engagement" window has been missed by the CNSC, based on recent conversations, it seems there may still be time for Indigenous Nations to be invited to provide feedback which can be integrated on early drafts of the new ROR structure.

6.0 Concerns about Adequate Oversight of Proponent Activities

6.1 Concerns about Culture of NDA deployment by Proponents on CNSC's Regulatory Watch

PRGI is concerned about a normalized culture of proponents deploying non-disclosure agreements. We question the absence of CNSC's regulatory voice in this matter given the Commission's statutory obligation to "disseminate objective, scientific, technical and regulatory information to the public" and authority for Crown consultation, and resulting responsibilities that Nations be *informed* as a prerequisite to seeking our consent.⁶⁸

The effect of CNSC not weighing in on this problem is an increasing proliferation of NDAs, and a decreasing proliferation of quality information, information-sharing, and discussion.

We do not question the judgement of Indigenous Nations in electing to enter into NDAs with proponents, as these are matters for Nations to weigh and decide internally amongst themselves. What we do question is the manner in which the CNSC has allowed the deployment of NDAs by proponents to become normalized, without intervening to assess the impacts of NDAs on the goals and metrics of Indigenous engagement as a legal requirement and a relational promise. Said concisely, a culture of NDAs runs counter to Indigenous culture. The acceptance to sign by some Nations should not be misconstrued as their agreement with the need for an NDA in the first place.

PRGI requests that, in future, the CNSC intervene more frequently and with greater regulatory clarity in proponents' chosen modes of Indigenous engagement. We request that the CNSC give direction to proponents that flow from the CNSC's participation in the whole-of-government approach to the implementation of the United Nations Declaration on the Rights of Indigenous Peoples into the Canadian legal context. If CNSC is not already considering such a course, PRGI recommends that CNSC take the opportunity of upcoming reviews (including the next ROR) to make progress on its specific role in implementing the Declaration through CNSC's practice of its responsibilities.

⁶⁸*Nuclear Safety and Control Act*, S.C. 1997, c. 9, ss. 8(2), 9(a).

NDAs are but one example of where the CNSC should more impactfully fulfill its role as a crucial facilitator of “consensus” and “constructive solutions” between proponents, the Canadian public, and Indigenous Nations.

6.2 Concerns about NBP Financial Guarantee Lapse on CNSC watch

PRGI also questions whether NB Power operated PLNGS for 1.5 years without a functioning financial guarantee in place.⁶⁹

In the 2024 ROR, we read that CNSC staff updated the CNSC commissioners on May 2nd, 2024, describing that:

NB Power had completed its corrective action plan to verify the financial instruments which form the Financial Guarantee Funds, following administrative amendments that were made to the financial instruments after the May 2022 Point Lepreau NGS licence renewal hearing.⁷⁰

PRGI needs to understand from the CNSC what the nature of the status of NB Power’s financial guarantee was during the 1.5 year period (Oct 5, 2022 - April 25, 2024) in which the financial instruments were not verified. While CNSC states very clearly that the new memorandum of understanding between NB Power and CNSC (2022) did not at any point put the accessibility of NB Power’s financial guarantee at risk, it is **not** clear from the 2024 ROR — nor the cited CMD24-M27 — whether NB Power’s 1.5 year-long lapse in financial instrument verification put the guarantee at risk.

We also ask to be provided all materials relied upon by the CNSC to verify the correction action plan was undertaken. We also note the ROR’s characterization of this determination as “administrative” does not negate the Crown’s constitutional obligations where Indigenous rights and interests are engaged, nor does it displace the requirement for fair process. PRGI again reminds the CNSC that Crown consultation obligations apply in this instance but the lack of any inclusion in decisions being made about NB Power’s financial guarantee have us doubt the

⁶⁹Canadian Nuclear Safety Commission, *Regulatory Oversight Report 2024*, 148.

⁷⁰Ibid.

Commissioner's understanding of this obligation. Again, the CNSC appears adamant to move ahead contrary to obligations within the UN Declaration, including Articles 18 and 29, that require our inclusion in decisions affecting our territories and future liabilities.

7.0 Conclusion

This submission has set out, in detail, PRGI's concerns with the Canadian Nuclear Safety Commission's 2024 Regulatory Oversight Report and, more broadly, with the structures, assumptions, and practices that continue to shape the CNSC's approach to Indigenous engagement, Indigenous Knowledge, and regulatory accountability. While the ROR presents itself as a comprehensive and technically sound account of regulatory oversight, our review demonstrates that it remains deficient where Indigenous rights, responsibilities, and decision-making authority are concerned.

As we bring our response to the 2024 ROR to a close, we note that many CNSC communications fail engagement standards because they attempt to hem PRGI into a relationship paradigm that is far from reality. PRGI and the CNSC are not in a business-client relationship, nor that of investor-investee. The Nation of Canada (represented by CNSC) and the Peskotomuhkati Nation (represented by PRGI) are in a space of shared co-governance regardless of CNSC's recognition of that fact.

Throughout this response, PRGI has emphasized that meaningful engagement cannot be reduced to outputs, procedural checklists, or unilateral declarations of sufficiency by the Crown. Engagement is not complete when a regulator decides it is complete; it is complete only when Indigenous Nations, through their own laws and governance processes, determine that their concerns have been addressed in a way that respects their responsibilities to their lands, waters, and future generations. Indigenous Knowledge is not an accessory to technical decision-making, nor is it a category of information to be selectively "accommodated." It is a living system of governance, law, and responsibility that must be engaged as such.

We exist in a space of overlapping legal traditions affirmed by Justice Canada. The Peskotomuhkati must uphold their obligations to Peskotomuhkatikuk and all of our relations, but

the CNSC instead attempts to decide to what extent they are “applicable,” reinforcing the Doctrine of Discovery, *Terra nullius* and partaking in current-day colonization practice.

The CNSC’s Indigenous Knowledge Policy Framework, as currently written and applied, fails to meet this standard. By narrowly framing Indigenous Knowledge as environmental or cultural input while retaining exclusive Crown control over decision-making, the Framework reproduces colonial hierarchies of knowledge and authority that are incompatible with the UN Declaration, UNDA, and Canada’s Treaty obligations. Rather than advancing reconciliation, it risks entrenching regressive practices under the appearance of progressive language.

Similarly, the 2024 ROR’s treatment of Indigenous engagement lacks transparency, measurability, and accountability. Engagement activities are summarized without reference to Indigenous-defined outcomes, buried in links that limit accessibility, and evaluated using criteria developed without Indigenous participation. The absence of co-developed indicators, outcome-based evaluation, and Indigenous data governance undermines the credibility of CNSC claims that its engagement is “meaningful” or aligned with Canada’s legal obligations.

PRGI has also raised serious concerns regarding regulatory oversight of proponent activities, including deficiencies in environmental monitoring data at Point Lepreau, the handling of Fisheries Act Authorizations, and unresolved questions surrounding NB Power’s financial guarantee. These are not peripheral technical issues; they go directly to the protection of Peskotomuhkatikuk, the integrity of regulatory decision-making, and the Crown’s duty to act honourably where Indigenous rights and future liabilities are at stake.

We refuse any call for us to sever our obligation to our Homeland in favour of profits for a highly capitalised nuclear industry.

Despite these concerns, this submission is not a refusal of relationship. It is an invitation to correct the course. PRGI has repeatedly offered concrete, constructive proposals — including redesigned accountability mechanisms, outcome-focused evaluation tools, and clearer information-sharing practices — aimed at enabling genuine collaboration and shared problem-solving. Our disagreement is not an obstacle to engagement; it is the means through which a more honest, durable, and lawful relationship can be built.

Canada and the CNSC must recognize that they do not engage Indigenous Nations as stakeholders, clients, or interested parties, but as self-determining peoples with their own legal orders and governance responsibilities. The Treaties of Peace and Friendship, UN Declaration, and UNDA do not ask for symbolic inclusion; they require structural change. They require that Indigenous Nations participate in decisions affecting their territories, not merely comment on decisions already shaped elsewhere.

The revised land acknowledgement in the 2024 ROR gestures toward this reality, but it is only a beginning. Truth-telling, accountability, and consent cannot be achieved through cautious edits or aspirational language alone. They must be reflected in how decisions are made, how risks are assessed, how information is shared, and how success is measured.