



Record of Decision

DEC 22-H7

In the Matter of

Canadian Nuclear Laboratories (CNL)

Subject	Request for Ruling Filed by the Mitchikanibikok Inik (Algonquins of Barriere Lake) in the Matter of the Application from the CNL to amend its Chalk River Laboratories site licence to authorize the construction of a near surface disposal facility
Date of Decision	April 7, 2022

1.0 INTRODUCTION

1. On April 1, 2022 the Mitchikanibikok Inik (also known as the Algonquins of Barriere Lake) submitted a [request for ruling](#) to the CNSC, in accordance with Rule 20 of the [Canadian Nuclear Safety Commission Rules of Procedure](#)¹ (the “Rules”) in the [matter](#) of the application by Canadian Nuclear Laboratories (CNL) to amend its Chalk River Laboratories site licence to authorize the construction of a near surface disposal facility (NSDF). The proceeding involves both the Commission’s consideration of the environmental assessment and the licence amendment application.
2. The Mitichikanibikok Inik requested an adjournment of the public hearing for a period of 12 months, on the basis that they are “extremely concerned about the project’s potential impacts to our lands, waterways, rights and way of life”, submitting that the community’s “deep-seated ecological and environmental knowledge, acquired through long and intimate association with the Kitchi-Sibi (Ottawa River) and surrounding sacred sites” was not reflected in the baselines studies conducted. The Mitichikanibikok Inik submitted that “aggressive timelines” have led to the negotiation of hearing funding agreements being “in an informational vacuum”.

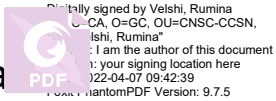
2.0 DECISION

3. The President of the Commission, as a panel of the Commission on procedural matters, after considering the request, to not adjourn the hearing at this time. The Commission is of the view that adjournment of the hearing is not merited at this time.
4. The Commission, as an agent of the Crown, is aware of its role and duty in fulfilling its constitutional obligations and upholding the honour of the Crown, along with advancing reconciliation with Indigenous Nations and communities. Where the Commission’s decision may adversely impact Aboriginal and treaty rights, the Commission must be satisfied that it has met the duty prior to making relevant environmental assessment and licensing decision.
5. The Commission is of the view that it would be premature to adjourn the proceeding at this time. The public hearing forum provides the opportunity to review and assess, in a fair and transparent manner, all of the evidence respecting the consultation and engagement activities undertaken respecting the project. The second part of the NSDF public hearing, which is underway, provides the venue where the Commission will hear from interested persons and groups respecting their evidence and submissions about the proposed project’s potential impacts and how engagement and consultation activities have informed the materials before the Commission.

¹ SOR/2000-211

6. The Commission is of the view that the hearing itself is an important part of its efforts toward reconciliation. The Commission does not have to make a conclusion with respect to the duty having been fulfilled before the hearing. An adjournment at this time is unnecessary in order to protect claimed or established Aboriginal and/or treaty rights. This issue will be discussed within the hearing, where the Commission will have the benefit of full consideration of the merits of the matter.
7. It is important to note that this decision not to adjourn constitutes no ruling with respect to the scope or fulfillment of the duty to consult and, where appropriate, accommodate. These important issues will be addressed in the hearing and decided by the Commission before any licensing decision is made. Participants should be prepared to speak to this issue, and to provide the Commission with the information and submissions that will inform the Commission's consideration of these important matters.
8. Noting that the Mitichikanibikok Inik has asked that this request be provided to all intervenors for this proceeding, the Commission has directed the Registrar to include in the public record and make available to all, both the request and this decision.

Velshi,
Rumina



Rumina Velshi
President,
Canadian Nuclear Safety Commission

April 7, 2022

Date