



Date: 2020-11-13

File / dossier : 6.02.04

Edocs pdf : 6405102

**Written submission from the
Curve Lake First Nation**

**Mémoire de la
Curve Lake First Nation**

**Regulatory Oversight Report for
Canadian Nuclear Laboratories
Sites: 2019**

**Rapport de surveillance
réglementaire des sites des
Laboratoires Nucléaires
Canadiens : 2019**

Commission Meeting

Réunion de la Commission

December 10, 2020

Le 10 décembre 2020

*This page was intentionally
left blank*

*Cette page a été intentionnellement
laissée en blanc*

Government Services Building
22 Winookeedaa Road
Curve Lake, Ontario K0L1R0



Phone: 705.657.8045
Fax: 705.657.8708
www.curvelakefirstnation.ca

Senior Tribunal Officer
Secretariat Canadian Nuclear Safety Commission
280 Slater Street
P.O. Box 1046, Station B
Ottawa, ON K1P 5S9
Tel.: 613-996-9063 or 1-800-668-5284 Fax: 613-995-5086
Email: cncs.interventions.ccsn@canada.ca

November 13, 2020

**RE: Regulatory Oversight Report for Canadian Nuclear Laboratories Sites: 2019
(CNL ROR CMD 20-M22)**

Dear Secretariat,

On behalf of Chief & Council and our community at Curve Lake First Nation (CLFN), we hope that this written intervention finds you and your loved ones safe and healthy. We hope that members and staff at CNSC are coping well during these times.

The operations of CNL that are the subject of this Regulatory Oversight Report are located on Treaty 20 Michi Saagiig territory and in the traditional territory of the Michi Saagiig and Chippewa Nations, collectively known as the Williams Treaties First Nations, which include: Curve Lake, Hiawatha, Alderville, Scugog Island, Rama, Beausoleil, and Georgina Island First Nations. It is respectfully acknowledged that the Williams Treaties First Nations are the stewards and caretakers of these lands and waters in perpetuity, as they have been for thousands of years, and that they continue to maintain this responsibility to ensure their health and integrity for generations to come.

This written intervention represents the views of CLFN only. CLFN is directly or indirectly affected by the activities and facilities of the nuclear industry in Ontario. The protection of environmental, cultural, and natural heritage values is of importance to CLFN. CLFN has undertaken a review of this and of other Regulatory Oversight Reports to gain a general understanding and awareness of nuclear related activities (operations, manufacture, transport, projects, regulatory activities and oversight, nuclear industry culture and processes). This helps improve awareness and understanding of the industry and issues as CLFN reviews potential environmental impacts, cultural impacts, and impacts on Treaty Territory and Aboriginal and Treaty Rights.

Government Services Building
22 Winookeedaa Road
Curve Lake, Ontario K0L1R0



Phone: 705.657.8045
Fax: 705.657.8708
www.curvelakefirstnation.ca

CLFN would like to start off by acknowledging the CNSC on its attempt to bring together a large amount of information, activity, data, events, processes, etc. into a single oversight document. The customized approach taken by the CNSC for each site is commendable. Between the Independent Environmental Monitoring Program (IEMP), the evaluation of Safety Control Areas (SCA's), and public and Indigenous Engagement, there are a flexible number of mechanisms to allow for any and all issues surrounding environmental protection and Indigenous oversight to be addressed.

The details (please refer to Appendix 1) accompanying this covering letter is structured as follows:

- Issues with consultation and engagement
- Generalized comments across a number of Regulatory Oversight Reports on accessibility, style, language, and content.
- Generalized comments on how Indigenous communities are acknowledged in the report.
- Specific observations made on content, issues, trends, and other items of interest; although not meant to be an exhaustive review of the document(s)
- Opportunities to build our relationship with the CNSC and CNL.

For the purpose of this covering letter, CLFN wishes to highlight the issues with consultation and engagement.

- While there has been engagement and consultation on the Near-Surface Disposal Facility and the Nuclear Power Demonstration Waste Facility, these have been triggered because of the project associated with these matters. There is no routine mechanism to be familiar with the ongoing operations at Chalk River Laboratories. As such, if there were no projects to discuss, there may be no contact by CNL on ongoing operations; to date, any information regarding ongoing operations is absent.
- There is some engagement and consultation on the Port Hope Area Initiative, though not as organized or coordinated as has been done for the NSDF and NPD; likely because there are more stakeholders and experts involved beyond just CNL.
- In all cases regarding NSDF, NPD, PHAI, routine consultation and engagement is desired. Furthermore, the ability and the capacity to participate in such things like routine meeting, routine project updates, developing and participating in monitoring plans, etc., is desired.
- There has been minimal engagement and consultation on Global First Power's proposal for a small modular reactor at the CRL site; with no substantial details to date.

Government Services Building
22 Winookeedaa Road
Curve Lake, Ontario K0L1R0



Phone: 705.657.8045
Fax: 705.657.8708
www.curvelakefirstnation.ca

CLFN wishes to share these opportunities to build our relationship with the CNSC and with CNL such that meaningful engagement and consultation can take place in the future. CLFN would like to be consulted on these items in future meetings:

- The contents of the ROR on a regular basis to bring a common understanding of the issues.
- Pertinent activities and events including timely information sharing and depth of information shared to support a better understanding of the issues; with considerations for such items as emergency, emergent, routine, ad-hoc, project driven information, plans, and actions; including those that cross over regulatory jurisdictions.
- Transportation activities in the territory.
- How the RORs can be improved to reflect that there is an understanding of the key issues brought forth by CLFN to the CNSC.
- How CLFN input can be used in oversight processes and/or to provide input to evaluations. Including CLFN perspectives as part of oversight could potentially enhance CNSC oversight and will also enhance engagement activities.
- How CLFN's participation in the IEMP can enhance the independence portion of the program. Considerations for involvement of CLFN environmental monitors and overall development of the concept of oversight monitors and compliance monitors.
- The science that supports the establishment of regulatory limits and baselines; discuss existing monitoring, sampling, testing, analytical protocols.
- How the SCA ratings were developed, if input from Indigenous representatives and knowledge keepers were part of the development and subsequent implementation of the framework. Discuss why exceedances, for example, do not necessarily result in an unsatisfactory rating; discuss what specific actions were taken to address the situation and how that influences the rating.
- How long term considerations on aging infrastructure and lifecycle conditions can be addressed and approaches jointly developed.
- How long term risk management of releases and exposure can be jointly developed.
- How long term strategies concerning decommissioning can be jointly developed.
- How long term monitoring of sites should be described and pursued in partnership with guardian or stewardship experts from within treaty territory of sites.

In closing, CLFN acknowledges the CNSC's provision of this capacity to participate: to be aware, to be informed, to provide a review and feedback, and to gain a better overall understanding of the nuclear industry and how it is regulated. CLFN withholds judgement at this time and trusts that engagement and consultation can be improved and made more meaningful in the future.

Government Services Building
22 Winookeedaa Road
Curve Lake, Ontario K0L1R0



Phone: 705.657.8045
Fax: 705.657.8708
www.curvelakefirstnation.ca

The details shared in this covering letter fit into these areas of interests that CLFN will continue to discuss with the CNSC at routine meetings:

- Protection of the Environment and Sustainable Development
- Protection of Traditional and Cultural Values, Knowledges and Practices
- Reconciliation
- Technology Lifecycle
- Inclusion and Participation in Activities, Development, and Decision Making
- Inclusion of Traditional and Cultural Values
- Regulatory Framework, Programs, Standards, Processes
- Consultation Protocols, Standards, Processes

It is our hope that the above areas of interest will eventually reflect CLFN values and principles. We do this work to uphold our responsibilities to care for the earth and waters, for our people, our nation, and for all our relations. Our values and principles are built upon the respect, care, and nurturing of all life as part of an interconnected whole and necessary for the balance and harmony required for Mino-Bimaadiziwin now and for future generations.

Sincerely,

A handwritten signature in blue ink, appearing to read "Emily Whetung", is written over a faint, light blue circular stamp or watermark.

Chief Emily Whetung
Curve Lake First Nation

cc:

Curve Lake Chief and Council
J. Walker, Chief Operating Officer
Dr. J. Kapyrka, Lands & Resources Consultation
K. Hill, Lands & Resources Consultation



Appendix 1 Details of Review

CLFN would like to start off by acknowledging the CNSC on its attempt to bring together a large amount of information, activity, data, events, processes, etc. into a single oversight document. The customized approach taken by the CNSC for each site is commendable. Between the Independent Environmental Monitoring Program (IEMP), the evaluation of Safety Control Areas (SCA's), and public and Indigenous Engagement, there are a flexible number of mechanisms to allow for any and all issues surrounding environmental protection and Indigenous oversight to be addressed.

CLFN has identified issues with consultation and engagement:

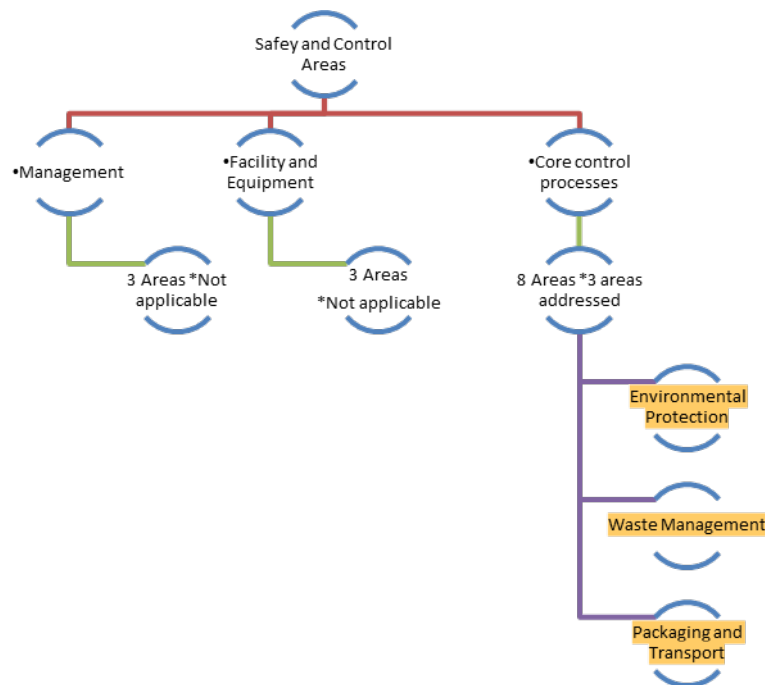
- While there has been engagement and consultation on the Near-Surface Disposal Facility and the Nuclear Power Demonstration Waste Facility, these have been triggered because of the project associated with these matters. There is no routine mechanism to be familiar with the ongoing operations at Chalk River Laboratories. As such, if there were no projects to discuss, there may be no contact by CNL on ongoing operations; to date, any information regarding ongoing operations is absent.
- There is some engagement and consultation on the Port Hope Area Initiative, though not as organized or coordinated as has been done for the NSDF and NPD; likely because there are more stakeholders and experts involved beyond just CNL.
- In all cases regarding NSDF, NPD, PHAI, routine consultation and engagement is desired. Furthermore, the ability and the capacity to participate in such things like routine meeting, routine project updates, developing and participating in monitoring plans, etc., is desired.
- There has been minimal engagement and consultation on Global First Power's proposal for a small modular reactor at the CRL site; with no substantial details to date.

CLFN acknowledges that the ROR may or may not be intended to be an all encompassing document. Perhaps specific supporting documents may be developed to supplement the current structure and content of the ROR. Some observations and comments that pertain to a number of RORs (not just this one) include:

- The information of activities and status of sites are at times too generalized to be of any relevance to the unfamiliar reader. Conversely, the volume of data and references to documents external to the report could be overwhelming to the unfamiliar reader. A balance is needed and that is not an easy task.



- Activities that are conducted and continue at each site where there could be any potential risk or concern could be made explicitly clear for each nuclear site; more directly and more plainly apparent.
- The use of accessible language could be incorporated to make sure that the meanings for actions and activities described are clearly understood.
- For an audience that may not be familiar with the information, consider including details on how the CNSC evaluated events and reached the conclusion that there is no impact; consider including explanation why certain events had no impact on the environment.
- Images could be used more often to assist with communication among participants who carry language in non-written forms. Broad area maps, when used, should include traditional territories or treaty areas in order to remain relevant for indigenous participants. Aerial images of actual sites could be used and associated with activities proposed for site.
- The SCAs that are most relevant to CLFN are depicted here.



CLFN has made some general observations and would like to make these suggestions:

- Suggest that the CNSC consider an appropriate way to acknowledge Indigenous communities at the beginning of the report, early in the report.



- Where it is contextually relevant or appropriate, consider making a distinction between Indigenous groups and the public and not use the term public to be all encompassing.
- Suggest that the CNSC consider if the public information program and disclosure protocol (PIDP) sufficiently covers the equivalent needs for Indigenous Communities; has there been any thought given to an information program and disclosure protocol that was specific to Indigenous Communities?

CLFN has made some observations and would draw attention to specific pages:

- Where it is contextually relevant or appropriate, consider making a distinction between Indigenous groups and the public and not use the term public to be all encompassing.
 - Page 10/66 “For the purposes of the Nuclear Safety and Control Act (NSCA), and its associated Regulations, the Canadian Nuclear Safety Commission (CNSC) regulates Canada’s nuclear industry to protect the health, safety, security and the environment; to implement Canada’s international commitments on the peaceful use of nuclear energy; and to disseminate objective scientific, technical and regulatory information to the public.”
- Consider including and elaborating further what is being done for Indigenous groups and not just the public.
 - Page 10/66 “... and to disseminate objective scientific, technical and regulatory information to the public.”
- Where it is appropriate in the document, consider including an assessment of effectiveness of the engagement activities by the CNSC.
 - Page 10/66 “In addition, the report includes information on CNL’s public information programs, engagement with Indigenous groups and communities,”
- Perhaps it was missed, consider specifically identifying environmental protection as one of the programs.
 - Page 12/66 “These prototype reactors are required to implement and maintain programs such as radiation protection, occupational health and safety, security and fire protection.”
- Consider explaining if and where Indigenous engagement and consultation is rated; if not as part of the SCA framework because it isn’t the purpose of the SCA framework, then where could it reside?
 - Page 14/66 “CNSC staff use the Safety and Control Area (SCA) framework to assess, evaluate, review, verify and report on licensee performance. The SCA



framework includes 14 SCAs, which are subdivided into specific areas that define its key components.”

- There are certain portions of the report that would tend to garner more interest than others. It would be of help if further information, details, explanations were provided on releases. It would also help to explain how the CNSC evaluated the events and reached the conclusion that there is no impact.
 - Page 18/66
- It would help to understand how action level exceedances and reportable events differ from each other and/or how they are viewed from a regulator’s perspective.
 - Page 18/66

CLFN has identified specific issues and trends that are of further interest and will require more discussion in the future; either for clarification with more information and/or for specific actions. These thoughts and questions came to mind when reading the information:

- The need for an explanation on how a high single day release is taken into account in the PHP loadings, given the calculations are done a monthly average (Page 46/66).
- The need for an explanation for the trends in Radium-226 and Uranium releases from the Port Granby Project from 2015 to 2019 (Page 46/66).
- The need for an explanation for the spikes in Radium-226 and Uranium releases from the Port Hope Project in 2015 to 2019 (Page 47/66).
- The need for an explanation on what would be the most appropriate thresholds for comparison since PHP/ PGP do not have annual limits; understanding that the limits in licences are based on either monthly mean, weekly mean, or grab samples. The data in Tables D-5 and D-6 can be put into context with some kind of reference point (Page 46,47/66).

CLFN has identified some areas where opportunities exist to build our relationship with the CNSC and CNL; perhaps strengthen oversight activities at the same time. To discuss in future meetings:

- The contents of the ROR on a regular basis to bring a common understanding of the issues.
- Pertinent activities and events including timely information sharing and depth of information shared to support a better understanding of the issues; with considerations for such items as emergency, emergent, routine, ad-hoc, project driven information, plans, and actions.

Government Services Building
22 Winookeedaa Road
Curve Lake, Ontario K0L1R0



Phone: 705.657.8045
Fax: 705.657.8708
www.curvelakefirstnation.ca

- How the RORs can be improved to reflect that there is an understanding of the key issues brought forth by CLFN to the CNSC.
- How CLFN input can be used in oversight processes and/or to provide input to evaluations. Including CLFN perspectives as part of oversight could potentially enhance CNSC oversight and will also enhance engagement activities.
- How CLFN's participation in the IEMP can enhance the independence portion of the program. Considerations for involvement of CLFN environmental monitors and overall development of the concept of oversight monitors and compliance monitors.
- The science that supports the establishment of regulatory limits and baselines; discuss existing monitoring, sampling, testing, analytical protocols.
- How the SCA ratings were developed, if input from Indigenous representatives and knowledge keepers were part of the development and subsequent implementation of the framework. Discuss why exceedances, for example, do not necessarily result in an unsatisfactory rating; discuss what specific actions were taken to address the situation and how that influences the rating.
- How long term considerations on aging infrastructure and lifecycle conditions can be addressed and approaches jointly developed.
- How long term risk management of releases and exposure can be jointly developed.
- How long term strategies concerning decommissioning can be jointly developed.
- How long term monitoring of sites should be described and pursued in partnership with guardian or stewardship experts from within treaty territory of sites.