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Safety Commission

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**Written Submission from the
Kebaowek First Nation**

In the matter of the

**Regulatory Oversight Report on the Use
of Nuclear Substances in Canada: 2024**

Commission Meeting

March 2026

**Mémoire de la
Première Nation Kebaowek**

À l'égard du

**Rapport de surveillance réglementaire
sur l'utilisation des substances
nucléaires au Canada : 2024**

Réunion de la Commission

Mars 2026

Canadian Nuclear Safety Commission
280 Slater St.
Ottawa, ON K1P 5S9

January 28, 2026

Sent via email to: interventions@cnsc-ccsn.gc.ca

Re: Comments from Kebaowek First Nation Review of the Regulatory Oversight Report (“ROR”) for the Use of Nuclear Substances in Canada: 2024

The following submission is presented by Kebaowek First Nation (KFN) to the Canadian Nuclear Safety Commission (CNSC) in response to CNSC Staff’s “Regulatory Oversight Report (ROR) on the Use of Nuclear Substances in Canada: 2024.”

In providing these written comments, we also request the opportunity to address the Commission at the upcoming ROR meeting scheduled for the week of March 23, 2026.¹

I. ABOUT US AND OUR EXPERIENCE

Kebaowek First Nation is an Algonquin Anishinabeg First Nation and one of the eleven communities that constitute the broader Algonquin Nation. For centuries, the Algonquin Nation occupied the length of the Kichi Sìbì (Ottawa River) watershed, from its headwaters in north central Québec, all the way to its outlet in Montreal. Algonquin peoples have long exercised our customary laws and governance, known as Ona’ken’age’win, on our traditional territory. This law is based on Algonquin peoples’ mobility on the territory, to hunt, gather, and control the use of the lands and waterways for future generations. The Algonquin Nation has never ceded its traditional territory, and its rights and title have not been extinguished. As Algonquin peoples we regard ourselves as keepers of the land, with seven generations worth of responsibilities for livelihood security, cultural identity, territoriality, and biodiversity.

Our comments are based on our extensive experience with federal regulators and agencies, and involvement in regulatory matters including impact assessments, licensing hearings, project reviews and law reform initiatives. This submission is focused on ensuring that oversight, decision-making and regulatory processes are aligned with our ability to participate in decisions that impact our rights.

¹ CNSC, "[Participant funding for the regulatory oversight reports for the 2024 calendar year](#)," 2025-07-09.

II. UNDRIP, FPIC & KFN'S RIGHTS & RESPONSIBILITIES ASSESSMENT LAW

UNDRIP sets the minimum standards for the survival, dignity, and well-being of Indigenous peoples.²

Through the *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c 14 (“UNDA”), Canada affirmed the Declaration as a universal international human rights instrument with application in Canadian law and that should be implemented without delay.³

The Supreme Court of Canada confirmed that UNDRIP has been incorporated into Canada’s domestic positive law.⁴ The Federal Court and appellate courts have further confirmed that UNDRIP acts as an interpretative lens through which federal and provincial laws must be viewed and the minimum standards against which they are to be measured.⁵

Courts have held that UNDRIP must be given the same weight as a binding international instrument and applies when section 35 rights are engaged.⁶ The federal government, through the UNDA, has endorsed UNDRIP and bound itself to applying UNDRIP and acting in conformity with it. UNDRIP must inform all actions taken under statute, as well as the execution of the duty to consult and accommodate. UNDA’s purposes are to “affirm the Declaration as a universal international human rights instrument with application in Canadian law” and to “provide a framework for the Government of Canada’s implementation of the Declaration.”⁷ The Government of Canada is legally required under section 5 of UNDA to “take all measures necessary to ensure that the laws of Canada are consistent with the Declaration.”

UNDRIP informs the scope of the Crown’s obligations under section 35 of the *Constitution Act*, and requires the Crown to obtain the Free, Prior, and Informed Consent (“FPIC”) of Indigenous Peoples whenever the state propose to store or dispose of hazardous materials on the lands and territories of Indigenous peoples.⁸ UNDRIP further requires states to cooperate in good faith with Indigenous peoples through their own representative institutions and to respect their laws, traditions, and customs.⁹

² *United Nations Declaration on the Rights of Indigenous Peoples*, Art 43 [UNDRIP].

³ *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c 14, ss 2(3), 4(a).

⁴ *Reference re An Act respecting First Nations, Inuit and Metis children, youth and families*, 2024 SCC 5 at 15.

⁵ *Gitxaala v BC (Chief Gold Commissioner)*, 2025 BCCA 430 at 7; *KFN v Canadian Nuclear Laboratories*, 2025 FC 319 at 76; see also *R v Montour*, 2023 QCCS 4154.

⁶ *R c Montour*, 2023 QCCS 4154 at para 1201.

⁷ UNDA, s 4.

⁸ UNDRIP, Art 29.

⁹ UNDRIP, Arts 32(2); see also UNDRIP, Arts 11, 12, 27.

In November 2025, KFN ratified a Rights & Responsibilities Assessment Law which provides a structured process through which the Crown and proponents may obtain KFN's FPIC for physical projects and legislative proposals. The Rights & Responsibilities Law incorporates the standards of UNDRIP and is grounded in Anishinaabe laws, knowledge, and processes.

We require CNSC and the proponents it regulates to adhere to the Rights & Responsibilities Assessment Law and to meet or exceed the standards set out in UNDRIP. Section 5.2(a) of the Rights & Responsibilities Assessment Law affirms that FPIC is not a one-time event, but a process that occurs through the implementation of a project. Under section 20, KFN retains jurisdiction to amend or withdraw its FPIC where a proponent fails to diligently implement FPIC conditions or proposes fundamental changes to the project, or where new adverse effects arise, including where a spill, accident, or malfunction occurs.

As a preliminary matter, KFN has never granted its FPIC for the nuclear substance licensees under review. Our participation in reviewing and providing comments on Regulatory Oversight Reports is an expression of our right of self-government and jurisdiction to ensure that all projects respect our inherent rights and uphold our responsibilities to all of our relations, as stewards and caretaker of the lands.

CNSC must collaborate with KFN respect to its oversight activities and work to achieve consensus on the following matters:

- the assessment of whether licensees have met applicable requirements under the *Nuclear Safety Control Act*, KFN's Rights & Responsibilities Assessment Law, and Canada's international obligations, including UNDRIP; and
- the determination of whether licences should be renewed, suspended in whole or in part, amended, revoked, or replaced based on the proponent's adherence to the licence conditions or the FPIC conditions specified by KFN.¹⁰

As was made clear in *Kebaowek First Nation v Canadian Nuclear Laboratories*, 2025 FC 319, the CNSC must consider UNDRIP and the free, prior, and informed consent standard when assessing whether its duty to consult has been met and must align its processes to reflect KFN's laws, knowledge, and processes, and to work toward achieving agreement.

The UNDA Action Plan commitment #34 sets out the federal government's commitment to support Indigenous participation in decision-making and enable them to exercise federal

¹⁰ *Nuclear Safety Control Act*, SC 1997, c 9, ss 25, 35(3), 37(2)(d) [these sections specify when the CNSC or its delegates may renew, suspend, amend, revoke, or replace licences]

regulatory authority. KFN has raised with the CNSC many opportunities to meet this commitment. The CNSC must ensure KFN can fully participate in decision-making in matters affecting its rights in accordance with KFN's own procedures and based on the principle of free, prior and informed consent.

KFN underscores the importance of meaningful consultation and engagement with its community, emphasizing the need for improved transparency, communication, and collaboration to align industry activities with the laws, knowledge, processes, rights, values, and interests of KFN. CNSC must work with KFN to enhance regulatory oversight while addressing both realized and perceived impacts of the CNSC's operations on communities and the environment.

III. CONCERNS ABOUT SO-CALLED "RED TAPE REDUCTION"

Nuclear substance regulations are vital for safeguarding the health, safety, and security of First Nations, Canadians and the environment. In July 2025, the Government of Canada initiated a program to reduce so-called regulatory red tape. As part of this effort, a red tape reduction office¹¹ was created to conduct a "red tape review" aimed at eliminating outdated or overly complex processes, unnecessary or duplicative rules, and inefficient or unpredictable regulatory administration and service delivery.¹²

Inspired by "the red tape review," the CNSC sought to reduce the administrative burden of Regulatory Oversight Reviews by consolidating them into a single commission meeting, replacing the staggered schedule previously providing more time for Kebaowek to provide a thorough review of separate and significant nuclear regulatory topics. In this context the "red tape review" raises significant concerns for Kebaowek, as it appears to allow the CNSC to further derogate from meaningful engagement on the RORs, existing consultation laws and RegDoc updates. It also introduces a significant burden to meet not just one - but four or five - ROR deadlines for written comments and oral interventions which now fall on the same day.

Over the years, our experience has been that Kebaowek's feedback is given little consideration in Regulatory Oversight Reviews (RORs). Our involvement is typically limited to a subject submission and a 20-minute meeting intervention, with no Commission feedback or mitigation follow-up actions on our comments. This approach is inconsistent with the duty to consult and

¹¹ Government of Canada, *Red Tape Reduction Office* (Ottawa: Government of Canada, online: <https://www.canada.ca/en/government/system/laws/developing-improving-federal-regulations/red-tape-reduction-office.html>)

¹² Canadian Nuclear Safety Commission, *Red Tape Review* (Ottawa: Canadian Nuclear Safety Commission, n.d.), online: <https://www.cnsc-ccsn.gc.ca/eng/acts-and-regulations/red-tape-review/>

meaningful engagement and makes us question the Commission's potential capacity to consider our interests alongside other criteria, such as our rights and responsibilities.

We are further concerned that the “red tape review” would authorize CNSC to amend the application of legislative or regulatory provisions in order to expedite the completion of certain industry priority projects or related activities even when they do not comply with applicable consultation standards.

Further, in the spirit of respecting Article 19 of UNDRIP, fair and ethical process we do not support the CNSC eliminating “the “feedback on comments period” for regulatory consultations, shortening timelines by 6 to 8 weeks per project while preserving the highest levels of transparency and engagement with interested parties. This change represents an overall reduction of 30–40% in consultation timelines”¹³. We ask CNSC how are you respecting our long-term relationship agreement while cutting back on consultation timeframes and funding capacity?

Once a year RORs make it difficult for our First Nation to meaningfully track activities concerning nuclear substances on our territories. We understand efforts are currently underway to modernize ROR processes, and the review of legislative authorities under the *Nuclear Safety and Control Act* (NSCA) and we request greater involvement and transparency in this reform process.

Kebaowek and the CNSC have a working long term relationship agreement and meet regularly; however, we were not informed of this red tape reduction exercise until we received five ROR requests to be reviewed by the same deadline. This was further complicated by a reduction in funding and the approval of a lesser amount just days before the submission deadline of January 28, 2026.

IV. THE USE OF NUCLEAR SUBSTANCES ON ALGONQUIN LANDS

Overall, in 2024 the CNSC maintains that the use of nuclear substances in Canada is safe, however, Kebaowek has identified specific regulatory information shortcomings and challenges. Kebaowek is particularly concerned about shifting nuclear substance regulations concerning plutonium being reprocessed at Chalk River Laboratories. We understand Plutonium can be used in nuclear weapons and also as a nuclear fuel. That reprocessing is a technology that extracts plutonium from used nuclear fuel. We are concerned, the nuclear industry represented

¹³ *Ibid*

by an American consortium at Chalk River will push CNSC for a policy to permit reprocessing—thereby lifting a 45-year-old ban.¹⁴

For over two years, documents show that the Canadian government has held a series of private meetings with industry representatives on this subject, keeping such activities secret from the public and from parliament. This raises questions about the extent to which nuclear promoters may be unduly influencing public policymaking on such sensitive nuclear issues as reprocessing in Canada.¹⁵ But, given the stakes for the whole society and even the entire planet, Kebaowek and the public must have a say about nuclear policy decisions.¹⁶

With the increased risk of political decisions and external pressures on plutonium reprocessing, we ask: how can Kebaowek and other First Nations be involved in this policy development including risk monitoring and Kebaowek assessment mechanisms?

While the CNSC maintains that the use of nuclear substances in Canada is safe and took the measures required to implement Canada's international obligations and commitments,¹⁷ recent assessments and public interventions have identified specific regulatory oversight shortcomings and challenges as of 2026:

- **Cyber Security Gaps:** Recent internal audits identified the need for improved regulation of cyber security and the protection of information for nuclear substance licensees. The CNSC is currently implementing a Cyber Security Strategy action plan to address these recommendations.
- **Declining Inspection Performance in Specific Sectors:** In the medical sector, a subset of licensees has shown performance "below expectations". There has been a projected link between reduced physical inspections and a decline in performance, particularly for the Security Safety and Control Area (SCA), as certain security elements cannot be

¹⁴ Jesse Blanchard, "Nuclear Industry Wants Canada to Lift Ban on Reprocessing Plutonium, Despite Proliferation Risks" (18 March 2024), online: *Bulletin of the Atomic Scientists*

<https://thebulletin.org/2024/03/nuclear-industry-wants-canada-to-lift-ban-on-reprocessing-plutonium-despite-proliferation-risks/>

¹⁵ The Bulletin of the Atomic Scientists, "Nuclear industry wants Canada to lift ban on reprocessing plutonium despite proliferation risks" (5 March 2024), online:

https://thebulletin.org/2024/03/nuclear-industry-wants-canada-to-lift-ban-on-reprocessing-plutonium-despite-proliferation-risks/#_ftn3

¹⁶ *Ibid*

¹⁷ Canadian Nuclear Safety Commission, *Departmental Plan 2025–2026* (Ottawa: Canadian Nuclear Safety Commission, 2025), online: <https://www.cnsc-ccsn.gc.ca/eng/corporate/plans-results/rpp/dp-2025-2026/>

verified remotely.

- **Reporting Inconsistencies:** Public interest groups have noted a lack of consistency in the scope and format of Regulatory Oversight Reports (RORs), making it difficult for the public to track trends or compare data across different years.
- **Management System Non-Compliance:** Inspections have revealed instances where large-scale licensees were not complying with their own internal governance or their problem identification and resolution processes, leading to ratings of "below expectations" for management systems.
- **Challenges in Emerging Technologies:** The CNSC has acknowledged the need to evolve its oversight for new technologies like Small Modular Reactors (SMRs) and nuclear fusion, which have different risk profiles than traditional fission.
- **Resource Constraints:** While oversight activities are generally efficient, some internal evaluations have suggested that current research capacity may not be sufficient to meet all future CNSC needs, particularly as more complex industry projects emerge.

V. OUTSTANDING AND UNRESOLVED ISSUES

Many of the core issues raised in our comments from last year remain substantively unaddressed and we ask they be noted as such and remedied during this year's ROR meeting.¹⁸ For that reason, KFN does not accept the language or framing used by CNSC Staff in Appendix L that notes "all comments and issues" have been "responded to". KFN clarifies for the Commission that "responded to" does not equate to "resolved."

The following concerns are among those raised last year which remain outstanding and of high relevance to this year's ROR:

- **Support for Stable Capacity**¹⁹: recent decisions by the CNSC, that approve a fraction of what is needed to enable our participation, are widening the gap between well-resourced licensees who stand to directly benefit from decisions made by the Commission and our community, who have always and will continue to bear, the impact

¹⁸ The issues set out herein were not resolved at last year's ROR meeting, *see for instance: Minutes of the Canadian Nuclear Safety Commission (CNSC) Meeting held on February 25 and 26, 2025*.

¹⁹ "Kebaowek First Nation Review of the Regulatory Oversight Report ("ROR") for the Use of Nuclear Substances in Canada: 2023," dated October 4, 2024 [KFN ROR Comments] at section 2A

of nuclear operations in our territory, to our land, waters and rights. The CNSC must ensure its funding allows for meaningful consultation (this concern is further detailed in Parts II above and VI below).

- **Cumulative Effects²⁰:** KFN recommended the Commission direct CNSC Staff to undertake a cumulative effects review of the nuclear substances class of licences, noting environmental sustainability is central Ona'ken'age'win (our system of customary law and governance). This recommendation remains outstanding.
- **Inclusion of Indigenous Knowledge (IK)²¹:** KFN noted its concern that in order to speak to impacts to rights, it was necessary to first understand the interactions of the 2000+ nuclear substance licensees with sites in KFN territory, namely Chalk River. Only then could the CNSC be in a position to fully consider KFN's rights and interest, including our Indigenous knowledge and whether our free prior and informed consent has been sought in response to any activity or decision being made with potential impacts to our rights. This information and knowledge, regarding the confluence of nuclear substance licences with KFN's territory remains outstanding.
- **Climate Change Impacts²²:** There remains no dedicated section in the ROR reporting on climate change impacts to licensees' ability to protect human health and the environment. While CNSC Staff may be of the view that climate impacts are reviewed as part of their oversight, this review must be transparently set out and justified, such that it is possible to discern what actions are being taken to protect human health and the environment, as required by section 24(4) of the *NSCA*, and whether such measures are adequate to adapt to and mitigate climate impacts. We again recommend this be explicitly reported in the ROR.

VI. CONCERNS & COMMENTS SPECIFIC TO THIS ROR

Summary of Concerns:

- Minimal and symbolic recognition of the duty to consult and accommodate, in the absence of a concrete mechanism we request Prioritization of implementation of UNDRIP Article 29.2 and explicit recognition of rights and responsibilities concerning nuclear substances and nuclear substance transport on Algonquin lands.

²⁰ *Ibid*, section 2B

²¹ *Ibid*, section 2B and 2C

²² *Ibid*, section F

- The current exemption powers granted to the CNSC with respect to several legal and environmental obligations (e.g., assessments, permits, authorizations) for example the NSDF and nuclear substance disposal on Algonquin lands requires regulatory review in the context of Kebaowek laws, knowledge and practices. In keeping with AEA Safeguards, licensees must comply with Canada's international obligations under the International Atomic Energy Agency (IAEA) safeguards agreements, including reporting and tracking nuclear materials.

We therefore ask:

1. How will the CNSC inform Kebaowek of the use and shipment of nuclear materials intersecting with our territory?
2. How will the CNSC become UNDRIP compliant on nuclear substance packaging and transport?
3. To what extent will Kebaowek and other First Nations be consulted on Safe Transport?
4. How will Licensees comply with UNDRIP Article 29.2 within the Packaging and Transport of Nuclear Substances Regulations, which incorporate the IAEA Regulations for the Safe Transport of Radioactive Material?
5. Can the CNSC provide more information on CNSC Certification of Prescribed equipment, including transport packages?

Environmental Incidents and Information Requests

Kebaowek requests further information on the following environmental incidents described in the 2024 Nuclear Substances in Canada ROR Appendix J :

WNSL-5 2023-03-17 Commercial waste release described as:

“Holding tank contents were inadvertently discharged to the municipal sewer system. A supervisor mistakenly referenced an older, incorrect sample analysis report for discharge approval. Contents were below all radiological discharge limits. All nonradiological parameters for discharge were met with the exception of Biological Oxygen on Demand at a concentration of 326 ppm versus the limit of 300 ppm. It was determined that there were likely to be no adverse effects on the environment or health and safety of persons resulting from the release. The licensee took corrective action to introduce additional steps in enhancing the discharge procedure.”

KFN Information Request # 1: What facility did this occur at? What were the nuclear and non-nuclear substance contents in the holding tank?

WNSL-13 2023-07-25 Breach of security commercial nuclear substance waste

The circumstances and corrective actions concerning this event involve protected information.

KFN Information Request #2: What facility did this occur at?

How can Kebaowek implement its own Nuclear Substance Hazard Analysis within a modernized CNSC regulatory regime? This is critical if there is to be compliance with Article 29.2 of UNDRIP.

KFN Information Request #3: KFN brings forward the following information request that is required to be fulfilled if KFN impacts to lands and waters are to be appropriately understood and assessed. We note that KFN has made similar requests for information in the prior three years of RORs and responses remain outstanding.

Further, in keeping with UNDRIP Articles, 1, 7, 29 and 32, KFN requests the following information be provided by CNSC Staff in advance for the upcoming ROR meeting so that it can be discussed at that time. If the following information is not provided prior to the meeting, we ask the Commission direct CNSC Staff to provide unredacted documents setting out the following information:

1. For each sector of nuclear substance licensee (medical, industrial, academic, research, commercial and waste) Kebaowek **asks** the CNSC to provide the following information:
 - a. whether any shipments are made to/from Chalk River
 - b. what substances are transported to/from Chalk River, including their name, characteristics, weight/volume, percentage, & change in quantity from previous years
 - c. a map setting out location of nuclear substance licence holders and their activities (i.e. for industrial practices, the mineral exploration and mining sites where nuclear gauges are in use or have been used)
2. Provide a clear breakdown of all waste nuclear substance licencees, including their:

- a. name and place of origin
- b. summary of their licenced activities, should they interact with Chalk River
- c. summary of risks including emissions to environment and the potential for environmental releases

CLOSING REMARKS

As we have consistently stated, the Commission is responsible for the Honour of the Crown - which means being able to demonstrate that there will be no inequitable, unjust or disproportionate impacts to KFN, our rights and interests. The substantial gaps in information, our involvement and respect for laws and principles remain fundamentally lacking must be remedied.

FPIC is a decision-shaping requirement, not a procedural objective or an outcome left to the discretion of the Crown. FPIC means that a project cannot proceed where Indigenous consent has not been given. It also means that Indigenous law and knowledge must guide assessment methodologies, impact determinations, risk evaluations, and long-term stewardship decisions.

Kebaowek remains committed to constructive, good-faith, justification based engagement with the nuclear substance licensees reviewed herein and the Commission to advance nuclear oversight that respects our Indigenous jurisdiction, law, and governance.