



Oral Presentation

Exposé oral

**Written submission from
Catherine Prinsen**

**Mémoire de
Catherine Prinsen**

In the Matter of the

À l'égard de

**BWXT Nuclear Energy Canada Inc.,
Toronto and Peterborough Facilities**

**BWXT Nuclear Energy Canada Inc.,
installations de Toronto et Peterborough**

Application for the renewal of the licence for
Toronto and Peterborough facilities

Demande de renouvellement du permis pour les
installations de Toronto et Peterborough

Commission Public Hearing

Audience publique de la Commission

March 2 to 6, 2020

Du 2 au 6 mars 2020

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INTERVENTION SUBMISSION FROM CATHERINE PRINSEN

PART 1: Comments on CNSC Staff's Hearing Submission (CMD:20-H2)

PART 2: Comments on BWXT NEC Hearing Submission (CMD:20-H2.1)

PART 3: Recommendations for BWXT Canada and BWXT NEC

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PART 1: COMMENTS ON CNSC STAFF'S HEARING SUBMISSION (CMD:20-H2)¹

I have chosen to comment, section by section, on the CNSC hearing submission. The text that is in bold and italics, are words written by CNSC staff and taken directly from the submission. You will find my comments following each section. Hoping this is easy to follow.

CNSC: 4. Other Matters of Regulatory Interest

4.1 Indigenous Consultation and Engagement - The common-law duty to consult with Indigenous groups applies when the Crown contemplates actions that may adversely affect potential or established Indigenous and/or treaty rights. The CNSC ensures that all of its licence decisions under the Nuclear Safety and Control Act uphold the honour of the Crown and consider Indigenous peoples' potential or established Indigenous and/or treaty rights pursuant to section 35 of the constitution.

Catherine:

The fact that "Indigenous Consultation and Engagement" is included in "Other matters of regulatory interest" speaks volumes to the priority that consultation and engagement play in this particular license renewal. I understand that the responsibility for consultation lies with CNSC as an agent of the Crown.

CNSC: 4.1.1 Discussion - CNSC staff have identified the First Nation and Métis groups who may have an interest in the proposed relicensing of BWXT's activities in Toronto and Peterborough. These groups include: the Williams Treaties First Nations (WTFN) consisting of Alderville First Nation, Curve Lake First Nation, Hiawatha First Nation, The Mississaugas of Scugog Island First Nation, Chippewas of Mnjickaming (Rama First

¹ <http://www.nuclearsafety.gc.ca/eng/the-commission/hearings/cmd/pdf/CMD18/CMD20-H2-1.pdf>

Nation), Georgina Island First Nation Chippewas of Christian Island (Beausoleil First Nation)); the Mississaugas of the Credit First Nation; the Mohawks of the Bay of Quinte (MBQ) Métis Nation of Ontario (MNO) Regions 6 and 8. These (last) groups were identified because all have previously expressed interest in being kept informed of CNSC licensed activities occurring in proximity to their traditional and/or treaty territories.

Catherine:

Mnjikaming is spelled Mnijikaning

Beausoleil First Nation is distinct from Georgina Island First Nation

According to the CNSC website, consultation and engagement is meant to take place with Indigenous “groups”². In light of this, we wonder if consultation with the following groups have been considered?....

The Nogojiwanong Friendship Centre www.nogofc.ca

The Chanie Wenjack School for Indigenous Studies? www.trentu.ca/Indigenous

Nijikiwendidaa Anishnaabekwewag Services Circle? www.nijiki.com

Sacred Water Circle? www.facebook.com/sacredwatercircle

Nibi Emosaawdamajig? (Water Walkers) www.facebook.com/groups/Nibi.Emosaawdamajig

Ontario Federation of Indigenous Friendship Centres www.ofifc.org

Native Canadian Centre of Toronto www.facebook.com/nativecentre

Native Centre of Toronto <https://ncct.on.ca>

Toronto Council Fire Native Cultural Centre www.councilfire.ca

Native Women’s Resource Centre <http://nwrct.ca>

Toronto Indigenous Peoples Network

www.facebook.com/TorontoIndigenousProfessionalsNetwork

First Nations Junior and Senior School of Toronto <https://schoolweb.tdsb.on.ca/FNST>

Indigenous Studies Student www.facebook.com/pg/ISSU.UofT/about/?ref=page_internal

Urban Indigenous Toronto <https://www.facebook.com/groups/261780217686991/about>

Note. Consultation is not something that is only meant for elected chiefs and councils. There are many Indigenous people and groups who live off-reserve and/or choose not to be represented by these governing bodies and/or choose not have status or be registered and/or identify as a traditionalist and/or etc. Their sovereignty and rights still exist and it is crucial that this is not only recognized, but honoured. What good is consultation and/or engagement if the Crown and their proponents don’t connect with all of the various expressions of indigeneity? Otherwise, it is just a narrowly focused, check-box, governmental, colonial process.

² <http://nuclearsafety.gc.ca/eng/resources/aboriginal-consultation/index.cfm>

CNSC: CNSC staff sent letters of notification in March 2019 to the Indigenous groups identified above, providing information regarding the proposed licence renewal application, the availability of participant funding to facilitate participation in the hearing process, and details on how to participate in the Commission’s public hearing process proposed for March 2020. CNSC staff conducted follow-up phone calls with the identified groups in April 2019 to ensure they had received the letters and to answer any questions about the regulatory process and how to get involved in the Commission proceedings.

Catherine:

I requested to see copies of these letters of notification from CNSC, to get a sense of what these consultation and engagement outreaches look like. I was told by CNSC that these communications are private and cannot be shared. I can understand that information shared by Indigenous communities/groups/peoples, in response, must remain confidential. But as for these letters, I am sure that they are more form-type letters and shouldn’t require confidentiality. The Crown and its agents, speak on behalf of its citizens so it seems reasonable to want to be privy to this. I hope to see them before the hearing.

Is the CNSC aware of the “Consultation and Accommodation” protocols that communities like Alderville³, Hiawatha⁴ and Curve Lake⁵ already have?. As outlined in these protocols, the first step for consultation requires the Crown and/or proponent to send a “Notice of Request to Consult”, to the appropriate committee as well as to the band Chief, in a timely manner. If the CNSC is seriously wanting to consult with these communities, this route would probably be the most effective and would most certainly be the most respectful.

CNSC: Additional communication with identified groups conveyed updated information pertaining to the specific hearing dates and information on the participant funding opportunity through the CNSC’s Participant Funding Program (PFP).

Catherine:

How does a group become “identified”?

It is important to acknowledge that we are dealing with Nation to Nation relationships and conversations. Is there not a separate and more appropriate platform for Indigenous communities/peoples /groups to speak to proposed projects and changes, than a public hearing? Expecting Indigenous peoples to

³ <https://alderville.ca/wp-content/uploads/2017/02/AFNProtocol2.pdf>

⁴ <http://www.hiawathafirstnation.com/wp-content/uploads/Consutation-Accommodation-Standards.pdf>

⁵

<https://www.curvelakefirstnation.ca/documents/CLFN%20Consultation%20and%20Accommodation%20Standards%202016.pdf>

participate as “interveners” in a quasi-judicial hearing, does not respect their sovereignty. Indigenous Nations are not “the public”. They are not “interveners”. They are Treaty partners to the Crown! These conversations deserve an entirely separate process. Take note: It is the Crown and their proponent, who is asking for something, not the other way around.

CNSC: In addition, CNSC staff met with members of the Williams Treaties First Nations and MNO in 2018 and 2019 and with MBQ in 2019, to provide updates on a number of CNSC regulated facilities and activities in their traditional territories,

Catherine:

Did this/these meeting(s) with “members of Williams First Nations”, include representation from all seven communities? If that is not the case, then this statement is misleading. It is also worth noting that BWXT NEC operates its facilities in the traditional territory of the Michi Saagiig, so hopefully the Michi Saagiig First Nations (Alderville, Hiawatha, Curve Lake and Scugog) were present, for sure.

I am aware that MNO has recently signed a “Terms of Reference” with CNSC. I have yet to find any details about it. I hope to access information about it before the hearing.

I am also aware that CNSC and Saugeen Ojibway Nation (SON) are working on a Terms of Reference. I look forward to seeing this as well.

CNSC: including discussions on the BWXT licence renewal.

Catherine:

It is my impression that the bulk of these meetings were less about BWXT NEC’s license renewal and more about CNSC’s efforts to build pathways for Indigenous “involvement” within the nuclear industry. I am not necessarily opposed to these conversations, but let’s be clear. These meetings were not about BWXT NEC’s license renewal, the proposed changes, the increases in uranium discharge into the air and water, the liquid hydrogen on site, etc.! Perhaps some of these were casually mentioned, but I am doubtful that any true efforts were made to engage in “consultation” and/or seeking “consent”.

CNSC: As part of the engagement activities, the main concerns raised by Indigenous groups pertained to the transportation of nuclear materials

Catherine:

Can you be more specific about which transported materials, were of concern, in relation to BWXT NEC’s license renewal? The uranium trioxide going from Port Hope to Toronto? The uranium dioxide going from Toronto to Peterborough? The fuel rods from Peterborough to the nuclear power plants? The contaminated equipment that comes into Peterborough for repair?

CNSC: and changes to BWXT activities, as proposed in the licence renewal application.

Catherine:

Can you be more specific about which concerns these groups had about the changes in the proposed license application? Are they aware of and/or concerned about any of the following.....

- the increased emissions of uranium into the air?
- the increased uranium discharge into the water?
- the storage of liquid hydrogen on site?
- the proximity of these changes to Prince of Wales school?
- the safety of Indigenous community members who live in Nogojiwanong/Peterborough and possibly very close to the facility?

I wonder what the Indigenous Water Walkers and Water Protectors would have to say about these concerns, if they had been consulted?

Did CNSC inform these communities of the the application to change the licensee from GEH-C to BWXT NEC in 2016? If yes, did they consent to this? In looking at the 2016 hearing documents, CNSC deemed this license transfer to be a simple administrative change. In doing a bit of research, it appears that there have been quite a number of lawsuits against B&W and/or BWXT in the past. In light of this, would it not seem appropriate for CNSC to seek consent to allow, a subsidiary of BWXT, to operate in Michi Saagiid territory?

CNSC: CNSC staff answered the questions and concerns raised during the meetings and CNSC staff followed up with correspondence in order to provide additional information such as emergency safety protocols and planning documentation. CNSC staff are committed to continuing to address concerns and provide information pertaining to the BWXT renewal and the regulation of transportation of nuclear materials.

Catherine:

Are these Indigenous groups aware of the use of beryllium in the facility and the health risks associated with that particular chemical?

Have these Indigenous groups been informed of the extremely high release limits that CNSC allows for the facilities in Toronto and Peterborough?

- Toronto - 9000kg of uranium into the water per year
- Toronto - 760g of uranium into the air per year
- Peterborough - 760kg of uranium into the water per year
- Peterborough - 550g of uranium into the air per year

If yes, have they consented to it all?

CNSC: CNSC staff have initiated discussions with WTFN to determine if they would be interested in formalizing the engagement relationship between CNSC staff and WTFN. WTFN have expressed an interest and discussions have been initiated on developing a Terms of Reference with CNSC staff to formalize the relationship.

Catherine:

Are all seven WTFN communities a part of this conversation? Or is it with only specific communities? What does a Term of Reference with CNSC look like? It would be helpful to see one.

CNSC: CNSC staff are working with the MNO to develop a Terms of Reference (TOR) for on-going collaboration and are open to discussing BWXT as part of this formalized engagement, should the MNO express an interest.

Catherine:

I saw the announcement that the TOR with MNO has now been signed. I have requested more information from CNSC, but have yet to receive anything.

CNSC: To date, the Mississaugas of the Credit have not expressed any direct interest in the licence renewal to the CNSC. However, CNSC staff will continue to provide them, along with the other identified Indigenous groups with key project updates and discuss any areas of interest and concern in relation to the BWXT facilities and projects.

Catherine:

Did the Mississauga of the Credit reply by saying that they were NOT interested in the license renewal? Or did CNSC not get a response, assumed there was no interest and therefore did not pursue consultation measures?

The Crown and the Mississauga of the Credit signed a consultation protocol in 2018⁶. Are CNSC and BEXT NEC aware of this new protocol? If yes, have they both been using it? I have requested information about this protocol, but have not yet received anything. I hope to see it before the hearing.

Were there communications with the Mississauga of the Credit in relation to GEH-C's license renewal in 2010?

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<https://www.sachem.ca/news-story/8899467-canada-mississaugas-of-the-new-credit-first-nation-sign-consultation-protocol/>

Where there any communications with Mississauga of the Credit when the Peterborough and Toronto facilities first began housing nuclear related activities? If yes, was there consent given? If there was not, why not?

CNSC: CNSC REGDOC-3.2.2, Indigenous Engagement, published in February 2016, sets out requirements and guidance for licensees whose proposed projects may raise the Crown's duty to consult. While the CNSC cannot delegate its obligation, it can delegate procedural aspects of the consultation process to licensees, where appropriate. The information collected and measures proposed by licensees to avoid, mitigate or offset adverse impacts from the proposed licence renewal, may be used by CNSC staff in meeting its consultation obligations. BWXT's licence renewal application does not raise the formal requirements of REGDOC-3.2.2.

Catherine:

Just to clarify.....BWXT NEC is NOT required to engage according to the guideline set out in the CNSC's "Indigenous Engagement Regulatory Document 3.2.2", BECAUSE the Crown's duty to consult was not raised. Who determines whether or not the duty to consult is triggered? We question the Crown's honour, if they have the sole authority to determine whether or not duty to consult, is warranted. The Crown is in treaty partnership with many sovereign Nations. Canada's sovereignty does not override theirs.

In order to get a sense of what WOULD raise the Crown's duty to consult, was there a requirement to do so in 2010, when GEH-C's license renewal application included a request to assemble low enriched uranium at the Peterborough site?

When has there ever been a duty to consult raised/triggered in relation to any CNSC nuclear activities in Canada? Ontario? Michi Saagig Territory? Williams Treaty area?

CNSC: However, CNSC staff encourages BWXT to use the guidance set out in CNSC REGDOC-3.2.2 to help inform its engagement activities with Indigenous communities who have an interest in their facilities and activities including the licence renewal application.

Catherine:

It doesn't look like BWXT NEC has much interest in the CSCS's suggestions of using REGDOC-3.2.2. I have not seen any mention of this regulatory document anywhere on the BWXT website, nor in their license renewal submission for the March hearing.

If the duty to consult is NOT raised, do proponents like BWXT NEC have any requirements that they have to meet with regards to indigenous consultation, engagement and/or relations? I have looked at the CNSC's website many times, but have yet to find any. Perhaps there are none.

CNSC: 4.1.2 Conclusion

CNSC staff conclude that BWXT's licence renewal will not cause any adverse impacts to any potential or established Indigenous and/or treaty rights.

Catherine:

Are all of the Indigenous communities/peoples/groups found within the pertinent traditional and treaty territories, in agreement with CNCS conclusion, that there will be no impacts to any potential or established Indigenous and/or treaty rights as a result of this license renewal and change?

CNSC: BWXT's operations occur within its facilities and there is no planned expansion of the footprint of the facilities. The emissions and/or waste being produced at the facilities present a low risk of adversely impacting the surrounding environment.

Catherine:

Are ALL of the Indigenous communities/peoples/groups found within the Michi Saagiig territory and/or the Williams Treaty area, aware of and in acceptance of.....

- the current water and air emissions of uranium?
- the potential increase in the water and air emissions of uranium, should the pelleting manufacturing start at the Peterborough facility?
- an increased presence of uranium in Little Lake, the Otonabee River, Rice Lake, etc.... (Alderville, Hiawatha and Nogojiwanong's urban Indigenous communities would have special interest in this, since they all access these waters and shorelines for traditional practices ie. hunting, fishing, harvesting, ceremony)
- the current beryllium emissions?
- the dangers associated with the storage of large amounts of liquid hydrogen at the Peterborough site, should the pelleting manufacturing be approved?

CNSC: BWXT's facilities are located in an existing industrial zone within a suburban neighborhood in close proximity to large urban centers.

Catherine:

According to the Merriam-Webster Dictionary, the definition of suburban is

- a) an outlying part of a city or town
- b) A smaller community adjacent to or within commuting distance of a city

The BWXT NEC facility in Peterborough is most certainly NOT in a suburban neighbourhood. It is in the central urban area of Peterborough.

Note - neighbour is spelled with a “u” and centre is spelled with an “re”, in Canada. This was written by CNSC staff, yes? Did the CNSC possibly just cut and paste this from BWXT (American) material and not fact check the information? If so, that would be disappointing. Have any CNSC staff been to the site? Have any commission members?

Has BWXT NEC and/or CNCS inquired about how many Indigenous people (registered and non-registered) live in proximity to, or within a 2km radius, of the BWXT NEC facility in Peterborough? Are there Indigenous students at Prince of Wales?

CNSC: The CNSC is committed to meaningful, ongoing engagement with Indigenous groups that have an interest in CNSC regulated facilities and activities.

Catherine:

Limiting engaging and consultation to only those who have “shown” an interest in CNSC regulated facilities and activities, seems problematic. As mentioned before, how does CNSC or BWXT NEC determine what the level of interest actually is? Is it based on whether or not they received responses to outreach efforts? Perhaps, following some of the consultation protocols that already exist within these communities, would result in an increased level of “interest”. We feel that if CNSC and BWXT-NEC were serious about consultation and engagement they would already have started doing this.

CNSC: 4.1.3 Recommendation: CNSC staff recommend the continuing meaningful ongoing engagement with interested Indigenous groups and continue to provide relevant information concerning BWXT’s licensed activities.

Catherine:

See my recommendations at the end.

PART 2: COMMENTS ON BWXT NEC HEARING SUBMISSION (CMD:20-H2.1)⁷

I have chosen to comment, section by section, on BWXT NEC’s hearing submission. The text that is in bold and italics, are words written by BWXT NEC and taken directly from the submission. You will find my comments following each section. Hoping this is easy to follow.

⁷ <http://www.nuclearsafety.gc.ca/eng/the-commission/hearings/cmd/pdf/CMD18/CMD20-H2-1.pdf>

BWXT NEC:

5. OTHER MATTERS OF REGULATORY INTEREST

5.1 Cost Recovery, 5.2 Financial Guarantees, 5.3 Other Regulatory Approvals, 5.4 Public Information Program, 5.4.1 Government Stakeholders, 5.4.2 Indigenous Relations

Catherine:

The fact that “Indigenous Relations” is included in “OTHER Matters Of Regulatory Interest” and at the end, shows the priority that Indigenous relations are to BWXT NEC. It appears to be an after-thought and not given the serious consideration and importance it deserves. Does the “ultimate parent” company, BWX Technologies (based in the USA) understand the responsibilities associated with treaty? Do they understand what duty to consult means?

BWXT-NEC: BWXT Canada and BWXT NEC together joined the Canadian Council of Aboriginal Business (CCAB) in September 2017 and are actively working towards becoming Progressive Aboriginal Relations (PAR) certified. PAR is an online management and reporting program that supports progressive improvement in Aboriginal relations, and a certification program that confirms corporate performance at the bronze, silver or gold level. If a company is a leader in Aboriginal relations, PAR certification recognizes the commitment and success. Currently the company is PAR Committed – which signifies commitment to continual improvement in Indigenous relations and intention to undergo external verification of performance in the future.

Catherine:

According to the Canadian Council of Aboriginal Business (CCAB) website⁸, BWXT NEC is not a registered member. It is BWXT NEC that is applying for this license renewal, not BWXT Canada Ltd.

BWXT-NEC: This program supports BWXT NEC’s commitment to engaging Indigenous communities and building and sustaining meaningful long-term relationships.

Catherine:

Since BWXT NEC is NOT registered with CCAB, this program does NOT support BWXT NEC’s commitment to engaging Indigenous communities and building and sustaining meaningful long-term relationships. Again, it is BWXT NEC who is applying for this license renewal, not BWXT Canada. They are separate legal entities

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https://www.ccab.com/main/ccab_member/?s=bwxt&qccabindustry=0&qccabterritory=0&qccabmembershiptype=0

BWXT-NEC: Additionally, the company joined the Indigenous Relations Suppliers Network established by Bruce Power in 2017 and sits on a committee founded by Ontario Power Generation called Indigenous Opportunities in Nuclear.

Catherine:

The Indigenous Relations Suppliers Network (IRSN) is an initiative launched by Bruce Power, whose territorial affiliation is with Saugeen Ojibway Nation (SON), which includes the Chippewas of Nawash and Saugeen First Nation⁹. IRSN has nothing to do with the Indigenous Michi Saagiig communities/groups/peoples whose territories, BWXT NEC occupies. The participation in IRSN, by parent company BWXT Canada, is by no means relevant to this hearing and does not contribute to BWXT NEC's Indigenous engagement efforts.

BWXT-NEC: A PAR Committee was established and is comprised of employees across a range of disciplines, such as, Human Resources, Communications, Finance, Procurement, and Union representation. The PAR Committee has undergone Indigenous Cultural Awareness training including Indigenous Protocol Consultations and How to Ally with Indigenous People. BWXT's Leadership team has also taken this training. The PAR Committee meets every six weeks to discuss and share progress. As members of the committee are located across Canada, this meeting is key to continuing our progress in Indigenous relations.

Catherine:

These are great initiatives and we are glad that some of the upper staff at BWXT is receiving this important guidance. Having spoken with Jason "Rocky" Carter of Bear Standing Tall Corporate Training¹⁰ and taking a look at the workshops that he offers, it is obvious that he is very passionate about what he does.

The "How to Ally with Indigenous Peoples" workshop (3hrs) that the PAR committee and Leadership team have attended cover a very large amount of information. I am pleased to see topics that include: The Doctrine of Discover, Terra Nullius, The Indian Act, Reservations, The Pass System, Treaties, Residential Schools, Missing and Murdered Indigenous Women and Girls (MMWG), United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), Truth and Reconciliation Commission (TRC), Royal Commission on Aboriginal Peoples (RCAP). This all sounds wonderful, but I wonder how much a 3hr workshop can do, all of these topics, the justice they deserve. Perhaps you can tell us more about how the PAR committee and leadership team deepen their understanding of these very complex

⁹ http://s27480.pcdn.co/wp-content/uploads/2018/07/SON_Treaties.jpg

¹⁰ <https://www.bearstandingtall.com>

topics. Am I to assume that PAR committee members do individual homework and reflection between the meetings that happen every 6 weeks?

I also took some time to look at the “How to Ally with Indigenous Peoples” workshop (3hrs). What a great honour to be offered these teachings. I was able to speak with Jason “Rocky” Carter about some of the key take-aways from this particular workshop. It was beautiful and so incredibly important what he shared. He spoke about the significance of offering tobacco to an elder or knowledge keeper as part of a request for something. I am hoping that those who attended this particular workshop were able to fully understand what this exchange is about! When BWXT describes it’s outreach to “identified” Indigenous groups, there is mention of letters, phone calls and other communications (possibly emails) But true, meaningful and respectful engagement with leaders, elders and knowledge holders of the territories that BWXT NEC occupies, deserves nothing less than a face to face, in person interaction. The exchange of tobacco in that moment, is the first step to the possibility of meaningful “Indigenous relations”. I would also suggest that this needs to be done in Indigenous spaces and not in BWXT NEC spaces. You must keep in mind that it is BWXT, who is asking for something and not the other way around.

I would like to challenge the accuracy of the statement that the BWXT Canada’s PAR committee is made up of members from “across Canada”....or at least inquire about that? BWXT Canada is headquartered in Cambridge and oversees facilities in Peterborough, Port Elgin, Picketing, Toronto, Arnprior and Oakville. It is true that there is a facility called BWXT ITG Canada in Vancouver, but it is not a subsidiary of BWXT Canada and has been referred to as BWXT Canada’s sister company¹¹

Despite all of the confusion about what companies are registered in which programs, and who is doing what, the take home message is two fold. Firstly, BWXT NEC as a corporation and as the licensee, isn’t registered or participating in any of it. Secondly, they are making false claims and misleading the public about their indigenous relations. I am very curious, are they misleading the CNSC? Or is the CNSC aware of this and choosing to not question it?

BWXT Nuclear Energy Canada (NEC):

- is NOT registered with the CCAB (Canadian Council for Aboriginal Business)
- does NOT have a PAR (Progressive Aboriginal Relations) committee.
- has most likely NOT had staff attend the 2 cultural awareness training workshops: “Indigenous Protocol Consultation” and “How to Ally with Indigenous People” (John Macquarrie, possibly)

There was mention that the BWXT “leadership team” has taken this same training. Is this “leadership team” the same as the BWXT management team? What members of BWXT NEC are on the leadership team? The only member that I can think of, might be John MacQuarrie, since he is the....

- president of BWXT NEC
- president of BWXT Canada

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<https://business.financialpost.com/pmnp/press-releases-pmnp/business-wire-news-releases-pmnp/bwxt-subsiary-coompletes-strategic-acquisition-of-laker-energy-products-inc>

- president of BWXT Nuclear Power Group (aka BWXT Holdings Corp.?).

Can someone be the president of all of these (incorporated) entities, in good standing?

Would it be possible to have BWXT Canada's PAR committee notes available to the public? A request was submitted to see the meeting notes, but the response was that, since the PAR committee is an internal committee, they will not be made publicly available.

It appears that there is a Community Liaison Committee (CLC) affiliated with the Toronto facility. Why is there not one for Peterborough? It is our understanding that there are positions, within the Toronto CLC committee, for members of the public. If a similar committee were to be created for Peterborough, I could recommend some great Indigenous people and/or allies, that could help with ensuring that proper consultation and engagement takes place within Michi Saagiig territory.

BWXT-NEC: The committee discusses ways in which BWXT Canada can improve Indigenous relations through development of the four PAR drivers: • Leadership Actions • Employment • Business Development • Community Relationships.

Catherine:

The CCAB's "Business Reconciliation in Canada Guidebook"¹² elaborates on these four PAR drivers. It was interesting to find in this guidebook, the following statements, that reiterate key points that I have previously mentioned, in relation to understanding treaty responsibilities

*P18. ".....it is important to recognize and abide **first**, by the **consultation process of the Indigenous community.**"*

*P19. "Projects that affect Indigenous Peoples and communities but do not trigger a duty to consult **still require the consent of Indigenous Peoples**"*

BWXT-NEC: A Canada-wide company policy for Indigenous Relations was developed in 2017 which is publicly available on BWXT NEC's website and is listed as follows:

BWXT Canada is committed to having a positive relationship with Indigenous groups and communities. BWXT understands that our primary bases of operation lie within the traditional territories of particular Indigenous groups and communities. Therefore, we will:

¹² https://www.ccab.com/wp-content/uploads/2019/09/Business-reconciliation-in-canada_WEB-final_AA.pdf

1 • Work to build and maintain a positive, long-term relationship with local Indigenous groups or communities that is based on mutual understanding, respect, open and honest communication and trust;

2 • Develop strategies in several key areas including employment, economic development, education, training and community sponsorship that appropriately reflect the interests of Indigenous groups and BWXT;

3 • Enter into appropriate relationships and communities wishing to be informed and involved with these key areas identified;

4 • Enhance employee understanding of Indigenous history and culture and the role Indigenous groups and communities play in Canada and in our business;

5 • Identify opportunities to increase our knowledge of the local environment and ways we can work together with Indigenous groups or communities to preserve or enhance that environment for all to enjoy.

Catherine:

I believe there is an error in policy #3 Should the sentence not read “Enter into appropriate relationships **with** communities wishing to be informed and involved with these key areas identified”?

I am surprised that a “Canada-wide” Indigenous policy, can be in place for 3 years and still have errors in it. It makes me wonder how many times it has, ever been, referred to? Did the members of the PAR committee not pick this up? Putting policies into place can be a very effective way to achieve a desired outcome, which is why it is an essential part of the PAR program. I hate to come across as cynical, but in this case, I wonder if BWXT Canada is more concerned with getting the PAR certification stamp than actually improving Indigenous relations.

How is this policy implemented? How does the policy filter down into BWXT NEC? I can confirm that it is not via the “Community Liaison Committee”. The publicly available CLC meeting notes show nothing of the sort. The only mention of Indigenous relations at a CLC meeting, appeared in the notes from April 12th, 2018¹³, where it was mentioned that BWXT Canada was registered with CCAB and the PAR program.

I thought it might be interesting to compare BWXT Canada’s indigenous relations policy with other CCAB companies, specifically ones who are “gold” certified. I was very surprised to find that Bruce Power has pretty much the identical policy¹⁴ to BWXT Canada!! But interestingly, the following things were changed up: BWXT added their interests to those of Indigenous communities in #2 and changed

¹³ file:///C:/Users/User/Downloads/2018.April%2012.BWXT%20CLC.Mtg%20Record.FINAL%20(12).PDF

¹⁴ <https://www.brucepower.com/in-the-community/community-programs/Indigenous-relations/>

“in our communities” to “in our business” in #4. The most significant change however, and one that speaks to the main message of this intervention so far, is the removal of the following:.....

“Conduct timely and meaningful consultation with Indigenous groups and communities whose Treaty or Indigenous rights may be directly affected by elements of our operations”

Why would BWXT Canada choose to not include this one? Interesting question!

Until this moment, I was actually imagining the PAR group working together to create something meaningful and creative. I imagined them taking time to dig deep and reflect on topics like reconciliation, consultation, UNDRIP, TRC, treaties, rights, responsibilities, etc..... But now, I don't know what to think. Having said that, I guess, there is nothing wrong with using another company's policy for inspiration and ideas. But to basically copy it and omit important pieces??? I don't know. It just lacks depth and sincerity, in my opinion.

While we are still on the topic of policy, I would like to take a moment to discuss the Community Liaison committee notes, from the April 12th, 2018 meeting. It appears that this is the only CLC meeting on record, where a land acknowledgement was offered. It was done by Sara Forsey, Senior Manager, Community Relations & Communications for BWXT Canada. It was at this meeting that Sara shared about BWXT Canada's involvement with CCAB and their PAR program. She announced that BWXT had created a Canada-wide Indigenous policy that would soon be publicly available on the website. From the note, It does not appear that the policy was read or even discussed at this meeting. The discussion shifted over to identifying within the GTA, some new Indigenous restaurants, POWOWS and a Little Native Hockey League, which BWXT could be supported. The Indigenous relations policy has yet to be mentioned again and there has never been another land and/or territory acknowledgements on record since. I have since learned that Sara Forsey used to work for GEH-C, then BWXT NEC after the amalgamation, but is now working for Cameco. Hoping the new people who have taken over her role get to do the same cultural sensitivity training that she did.

BWXT-NEC: BWXT in Canada also developed a Commitment Statement which is posted online. The Commitment is as follows: BWXT in Canada and its affiliates are committed to working with Indigenous communities and peoples in the areas in which we operate. Our commitment is driven by respect for Indigenous people and the traditional territories. We acknowledge that Indigenous peoples and communities have made significant contributions to Canada and have a right to their diverse cultural identities and traditions, and to build and sustain economic prosperity. We believe that strong communities are healthy communities, and we take great pride in our work to forge meaningful, responsible and mutually-beneficial relationships with Indigenous communities. We have implemented a company-wide Indigenous Policy that will guide

us as we strive to nurture and build these valuable relationships with First Nations and Métis peoples.

Catherine:

The last statement does not accurately reflect what the policy actually says. It does not speak about relationships with only First Nations and Metis People. The first statement of the BWXT indigenous relations policy says

- *Work to build and maintain a positive, long-term relationship with local Indigenous **groups** or communities that is based on mutual understanding, respect, open and honest communication and trust;*

BWXT-NEC: The Communities of Interest (COI) for BWXT NEC in Peterborough and Toronto are as follows: • Mississaugas of Scugog Island First Nation • Chippewas of Rama First Nation • Curve Lake First Nation • Hiawatha First Nation • Chippewas of Georgina Island First Nation • Chippewas of Beausoleil First Nation • Métis Nation of Ontario • Mississaugas of the New Credit First Nation

Catherine:

BWXT NEC has listed six of the seven First Nations communities within the William Treaty area. Alderville First Nation is not listed. Alderville First Nation is a significant community, in relation to this hearing, because it is situated on the shores of Rice Lake, which is downstream from Little Lake. There are also people who live in Nogojiwanong/Peterborough who are members of Alderville First Nation, some who I know, live very close to BWXT NEC's nuclear facility.

I am not very familiar with how the Metis Nation of Ontario functions, but I am curious about why BWXT NEC wouldn't just connect with Metis Nation regions 7 and 8, since this particular license renewal is about the Toronto and Peterborough facilities.

According to BWXT Canada's Indigenous relations policy (as stated above), BWXT should also have a "group of interest" (GOI) list. I am sure that there are way more groups and organizations in Michi Saagiig territory than I can name, but these could be a good place to start.....

The Nogojiwanong Friendship Centre www.nogofc.ca
The Chanie Wenjack School for Indigenous Studies? www.trentu.ca/Indigenous
Nijkiwendidaa Anishnaabekwewag Services Circle? www.nijki.com
Sacred Water Circle? www.facebook.com/sacredwatercircle
Nibi Emosaawdamajig? (Water Walkers) www.facebook.com/groups/Nibi.Emosaawdamajig
Ontario Federation of Indigenous Friendship Centres www.ofifc.org
Ogemawahj Tribal Council <https://www.ogemawahj.on.ca>
Native Canadian Centre of Toronto www.facebook.com/nativecentre
Native Centre of Toronto <https://ncct.on.ca>

Toronto Council Fire Native Cultural Centre www.councilfire.ca
Native Women's Resource Centre <http://nwrct.ca>
Toronto Indigenous Peoples Network
www.facebook.com/TorontoIndigenousProfessionalsNetwork
First Nations Junior and Senior School of Toronto <https://schoolweb.tdsb.on.ca/FNST>
Indigenous Studies Student www.facebook.com/pg/ISSU.UofT/about/?ref=page_internal
Urban Indigenous Toronto <https://www.facebook.com/groups/261780217686991/about>

I have mentioned this before, but it is worth repeating.... Consultation is not something that is only meant for elected chiefs and councils. There are many Indigenous people and groups who live off-reserve and/or choose not to be represented by these governing bodies and/or choose not have status and/or be registered and/or identify as a traditionalist and/or etc..... Their sovereignty and rights still exist and it is crucial that this is not only recognized, but honoured. What good is consultation and/or engagement if the Crown and their proponents don't connect with all of the various expressions of indigeneity? Otherwise, it is just a check-box, governmental, colonial process. Which it so often seems to be.

BWXT NEC: BWXT NEC uses the following methods as much as possible to educate and communicate updates with its COI's:

- ***Letters/Electronic Email Updates – communicate key business updates.***
- ***Meetings & Tours – invitations to meet and tour our facilities.***
- ***Invitations – invitations to our community events (i.e. community barbeque and information nights).***

Catherine:

Referring to the Crown's treaty partners as "COI's" seems impersonal

No phone calls?

No face-to-face updates?

No offering of sema/tobacco? (remember the "How to Ally" workshop that the PAR committee took?)

No meetings in Indigenous spaces?

Which meetings are Indigenous communities invited to?

Has anyone from BWXT NEC ever been to Curve Lake, Alderville, Hiawatha, Scugog, Bosoleil, Rama, Georgina Island First Nations communities? If yes, which ones and how often?

BBQs, Information Nights.....How many individuals from the COI list attend these?

Does BWXT NEC also send letters/emails asking to BE educated about Indigenous worldview, protocols, practices, treaty rights, etc.....of the Michi Saagiig people?

Here is a great excerpt from a letter written to CNSC on behalf of Saugeen Ojibway Nation, that speaks to this last point that I made.....

“A proponent cannot possibly determine the scope of its engagement with an Aboriginal group(s) without first having some context and deep understanding of the asserted and established Aboriginal and Treaty rights. This deeper understanding can only come from the Aboriginal group(s) itself”¹⁵

On the note of asserted and established Aboriginal and Treaty Rights, does CNSC and BWXT NEC understand what took place with the very recent Williams Treaty First Nations Settlement Agreement? Do they know there was an apology made by the Crown to the peoples of this area? If not, please take some time to learn about it and the colonial history of the people whose territory BWXT is occupying!

BWXT-NEC: In 2018, BWXT NEC identified the Indigenous Communities in Toronto and Peterborough and contacted each community with an introductory letter in April and a letter in December to inform the communities about our application for relicensing.

Catherine:

Did Alderville First Nations receive these letters, since they were not listed as a “COI”?

Did these same “Communities of Interest receive letters about the license transfer from GEH-C to BWXT-NEC in 2016?

Was the 2018 April letter, the first communication with the Communities of Interest, since the transfer took place? If yes, then it took 16 months for BWXT NEC to “introduce” themselves to these communities. That is a very long time.

Also, why would an “introductory” letter be necessary? According to the BWXT website.....

“Produced at manufacturing facilities in Peterborough, Toronto and Arnprior, Ontario, BWXT NEC has supplied nuclear fuel bundles to CANDU® stations since the early 1950s.”¹⁶

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<http://www.nuclearsafety.gc.ca/eng/pdfs/REGDOC-comments-received/REGDOC-3-2-2-feedback-Saugeen-Ojibway-Nation.pdf?fbclid=IwAR0e6tiukLVFzP7yzNR6ekCo8T4rIPiOSVUem4QOLonUSCcCoBe2TM68iRQ>

16 <https://www.bwxt.com/bwxt-nec/about>

These introductory letters confirm that BWXT NEC did not have a presence in Michi Saagiig territory and didn't exist before 2016. Statements like the one above, are misleading the public.

BWXT-NEC: In October, BWXT NEC attended the CCAB's Indigenous Relations Supplier event.

Catherine:

I was not able to find any mention of an "Indigenous Relations Supplier event" in October of 2019, 2018, or at anytime, hosted by CCAB. Regardless, an event like this is more likely to be affiliated with Bruce Power which has territorial relations with Saugeen Ojibway Nation. Again, this has nothing to do with the Michi Saagiig territory that BWXT NEC occupies.

On that note, it has been mentioned many times that "BWXT NEC" attended this or that. Who is BWXT NEC anyway? In 2016, when BWXT NEC was created, Sara Forsey said that it would "maintain it's head office in Peterborough"¹⁷. Is that still the case? Does BWXT Canada or BWXT NEC have a board of directors? I never hear mention of them. I only hear that there is a president. Not even a vice president.

Throughout 2019, BWXT NEC sent multiple letters and electronic updates to the COIs in Peterborough and Toronto. These communications provided information about the licence renewal, invitations for tours, meetings and community events, relevant information and links, and copies of newsletters and other documentation.

Catherine:

At what point, during these communications with the Communities of Interest, did BWXT NEC mention the request to bring the pellet manufacturing to Nogojiwanong/Peterborough. And did the letters/emails mention anything about the associated increase in uranium discharge into the air and waters? Do these letters mention anything about the liquid hydrogen that would come to the facility if the pelleting begins? Do these letters also include information about the contaminated equipment that already comes into the facility? Is it possible to see these letters? I hope to, before the hearing.

In 2019, a facility tour and meeting was conducted with the Métis Nation of Ontario Peterborough & District Wapiti Métis Council in Peterborough. Additionally, BWXT NEC representatives attended the Métis Nation of Ontario Peterborough & District Wapiti

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<https://www.thepeterboroughexaminer.com/news-story/8168021-ge-hitachi-nuclear-energy-canada-now-bwxt-nuclear-energy-canada-in-peterborough-after-sale-deal-closes/>

Métis Council Harvest Lunch at the Canadian Canoe Museum. BWXT NEC will continue to keep the Toronto and Peterborough Indigenous communities informed of any updates throughout and after the relicensing period.

Catherine:

No comment.

PART 3: RECOMMENDATIONS FOR BWXT CANADA and BWXT NEC

1. Do not confuse consultation and/or engagement and/or accommodations with “consent”.
2. Become familiar with the United Nations Declaration of the Rights of Indigenous Peoples
3. Become familiar with the Truth and Reconciliation Commission and the 94 Calls to Action
4. Broaden the scope of consultation and/or engagement to include ALL Indigenous communities, groups and individuals, within Michi Saagiig territory and pertinent treaty areas, not just First Nation communities and Metis.
5. Update the BWXT Canada wide policy. Using words like reconciliation, consultation, consent, treaty, rights, responsibilities would be great
6. Use CNSC REGDOC 3.2.2 “Indigenous Engagement” for guidance.
7. Create and implement land acknowledgement protocols for use by all levels of BWXT management and/or staff members that are pertinent to all territories where BWXT meetings might be taking place.
8. Meet with Indigenous communities/groups/peoples IN Indigenous spaces.
9. Make BWXT PAR committee meetings publicly available
10. Please make publicly available, the BWXT letters that are sent out to Indigenous communities/groups/peoples.

PART 4: RECOMMENDATIONS TO CNSC

1. Ensure that Indigenous peoples within Michi Saagiig territory are involved in the development of regulations that pertain to nuclear facilities within their traditional territory (in accordance with Article 18 of the UNDRIP¹⁸)
2. Do not confuse consultation or engagement or accommodations with “consent”.
3. Allow Indigenous communities/groups/peoples determine when the duty to consult is necessary
4. Use the consultation protocols from Alderville, Hiawatha and Curve Lake First Nations
5. Expand the scope of engagement in REGDOC-3.2.2 to include more than just First Nations, Inuit and Metis peoples of Canada.
6. Engage in true Nation to Nation discussions, distinct from the public hearing process, whereby the Crown is not imposing its judicial powers onto sovereign treaty partners.
7. Integrate all Articles of UNDRIP into the CNSC regulatory system CNSC
8. Commit to achieving “Free Prior and Informed Consent” The following manual could be very helpful: “Free Prior and Informed Consent: Manual for Project Practitioners”¹⁹
9. Please make publicly available, the CNSC letters that are sent out to Indigenous communities/groups/peoples.

PART 5: CONCLUSION

I request that the Canadian Nuclear Safety Commission NOT renew BWXT NEC’s Class 1B Nuclear Fuel Facility Operating Licence, on the grounds that proper Indigenous consultation and engagement have not taken place, for the following reasons

- What minimal engagement has taken place, was mainly on the part of BWXT Canada, not the licensee
- Only some indigenous communities and Metis councils have been engaged with.
- The indigenous relations policy seems to be just token words.
- Alderville First Nation was forgotten completely.
- BWXT ignored the guidance of the CNSC to use the REGDOC3.2.2
- CCAB is focused on business.
- BWXT NEC seems to be misleading the public about its history and presence here

¹⁸ <https://rights.culturalsurvival.org/undrip-article-18-right-self-representation>

¹⁹ <http://www.fao.org/3/a-i6190e.pdf>

PART 6: OTHER MATTERS

On a totally different topic than indigenous relations, I have some concerns about the license transfer that took place in 2016

- Is it common to only have one Commission member at a hearing (unabridged)?
- How was BWXT NEC able to get the license transferred before it was a legal entity. One of the requirements to transfer is that a company has to prove that it is a legal entity, no?
- How can BWXT NEC use compliance reports from before it was a legal entity? Is this because BWXT NEC was an amalgamation of BWXT and GEH-C?
- If BWXT NEC was created from an amalgamation/merger between BWXT and GEH-C, would it not mean that GE or GEH is a parent company of BWXT NEC?

I have run out of time to do more research on this, but if I uncover anything else, I will speak to this at the hearing.

Thank you for the opportunity to intervene in writing and orally

I give thanks and gratitude to the Michi Saagiig peoples of this territory, that I have the privilege to call home. May I respect you, to the best of my abilities and may I strive to be an honourable treaty partner!

Sincerely,
Catherine Prinsen