



Date: 2020-11-13
File / dossier : 6.02.04
Edocs pdf : 6404999

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

**Mémoire de la
Curve Lake First Nation**

**Regulatory Oversight Report for
Canadian Nuclear Power Generating
Sites in Canada: 2019 and Update on
OPG's Refurbishment Project at the
Darlington Nuclear Generating
Station**

**Rapport de surveillance
réglementaire des sites de centrales
nucléaires au Canada : 2019 et mise
à jour du projet de réfection d'OPG
pour la centrale nucléaire de
Darlington**

Commission Meeting

Réunion de la Commission

December 9, 2020

Le 9 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 on Nuclear Power Generating Sites and OPG's Update on Darlington NGS Refurbishment Project

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 OPG 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 OPG.

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

- The need for consultation and engagement with CLFN on DNGS refurbishment project and the operations and performance of the DNGS, DWMF, PNGS and PWMF; these have not been conducted in any meaningful way with CLFN.
- The need for consultation and engagement with CLFN in the thermal plume monitoring study for PNGS and the equivalent for DNGS; these have not been conducted in any meaningful way with CLFN.
- The need for consultation and engagement with CLFN in the Fisheries Act for DNGS and PNGS; these have not been conducted in any meaningful way with CLFN.
- A further discussion is needed with the CNSC to understand the evaluation criteria used to make the statement "CNSC staff confirmed that the licensees' dedicated Indigenous engagement programs continued to cover their operations at the NPPs and WMFs and were satisfied with the level and quality of Indigenous engagement conducted by the NPP and WMF licensees regarding their operations in 2019."

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 OPG 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 culminate in 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 be "Emily Whetung", is written over a light blue circular stamp.

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:

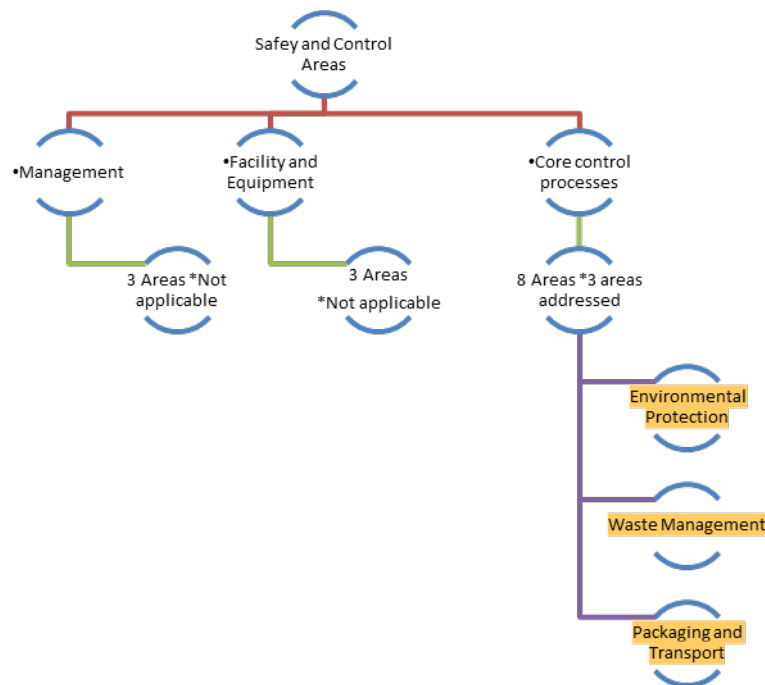
- The need for consultation and engagement with CLFN on DNGS refurbishment project and the operations and performance of the DNGS, DWMF, PNGS and PWMF (Page 54/219); these have not been conducted in any meaningful way with CLFN.
- The need for consultation and engagement with CLFN in the thermal plume monitoring study for PNGS (Page 99/219) and the equivalent for DNGS; these have not been conducted in any meaningful way with CLFN.
- The need for consultation and engagement with CLFN in the Fisheries Act for DNGS (Page 61/219) and PNGS (Page 85/219); these have not been conducted in any meaningful way with CLFN.
- A further discussion is needed with the CNSC to understand the evaluation criteria used to make the statement on Page 53/219 "CNSC staff confirmed that the licensees' dedicated Indigenous engagement programs continued to cover their operations at the NPPs and WMFs and were satisfied with the level and quality of Indigenous engagement conducted by the NPP and WMF licensees regarding their operations in 2019."

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 other 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?
- Suggest that the CNSC consider including a table indicating the performance rating for each SCA at each facility in 2019; similar to what was done for other RORs.

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

- Consider how the developments related to Fisheries Act authorizations, of offsets to compensate for any residual harm caused to fish and fish habitats after mitigation measures have been put in place are evaluated in light of and in conjunction with Environmental Risk Assessments, Independent Environmental Monitoring Programs, and how it is integrated into the Safety Control Areas.
 - Page 19/219 “The CNSC has a memorandum of understanding with Fisheries and Oceans Canada whereby CNSC staff are responsible for monitoring activities and verifying compliance for Fisheries Act authorizations. The Minister of Fisheries and Oceans Canada is responsible for enforcing the authorizations in the event of non-compliance.”
- Consider showing an equivalent map of the nuclear generating sites and where they are located in relation to the respective traditional territories of Indigenous peoples in Canada.
 - Page 15/219 – Provides Figure 1 but only shows the nuclear generating sites
 - Page 54/291 – Provides in text “The DNGS, DWMF, PNGS and PVMF lie within the Treaty territory of the Williams Treaties First Nations (WTFN)”
- 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 53/219 “CNSC staff confirmed that the licensees’ dedicated Indigenous engagement programs continued to cover their operations at the NPPs and WMFs and were satisfied with the level and quality of Indigenous engagement conducted by the NPP and WMF licensees regarding their operations in 2019.”
- 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 reportable events, spills, environmental releases, regulatory limit exceedances, etc. It would also help to explain how the CNSC evaluated the events and reached the conclusion that there is no impact.

- Page 19/219 – Further detail on the 217 NPP and 8 WMF events reported in accordance with CNSC REGDOC-3.1.1.
- 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 149/219 “NB Power reported a few spill events in 2019 at Point Lepreau, but they were insignificant spills and the public and environment remained protected.”
 - The report indicated when action levels were exceeded or if there were none. The report only indicated spills for NB Power and did not clarify if there were any for other facilities.
- CLFN noticed that this particular ROR did not have the same summary table for SCAs as compared to the two other RORs that CLFN reviewed.

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:

- In 2018, 5,616 kg of fish were impinged at the PNGS (Page 85/219). In 2019, 15,114 kg of fish were impinged (Page 85/219). There was no timely notice provided to CLFN of these occurrences nor was there the opportunity for meaningful discussion and further follow-ups on plans and actions.
- The need for an explanation for the increasing trend of particulate (gross beta/ gamma) releases to atmosphere from Pickering 2011-2017 (Page 191/219).

CLFN has identified some areas where opportunities exist to build our relationship with the CNSC and the proponents identified in this ROR; 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; including those that cross over regulatory jurisdictions.

Government Services Building
22 Winookeedaa Road
Curve Lake, Ontario K0L1R0



Phone: 705.657.8045
Fax: 705.657.8708
www.curvelakefirstnation.ca

- 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.