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Exposé oral

**Written submission from the
Manitoba Metis Federation**

**Mémoire de la Fédération des
Métis du Manitoba**

**Regulatory Oversight Report for
Canadian Nuclear Laboratories
Sites: 2020**

**Rapport de surveillance
réglementaire des sites des
Laboratoires Nucléaires
Canadiens : 2020**

Commission Meeting

Réunion de la Commission

November 25, 2021

Le 25 novembre 2021



Review of CNL Regulatory Oversight Report

Technical Review of the Regulatory Oversight Report for Canadian Nuclear Laboratories Sites: 2020

Manitoba Métis Federation

October 25, 2021



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Executive Summary

The Manitoba Métis Federation (MMF) has retained Shared Value Solutions (SVS) to undertake a review of the Canadian Nuclear Safety Commission (CNSC) 2020 Regulatory Oversight Report (ROR) to support us in ongoing communications with CNSC, CNL, and Atomic Energy of Canada Limited (AECL). The scope of SVS's review was limited to the ROR components related to the Whiteshell Laboratories (WL) site in Pinawa, Manitoba. All other sites operated by CNL are outside of Manitoba. The objectives of the review were to:

- provide a plain language explanation of the scope and nature of the ROR;
- identify where the Manitoba Métis's rights, claims and interests overlap with and may be impacted by the information and findings in the Report;
- identify environmental, technical, or regulatory issues with the ROR, and provide recommendations on where and how Manitoba Métis's rights and interests may need to be better accommodated through revisions and additions to the Report; and
- identify issues and challenges with the Report that will require ongoing engagement and consultation with MMF on behalf of the Manitoba Métis.

Based on Métis traditional knowledge data collected from the Red River Métis and shared with the MMF, it is apparent that the WL site is within a region where the Red River Métis have a longstanding and well-established record of historic use and occupancy, as well as ongoing current use.

Using the results of the ROR review, the MMF has provided recommendations that focus on opportunities for the CNSC to improve involvement, inclusion and consultation with the Red River Métis on monitoring/oversight for the WL facilities. Where applicable, we have also provided guidance on best practice mitigations, management and monitoring.

Overall, the MMF is concerned about the rigour of the 2020 assessment of the WL site, which was conducted based on remote compliance assessment activities, with little independent or third-party analysis. We, therefore, recommended that CNSC provide additional information about how remote compliance assessment activities were conducted, as well as to transparently detail the limitations of these remote assessments relative to in-person inspection by CNSC staff.

The following is a summary of our recommendations, again noting our focus on the WL site specifically:

- Provide more details of how changes to the assessment methodology (e.g. remote inspections and verification activities, desktop review) impacted the evaluation and decision-making process used in this ROR.
- Provide an analysis of data quality, given that monitoring and information collection appear to have been reduced or changed due to COVID, relative to previous years this assessment was completed.



- Continue to improve on the plain language communication of ROR details, to communicate better with, and facilitate MMF’s communication with, the Manitoba Métis.
- Update the WL Comprehensive Study Report to include the impacts of decommissioning, particularly in light of the possible in situ entombment of the WR-1 reactor. The focus of the update needs to be on remaining hazards and the potential dose to the public and potential future users of the land.
- Discuss with the MMF the source(s) of downstream radionuclides from the WL site, as well as options for improved source control and monitoring.
- The CNSC Independent Environmental Monitoring Program needs improvement overall to fulfill its objectives, including a serious effort made to improve impartiality, the inclusion of MMF monitoring data, and consistency in monitoring. The MMF requests having input on the next sampling program for the WL site.
- Continue discussions between MMF and the CNSC, regarding the long-term implications of decommissioning of the WL site, including plans for transport and storage of waste.
- The MMF’s input should be an integral part of land use planning and the definition and condition of the site in its final state. The CNSC should ensure that MMF input is facilitated and integrated into all planning phases of decommissioning for the WL site.

In summary, we suggest that the above recommendations, as well as those outlined in Appendix A, be the focus of subsequent meetings between the MMF and CNL, AECL and the CNSC.



1.0 Introduction

The Manitoba Métis Federation (MMF) has retained Shared Value Solutions (SVS) to undertake a review of the Canadian Nuclear Safety Commission's (CNSC) Regulatory Oversight Report (ROR or "the Report") for Canadian Nuclear Laboratories (CNL) to support the Manitoba Métis in ongoing communications with CNSC, CNL, and Atomic Energy of Canada Limited (AECL). The differentiation between these organizations is that AECL is a federal Crown corporation that receives funding for nuclear science and technology. The AECL has a long-term contract with CNL to fulfil their mandate, which is to "enable nuclear science and technology and protect the environment by fulfilling the Government of Canada's radioactive waste and decommissioning responsibilities," (AECL, 2018). AECL owns all CNL sites and liabilities, but CNL is responsible for day-to-day operations and maintenance (CNL, 2019). CNSC is a regulatory body that oversees and compels AECL, as the owner of the liability of CNL, to "regulate the use of nuclear energy and materials to protect health, safety, security and the environment," (CNSC, 2014).

The scope of SVS's review was limited to the ROR components related to the Whiteshell Laboratories (WL) site in Pinawa, Manitoba. All other sites operated by CNL are outside of Manitoba (Figure 1). The objectives of the review were to

- provide a plain language explanation of the scope and nature of the ROR;
- identify where the Manitoba Métis's rights, claims and interests overlap with and may be impacted by the information and findings in the Report;
- identify environmental, technical, or regulatory issues with the ROR, and provide recommendations on where and how Manitoba Métis's rights and interests may need to be better accommodated through revisions and additions to the Report; and
- identify issues and challenges with the Report that will require ongoing engagement and consultation with MMF on behalf of the Manitoba Métis.

As part of the review, SVS evaluated the activities and information provided in the reports and how they intersect with and may impact the rights, claims, and interests of the Red River Métis. The review assessed the adequacy of the information provided, including mitigation, management, and monitoring plans; assessed the intersection of past, current and future regulated activities described in the ROR on the Manitoba Métis's rights, claims and interests; and evaluated the incorporation and consideration of Métis local knowledge, traditional knowledge and land use in the ROR.

Using the results of the review, the MMF provided specific recommendations to address the identified issues and concerns regarding Red River Métis's values, rights, claims and interests which stem from potential impacts from the past, present and future management of the WL site. Due to the nature of the ROR, as a high-level summary of regulated operations, our recommendations focus on opportunities for the CNSC, AECL and CNL to improve involvement, inclusion and consultation with the MMF on



monitoring and oversight of the WL facilities. Where applicable, we have also provided guidance on best practice mitigations, management and monitoring as they relate to the Manitoba Métis’ rights, claims, and interests.

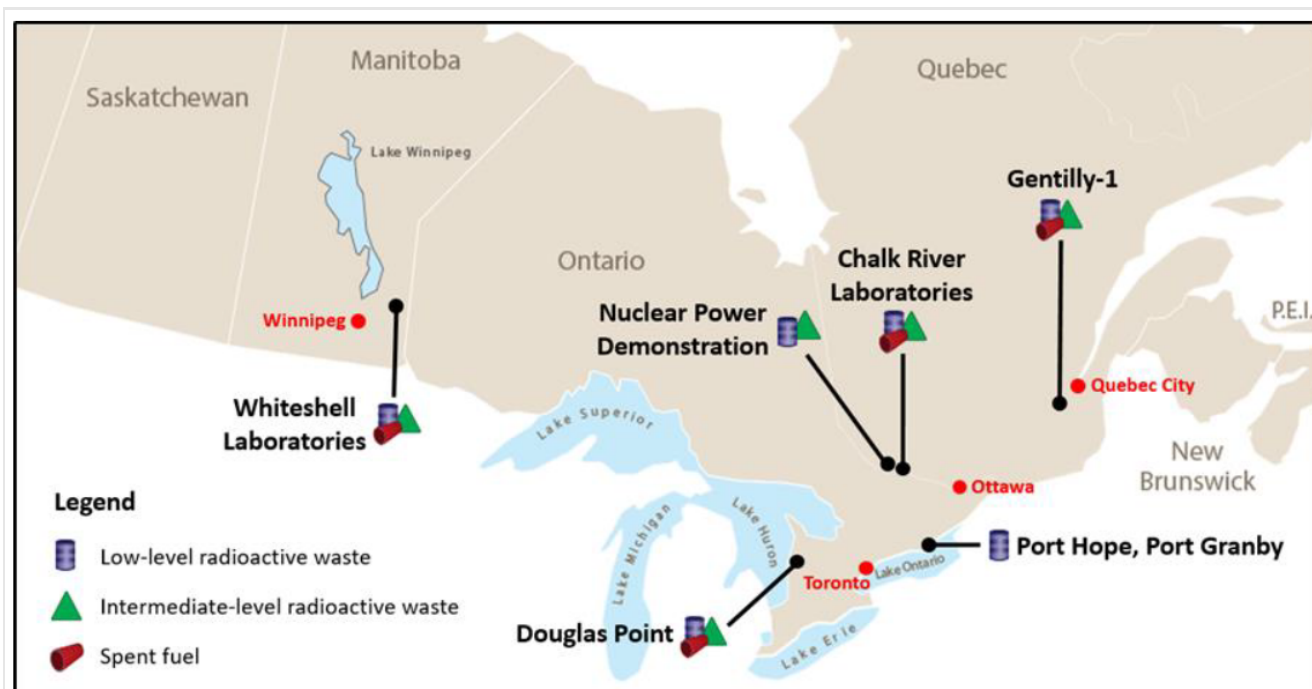


Figure 1. Nuclear sites operated by CNL (CNSC, 2019a)

1.1 Regulatory Process

All federally regulated nuclear facilities are legislated by the CNSC. The sites at which these facilities are located require licences to carry out the operations and activities of the regulated facilities. The CNSC evaluates licence applications and grants licences once the site proponent completes a licensing application and meets all regulatory requirements. CNL operates several licenced sites across central Canada focusing on research related to nuclear technologies. These include technologies and related research evaluation for nuclear power generation, waste disposal, health and safety.

Each year, the CNSC completes a ROR, which presents an assessment of performance at all CNL sites on 14 safety and control areas (SCAs). The CNSC’s assessment process focuses on radiation protection, environmental protection, and conventional health and safety; however, all SCAs are assessed by the CNSC, including the following:



- | | |
|-----------------------------------|--|
| 1. Management system | 9. Environmental protection |
| 2. Human performance management | 10. Emergency management and fire protection |
| 3. Operating performance | 11. Waste management |
| 4. Safety analysis | 12. Security |
| 5. Physical design | 13. Safeguards and non-proliferation |
| 6. Fitness for service | 14. Packaging and transport |
| 7. Radiation protection | |
| 8. Conventional health and safety | |

The CNSC bases its assessments on site inspections, technical assessments, reviews of reports from CNL, reviews of events/incidents, and ongoing communication with CNL. The CNSC intends the ROR to be a summary of its oversight activities to ensure that CNL meets all requirements of licences it currently holds.

1.2 Whiteshell Laboratories Background

CNL is responsible for the operations and management of the WL site. CNL operates the site through a Government-Owned Contractor-Operated model, whereby the assets and facilities are owned by the AECL but the operations and management fall to the contractor (CNL). Under this model, AECL retains ownership of the lands, assets and liabilities associated with CNL’s licenses, including environmental remediation and other liabilities at the site (CNSC, 2019a). Ultimately, as an agent of the Crown, the responsibilities/liabilities of AECL are the responsibilities/liabilities of the Crown.

The WL site hosts the Whiteshell Reactor #1 (WR1), SLOWPOKE demonstration reactor (SDR) and other facilities, which AECL established in the early 1960s. WR1 operated from 1965 to 1985, at which time the site was placed into a state of permanent shutdown. SDR operated from 1967 to 1990 and is also now permanently shut down. Preliminary decommissioning of the site occurred during the 1990s, when removal of nuclear fuel, coolant and moderators occurred. Removing these materials reduced the amount of radioactive materials on site and lowered the associated risk. Since this time, the site has been inactive and radioactive materials have been undergoing natural decay. Since the site has been shut down and radioactive material is no longer being shipped to the site for operations, the majority of short half-life isotopes have decayed, leaving SR-90 and CS-137 as the most abundant radioisotopes on site.

CNL has indicated that it will decommission the entire WL site in accordance with the WL Detailed Decommissioning Plan (DDP), which has been partially written (CNSC, 2019a). The decommissioning approach previously approved for WR-1 (Licence No NRTEDL-W5-8.04/2018) included the removal and remediation of all activated and contaminated components of WR-1 and associated facilities, including the reactor core, is currently being reconsidered, proposing to demolish the WR-1 building and decommission the nuclear waste in situ (ISD – In Situ Decommissioning). CNL proposes to demolish and remove above-ground buildings and facilities (two stories). CNL further proposes permanent on-site



disposal of the below-ground structures and facilities, including the reactor and radiological hazards. CNL says it will protect the on-site disposal facilities with an engineered cover to prevent intrusion of soil and groundwater and allow the radioactive contaminants to decay to safe levels. A licence for the ISD proposal has not yet been applied for by CNL or granted by CNSC.

1.2.1 Overview of Facilities at the Whiteshell Laboratories Site

The WL site hosts several facilities whose management and decommissioning pose risks to the natural environment (Figure 2). Dust, debris, or runoff from all facilities may contain contamination (e.g., lead paint, asbestos, radioactive contamination). In addition, a large volume of low-, intermediate- and high-level radioactive waste remains on site. CNL estimates that there will be 25,500 m³ of low-level waste, 1560 m³ of intermediate-level waste, and 92 baskets of high-level waste (irradiated fuel material) produced during the decommissioning process. Each basket typically holds up to 60 spent fuel bundles and is a key component of the nuclear waste storage system (CNL, 2019). Baskets are made up of copper, steel, aluminum, and boron and are contained within concrete storage casks. During decommissioning, CNL plans to remove and remediate these risks so that long-term liabilities are limited, and the site is placed into a state that is in accordance with WL site-specific release criteria.



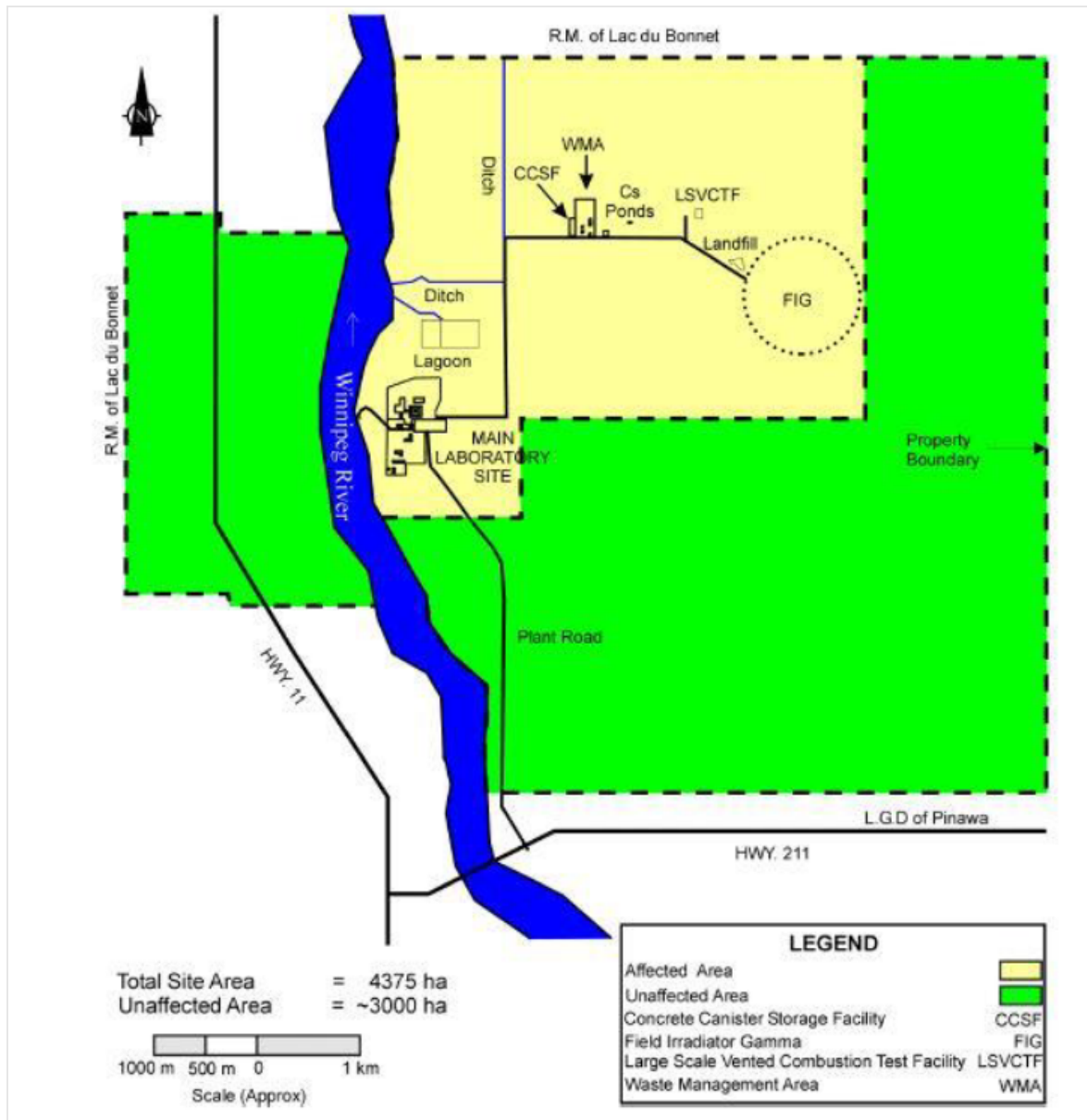


Figure 2. Diagram of Whiteshell Laboratories Site showing Winnipeg River and Property Boundary (CNL, 2019)

The facilities that pose the greatest risk during decommissioning (i.e., that contain the majority of contaminated material) include the following:

- Active Liquid Waste Treatment Centre (ALWTC)
- Waste Management Area (WMA)
- Concrete Canister Storage Facility (CCSF)
- Shielded Facilities (SF)



- WR-1 Facility

During the operational phase of the WL, the ALWTC received low- and intermediate-level radioactive liquid wastes from nuclear facilities. Low-level wastes were treated and released into the Winnipeg River in a controlled way. Intermediate-level wastes were solidified and transported to the WMA. CNL has completed operations at the ALWTC, with the facilities cleaned and has commenced. Additionally, all waste has been removed from the Shielded Modular Above Ground Storage. Additionally, operational cleanout of the Health and Safety Facilities started in preparation for decommissioning and demolition of the buildings.

The WMA contains low-, intermediate-, and high-level waste in solid and liquid form. It also contains small levels of other hazardous wastes. The WMA facilities include buildings, trenches, below-ground tanks, and concrete standpipes and bunkers. CNL has commenced decommissioning of the WMA with the incinerator, which was used to incinerate contaminated solvents and organic coolant. CNL has begun other activities and planning for full decommissioning. This will include decontamination to the extent possible, followed either by demolition or removal. CNL will package and ship radioactive wastes to a long-term storage facility (CNL currently plans on storing these wastes at Chalk River Laboratories in Ontario).

AECL began operation of the CCSF operation in 1977 and used the facility for the storage of irradiated fuel bundles. The CCSF currently holds approximately 2300 irradiated fuel bundles, storage cans of defective fuel and fuel fragments. CNL plans to remove the fuel from the canisters and transport them to the Chalk River Laboratories site in eastern Ontario. Once all canisters are emptied, decontaminated and/or demolished, the CCSF will be decommissioned as per the Detailed Decommissioning Plan (DDP).

Two facilities comprise the Shielded Facilities (SF): the Hot Cell Facility and the Irradiated Fuel Test Facility. Partial decommissioning of these facilities has been ongoing since 2005. However, CNL has decided to keep some of the cells within the SF operational to support ongoing decommissioning. This may include waste handling, sorting and assessment. Once no further decommissioning work is needed, the SF will be emptied, decontaminated (to the extent feasible) and demolished.

AECL shut down the WR-1 thermal reactor in 1985. AECL de-fueled the Reactor and removed the heavy water moderator. All easily movable radioactive fuel and fluids have been taken away from the site by the site owner/operators, and bulk organic coolant has also been removed and incinerated. CNL plans to complete further decommissioning during the renewed licence period, which will include the removal of the reactor and other contaminated equipment. CNL will demolish all above-ground buildings. Once all contaminated components are removed and disposed of, the CNL intends to implement an approach for ISD (pending regulatory approval from the CNSC). This will involve CNL filling the remaining structure and reactor components with an engineered grout. Once fully grouted, CNL will install an engineered cap (graded to ensure drainage). CNL indicates that the purpose of this ISD is to stabilize and lock in place any remaining radioactive materials. It should be noted that the ISD differs from the originally proposed and currently licenced plans to fully decommission and remove WR-1. Once all areas of the



WL site have been fully decommissioned, CNL will, on behalf of AECL, transfer the site through periods of institutional and post-institutional control, which may include monitoring and controlled access.

1.2.2 Environmental Setting

The WL site slopes toward the Winnipeg River. Groundwater on the site flows toward the river, of which a portion is discharged through an underground seep to the west of the site. Surface water runoff is also directed toward the Winnipeg River. CNL manages surface water in the vicinity of the WL site through a series of swales and ditches that direct it to the Winnipeg River. During operation of the WR-1 Reactor, CNL treated effluent and stormwater from the WL site at the Active Liquid Waste Treatment Centre and then released the treated effluent and stormwater into the Winnipeg River through an outfall pipe located 8 m offshore. Each of these CNL treatment processes represents potential vectors for the movement of contaminants into the aquatic environment (the Winnipeg River).

At least 61 species of fish inhabit the Winnipeg River (Stewart and Watkinson, 2004). These include many fishes from the minnow (Cyprinidae) and darter (Percidae) families; important game fish, such as northern pike (*Esox lucius*), walleye (*Sander vitreus*), several suckers (e.g., white sucker, redhorse), smallmouth bass (*Micropterus dolomieu*), and lake whitefish (*Coregonus clupeaformis*); and two species at risk (SAR), the carmine shiner (*Notropis percobromus*) and lake sturgeon (*Acipenser fulvescens*).

The terrestrial ecosystem surrounding the WL site is within the larger Boreal Shield Ecozone, Lake of the Woods Ecoregion, and Stead Ecodistrict. In general, this ecoregion has a large number of forest types characterized by tall, closed stands of jack pine (*Pinus banksiana*), trembling aspen (*Populus tremuloides*), paper birch (*Betula papyrifera*), white spruce (*Picea glauca*), eastern white cedar (*Thuja occidentalis*), black ash (*Fraxinus nigra*), and American elm (*Ulmus americana*) (Smith et al. 2001). Wildlife is diverse and characteristic of the region, and include gray wolf (*Canis lupus*), American black bear (*Ursus americanus*), moose (*Alces americanus*), white-tailed deer (*Odocoileus virginianus*), snowshoe hare (*Lepus americanus*), hooded merganser (*Lophodytes cucullata*), turkey vulture (*Cathartes aura*), and ruffed grouse (*Bonasa umbellus*) (Smith et al. 2001). The surrounding area consists of cleared lands with areas of peat bog. Whiteshell Provincial Park, the largest provincial park in Manitoba, is located southeast of WL; Pinawa and Whitemouth Falls Provincial Parks are immediately south of the WL site.

Historically and in the present day, the Red River Métis have exercised their distinct and inherent Métis rights around and downstream of the WL site without limitation. The Métis Community values access to areas used for harvesting or other traditional land uses, as well as the quality, safety, and availability of medicinal plants and country foods for consumption, as part of their traditional culture and diet. Adverse impacts on the land or the ability of the Métis Community to access the land for traditional land use in this territory have the potential to negatively impact the rights, claims, and interests of the Manitoba Métis.



2.0 Red River Métis Community

2.1 History and Identity

The Métis Nation—as a distinct Indigenous People—evolved out of relations between European men and First Nations women who were brought together as a result of the early fur trade in the Northwest. In the eighteenth century, both the Hudson’s Bay Company and the Northwest Company created a series of trading posts that stretched across the upper Great Lakes, through the western plains, and into the northern boreal forest. These posts and fur trade activities brought European and Indigenous peoples into contact. Inevitably, unions between European men—explorers, fur traders, and pioneers—and Indigenous women were consummated. The children of these families developed their own collective identity and political community so that “[w]thin a few generations, the descendants of these unions developed a culture distinct from their European and Indian forebears” and the Métis Nation was born—a new people, indigenous to the western territories (Alberta [Aboriginal Affairs and Northern Development] v. Cunningham, [2011] 2 SCR 670 at para. 5; 2008 MBPC R. v. Goodon, 59 at para. 25; Manitoba Metis Federation Inc. v. Canada (Attorney General), [2013] 1 SCR 623 at para. 2).

The Métis led a mixed way of life. “In early times, the Métis were mostly nomadic. Later, they established permanent settlements centred on hunting, trading and agriculture” (Alberta v. Cunningham, at para. 5). The Métis were employed by both of the fur trades’ major players, the Hudson’s Bay and Northwest companies. By the early 19th century, they had become a major component of both firms’ workforces. At the same time, however, the Métis became extensively involved in the buffalo hunt. As a people, their economy was diverse; combining as it did, living off the land in the Aboriginal fashion with wage labour (MMF v. Canada, at para. 29).

It was in the Red River, in reaction to a new wave of European immigration, that the Métis Nation first came into its own. Since the early 1800s, the Manitoba Métis—as a part of the larger Métis Nation—has asserted itself as a distinct Indigenous collective with rights and interests in its Homeland. The Manitoba Métis share a language (Michif), national symbols (infinity flags), culture (i.e., music, dance, dress, crafts), as well as a special relationship with its territory that is centred in Manitoba and extends beyond the present-day provincial boundaries.

The Manitoba Métis has been confirmed by the courts as being a distinctive Indigenous community, with rights that are recognized and affirmed in section 35 of the Constitution Act, 1982. In R. v. Goodon, the Manitoba court held that:

“The Métis community of Western Canada has its own distinctive identity [...] the Métis created a large inter-related community that included numerous settlements located in present-day southwestern Manitoba, into Saskatchewan and including the northern Midwest United States. This area was one community [...] The Métis community today in Manitoba is a well-organized and vibrant community (paras. 46-47; 52).”



This proud independent Métis population constituted a historic rights-bearing community in present day Manitoba and beyond, which encompassed “all of the area within the present boundaries of southern Manitoba from the present-day City of Winnipeg and extending south to the United States” (para. 48).

The heart of the historic rights-bearing Métis community in southern Manitoba was the Red River Settlement; however, the Manitoba Métis also developed other settlements and relied on various locations along strategic fur trade routes. During the early part of the 19th century, these included various posts of varying size and scale spanning the Northwest Company and the Hudson’s Bay Company collection and distribution networks.

More specifically, in relation to the emergence of the Métis—as a distinct Indigenous Nation in Manitoba—the Supreme Court of Canada wrote the following in the *MMF v. Canada* case:

“[21] The story begins with the Aboriginal peoples who inhabited what is now the province of Manitoba—the Cree and other less populous nations. In the late 17th century, European adventurers and explorers passed through. The lands were claimed nominally by England which granted the Hudson’s Bay Company, a company of fur traders’ operation of out London, control over a vast territory called Rupert’s Land, which included modern Manitoba. Aboriginal peoples continued to occupy the territory. In addition to the original First Nations, a new Aboriginal group, the Métis, arose—people descended from early unions between European adventurers and traders, and Aboriginal women. In the early days, the descendants of English-speaking parents were referred to as half-breeds, while those with French roots were called Métis.

[22] A large—by the standards of the time—settlement developed at the forks of the Red and Assiniboine Rivers on land granted to Lord Selkirk by the Hudson’s Bay Company in 1811. By 1869, the settlement consisted of 12,000 people, under the governance of Hudson’s Bay Company.

[23] In 1869, the Red River Settlement was a vibrant community, with a free enterprise system and established judicial and civic institutions, centred on the retail stores, hotels, trading undertakings and saloons of what is now downtown Winnipeg. The Métis were the dominant demographic group in the Settlement, comprising around 85 percent of the population [approximately 10,000 Métis], and held leadership positions in business, church and government.”

The fur trade was vital to the ethnogenesis of the Métis Nation and was active in Manitoba from at least the late 1770s, and numerous posts and outposts were established along cart trails and waterways throughout the province. These trails and waterways were crucial transportation networks for the fur trade (Jones 2014; Figure 1) and were the foundation of the Manitoba Métis’ extensive use of the lands and waters throughout the province. In the early 20th century, the Manitoba Métis continued to significantly participate in the commercial fisheries and in trapping activities, which is well documented in Provincial government records.



Fur Trade Routes and Trading Posts, pre 1870

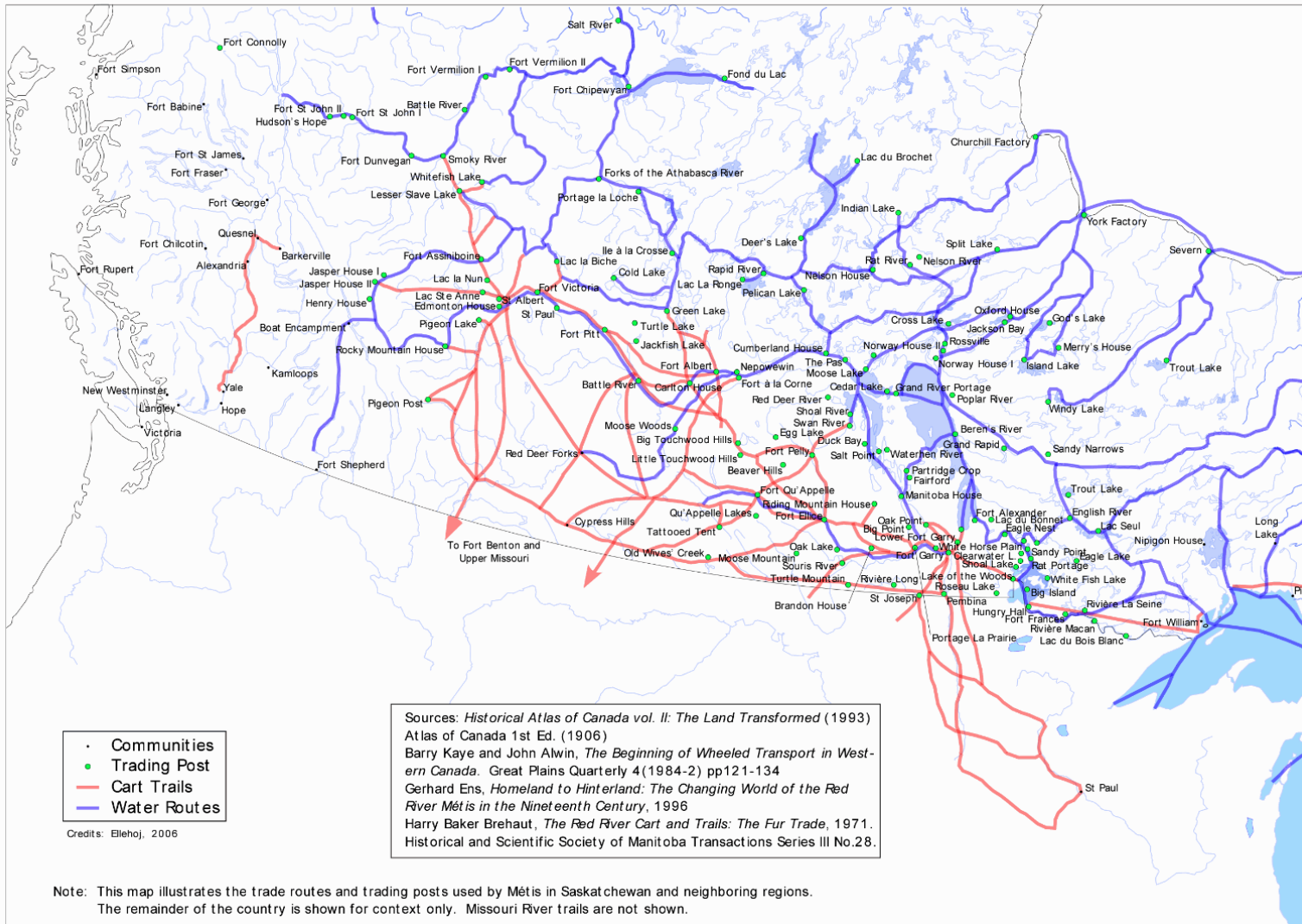


Figure 3. The Fur Trade Network: Routes and Posts Prior to 1870



2.2 Manitoba Métis Federation

The MMF is the democratically elected government of the Manitoba Métis, also known as the Red River Métis. The MMF is duly authorized by Manitoba Métis Citizens to promote, protect and work to benefit their collective rights, claims, and interests, including conducting consultations and negotiating accommodations (as per MMF Resolution No. 8). While the MMF was initially formed in 1967, its origins lie in the 18th century with the birth of the Manitoba Métis and in the legal and political structures that developed with it. Since the birth of the Red River Métis, the Manitoba Métis—within the larger Métis Homeland—have asserted and exercised its inherent right of self-government. For the last 50 years, the MMF has represented the Manitoba Métis at the provincial and national levels.

During this same period, the MMF has built a sophisticated, democratic, and effective Métis governance structure that represents the Manitoba Métis. The MMF was created to be the self-government representative of the Manitoba Métis—as reflected in the Preamble of the MMF’s Constitution (also known as the MMF Bylaws):

“WHEREAS, the Manitoba Métis Federation Inc. has been created to be the democratic and self-governing representative body of the Manitoba Métis.”

In addition, the purpose “to provide responsible and accountable governance on behalf of the Manitoba Métis using the constitutional authorities delegated by its Citizens” is embedded within the MMF’s objectives, as set out in the MMF Constitution as follows:

“To promote and instill pride in the history and culture of the Métis people.

To educate members with respect to their legal, political, social and other rights.

To promote the participation and representation of the Métis people in key political and economic bodies and organizations.

To promote the political, legal, social and economic interests and rights of its Citizens.

To provide responsible and accountable governance on behalf of the Manitoba Métis community using the constitutional authorities delegated by its members.”

The MMF is organized and operated based on centralized democratic principles, some key aspects of which are described below.

President: The President is the leader and spokesperson of the MMF. The President is elected in a province-wide ballot-box election every four years and is responsible for overseeing the day-to-day operations of the MMF.



Cabinet: The MMF Cabinet leads, manages, and guides the policies, objectives, and strategic direction of the MMF and its subsidiaries. All 23 MMF Cabinet Members are democratically elected by Manitoba Métis Citizens.

Regions: The MMF is organized into seven regional associations or "Regions" throughout the province (Figure 4): The Southeast Region, the Winnipeg Region, the Southwest Region, the Interlake Region, the Northwest Region, the Pas Region, and the Thompson Region. Each Region is administered by a Vice-President and two executive officers, all of whom sit on the MMF's Cabinet. Each Region has an office which delivers programs and services to their specific geographic area.

Locals: Within each Region are various area-specific "Locals" which are administered by a chairperson, a vice-chairperson and a secretary-treasurer. Locals must have at least nine Manitoba Métis Citizens and meet at least four times a year to remain active. There are approximately 140 MMF Locals across Manitoba.

It should be noted that, there is only one large, geographically dispersed, Manitoba Métis. Manitoba Métis Citizens live, work, and exercise their section 35 rights throughout and beyond the province of Manitoba.



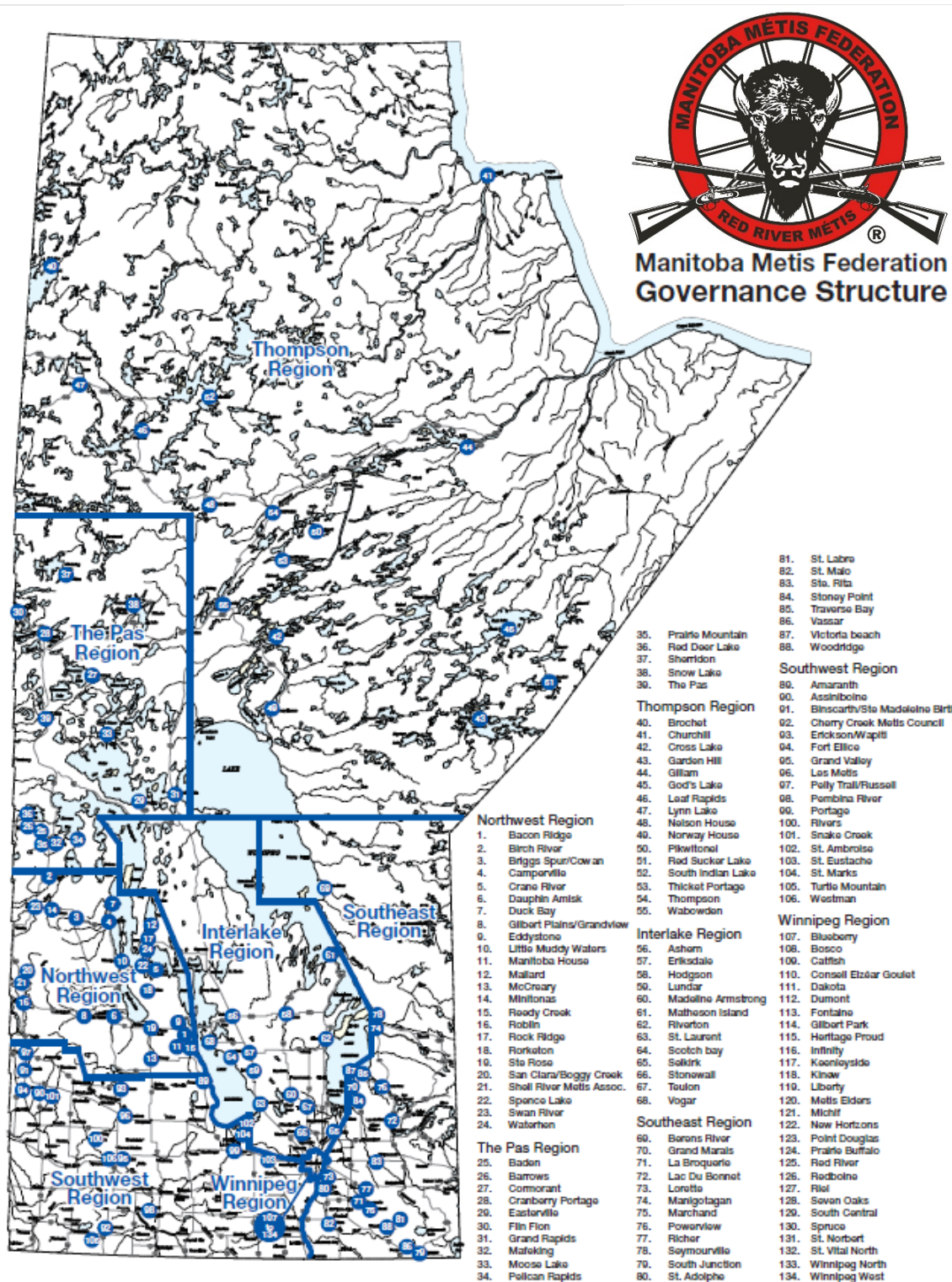


Figure 4. Manitoba Métis Federation (MMF) Regions



2.3 MMF Resolution No. 8

Among its many responsibilities, the MMF is authorized to protect the Aboriginal rights, claims, and interests of the Manitoba Métis, including those related to harvesting, traditional culture, and economic development, among others.

In 2007, the MMF Annual General Assembly unanimously adopted Resolution No. 8 that sets out the framework for engagement, consultation, and accommodation to be followed by Federal and Provincial governments, industry, and others when making decisions and developing plans and projects that may impact the Manitoba Métis. Under MMF Resolution No. 8, direction has been provided by the Manitoba Métis for the MMF Home Office to take the lead and be the main contact on all consultation undertaken with the Manitoba Métis. Resolution No. 8 reads, in part that:

“...this assembly continue[s] to give the direction to the Provincial Home Office to take the lead and be the main contact on all consultations affecting the Métis community and to work closely with the Regions and Locals to ensure governments and industry abide by environmental and constitutional obligations to the Métis...”

The MMF Home Office works closely with the Regions and Locals to ensure the rights, interests, and perspective of the Manitoba Métis are effectively represented in matters related to consultation and accommodation.

Resolution No. 8 has five phases:

Phase 1: Notice and Response

Phase 2: Funding and Capacity

Phase 3: Engagement or Consultation

Phase 4: Partnership and Accommodation

Phase 5: Implementation

Each phase is an integral part of the Resolution No. 8 framework and proceeds logically through the stages of consultation.

2.4 Manitoba Métis Rights, Claims, and Interests

The Manitoba Métis possess Aboriginal rights, including pre-existing Aboriginal collective rights and interests in lands, recognized and affirmed by section 35 of the *Constitution Act, 1982*. The Manitoba court recognized these pre-existing, collectively held Métis rights in *R. v. Goodon* (at paras. 58; 72):

“I conclude that there remains a contemporary community in southwest Manitoba that continues many of the traditional practices and customs of the Métis people.



I have determined that the rights-bearing community is an area of southwestern Manitoba that includes the City of Winnipeg south to the U.S. border and west to the Saskatchewan border.”

As affirmed by the Supreme Court of Canada, such rights are “recognize[d] as part of the special aboriginal relationship to the land” (*R. v. Powley*, 2003 SCC 43, at para. 50) and are grounded on a “communal Aboriginal interest in the land that is integral to the nature of the Métis distinctive community and their relationship to the land” (*MMF v. Canada*, at para. 5). Importantly, courts have also recognized that Métis harvesting rights may not be limited to Unoccupied Crown Lands (*R. v. Kelley*, 2007 ABQB 41, para. 65).

The Crown, as represented by the Manitoba government, has recognized some aspects of the Manitoba Métis’ harvesting rights through a negotiated agreement: The *MMF-Manitoba Points of Agreement on Métis Harvesting* (2012) (the *MMF-Manitoba Harvesting Agreement*). This Agreement was signed at the MMF’s 44th Annual General Assembly and “recognizes that collectively-held Métis Harvesting Rights, within the meaning of section 35 of the *Constitution Act, 1982*, exist within the [Recognized Métis Harvesting Zone], and that these rights may be exercised by Manitoba Métis Rights Holders consistent with Métis customs, practices and traditions...” (*MMF-Manitoba Harvesting Agreement*, section 1). In particular, the *MMF-Manitoba Harvesting Agreement* recognizes that Métis rights include “hunting, trapping, fishing and gathering for food and domestic use, including for social and ceremonial purposes and for greater certainty, Métis harvesting includes the harvest of timber for domestic purposes” throughout an area spanning approximately 169,584 km² (the “Métis Recognized Harvesting Area”) (*MMF-Manitoba Harvesting Agreement*, section 2; Figure 5 below). The MMF further asserts Manitoba Métis rights and interests beyond this area, which require consultation and accommodation as well.

Beyond those rights already established through litigation and recognized by agreements, the Manitoba Métis claims commercial and trade-related rights. Courts have noted that Métis claims to commercial rights remain outstanding (*R. v. Kelley* at para. 65). These claims are strong and well-founded in the historical record and the customs, practices, and traditions of the Manitoba Métis, and it is incumbent on the Crown and Proponents to take them seriously.

As noted above, the Manitoba Métis has its roots in the western fur trade (*R. v. Blais*, 2003 SCC 44 at para. 9; *R. v. Goodon* at para. 25). The Manitoba Métis are descendants of early unions between Aboriginal women and European traders (*MMF v. Canada* at para. 21). As a distinct Métis culture developed, the Métis took up trade as a key aspect of their way of life (*R. v. Powley* at para. 10). Many Métis became independent traders, acting as middlemen between First Nations and Europeans (*R. v. Goodon* at para. 30). Others ensured their subsistence and prosperity by trading resources they themselves hunted and gathered (*R. v. Goodon* at para. 31, 33, & 71). By the mid-19th century, the Manitoba Métis had developed the collective feeling that “the soil, the trade and the Government of the country [were] their birth rights.” (*R. v. Goodon* at para. 69(f)). Commerce and trade are, and always have been, integral to the distinctive culture of the Manitoba Métis. Today, the Manitoba Métis have an



Aboriginal, constitutionally protected right to continue this trading tradition in modern ways to ensure that their distinct community will not only survive, but also flourish.

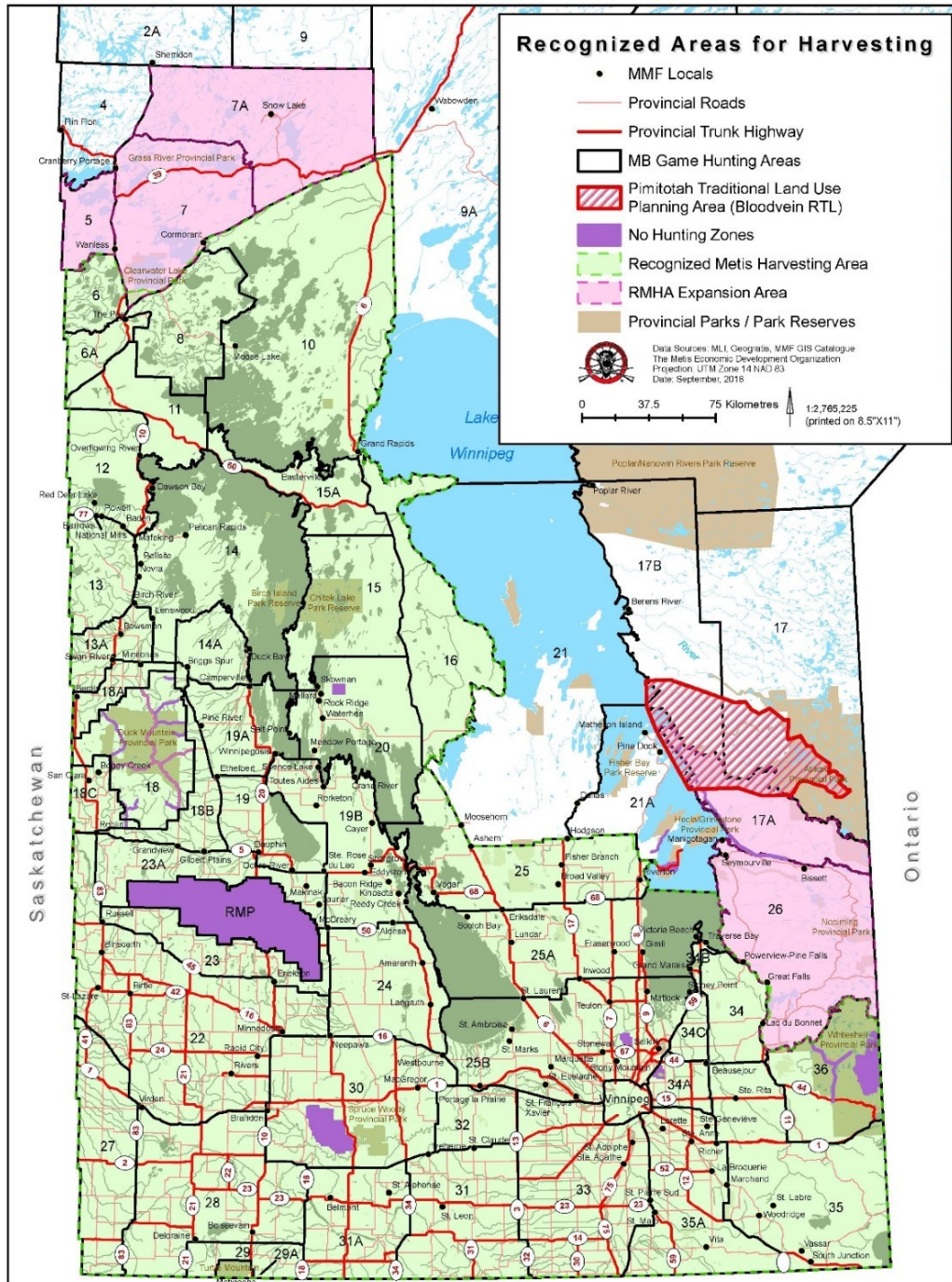


Figure 5. MMF–Manitoba Harvesting Agreement Recognized Manitoba Métis Harvesting Zones (Green and Pink)



Unlike First Nations in Manitoba, whose commercial rights were converted and modified by Treaties and the *Natural Resources Transfer Agreement (NRTA)* (*R. v. Horseman*, [1990] 1 SCR 901), the Métis' pre-existing customs, practices, and traditions—including as they relate to commerce and trade—were not affected by the *NRTA* (*R. v. Blais*) and continue to exist and be protected as Aboriginal rights. First Nations' Treaty rights in Manitoba are, for example, inherently limited by the Crown's power to take up lands (*Mikisew Cree First Nation v Canada (Minister of Canadian Heritage)*, [2005] 3 SCR 388 at para 56). Métis rights, in contrast, are not tempered by the "taking up" clauses found in historic treaties with First Nations. Métis rights must be respected as they are, distinct from First Nations' rights and unmodified by legislation or agreements.

In addition to the abovementioned rights to land use that preserve the Métis culture and way of life, the Manitoba Métis has other outstanding land related claims and interests with respect to lands. These include claims related to the federal Crown's constitutional promise to all Aboriginal peoples, including Manitoba Métis, as set out in the Order of Her Majesty in Council Admitting Rupert's Land and the North-Western Territory into the Union (the "1870 Order") which provides:

"that, upon the transference of the territories in question to the Canadian Government, the claims of the Indian tribes to compensation for lands required for purposes of settlement will be considered and settled in conformity with the equitable principles which have uniformly governed the British Crown in its dealings with the aborigines."

The manner in which the federal Crown implemented this constitutional promise owing to the Manitoba Métis—through the *Dominion Lands Act* and the resulting Métis scrip system—effectively defeated the purpose of the commitment. Accordingly, the MMF claims these federal Crown actions constituted a breach of the honour of the Crown, which demand negotiations and just settlement outside of the 'old postage stamp province' within Manitoba as well.

The MMF also claims that the *Dominion Lands Act* and the resulting Métis scrip system were incapable of extinguishing collectively held Métis title in specific locations where the Manitoba Métis are able to meet the legal test for Aboriginal title as set out by the Supreme Court of Canada. These areas in the province, which the Manitoba Métis exclusively occupied—as an Indigenous people—prior to the assertion of sovereignty, establish a pre-existing Métis ownership interest in these lands.

The Manitoba Métis also have an outstanding legal claim within what was the 'old postage stamp province' of Manitoba relating to the 1.4 million acres of land promised to the children of the Métis living in the Red River Valley, as enshrined in section 31 of the *Manitoba Act, 1870* (*MMF v. Canada* at para 154).

This land promised was a nation-building, constitutional compact that was meant to secure a "lasting place in the new province [of Manitoba]" for future generations of the Métis people (*MMF v. Canada* at para 5). This "lasting place" was to have been achieved by providing the Manitoba Métis a "head start" in securing lands in the heart of the new province (*MMF v. Canada* at paras 5-6).

Instead, the federal Crown was not diligent in its implementation of section 31, which effectively defeated the purpose of the constitutional compact.



In March 2013, the Supreme Court of Canada found that the federal Crown failed to diligently and purposefully implement the Métis land grant provision set out in section 31 of the *Manitoba Act, 1870* (*MMF v. Canada* at para 154). This constituted a breach of the honour of the Crown. In arriving at this legal conclusion, the Court wrote:

“What is at issue is a constitutional grievance going back almost a century and a half. So long as the issue remains outstanding, the goal of reconciliation and constitutional harmony, recognized in s. 35 of the Constitution Act, 1982 and underlying s. 31 of the Manitoba Act, remains unachieved. The ongoing rift in the national fabric that s. 31 was adopted to cure remains unremedied. The unfinished business of reconciliation of the Métis people with Canadian sovereignty is a matter of national and constitutional import.” (*MMF v. Canada* at para 140)

This constitutional breach is an outstanding Manitoba Métis claim flowing from a judicially recognized common law obligation which burdens the federal Crown (*MMF v. Canada* at paras 156; 212). It can only be resolved through good faith negotiations and a just settlement for the Manitoba Métis with the MMF (see for example: *R v Sparrow*, [1990] 1 SCR 1075 at paras 51–53; *R v Van der Peet*, [1996] 2 SCR 507 at paras 229, 253; *Haida* at para 20; *Carrier Sekani* at para 32). Lands both within the ‘old postage stamp province’ as well as in other parts of Manitoba—since little Crown lands remain within the ‘old postage stamp province’—may need to be considered as part of any future negotiations and settlement in fulfillment of the promise of 1.4 million acres, together with appropriate compensation.

On November 15, 2016, the MMF and Canada concluded a *Framework Agreement for Advancing Reconciliation* (the “Framework Agreement”). The Framework Agreement established a negotiation process aimed, among other things, at finding a shared solution regarding the Supreme Court of Canada’s decision in *MMF v. Canada* and advancing the process of reconciliation between the Crown and the Manitoba Métis. It provides for negotiations on various topics including, but not limited to, the “quantum, selection and management of potential settlement lands.” Negotiations under the Framework Agreement are active and ongoing.

The Framework Agreement further provided guidance on the process to negotiate the MMF Self-Government Recognition and Implementation Agreement. On July 6, 2021, Canada and the MMF signed Canada’s first Métis self-government agreement that gives immediate recognition to an existing Métis government. This Agreement will be followed by a Treaty between the MMF and Canada.



3.0 Review Findings

Overall, our review of the 2020 Regulatory Oversight Report showed that there has been some incorporation of our previous comments and beneficial improvement in the ROR process. Of significant note is the addition of a plain-language summary, which allows this ROR to be more transparent and inclusive to a wide audience to review and participate in the regulatory process. The following provides a summary of the overall concerns and recommendations of the ROR, however, our detailed comments and recommendations can be found in Appendix A.

3.1 Summary of ROR Sections Relevant to Whiteshell Laboratories

Regulatory compliance inspections were impacted in 2020 by COVID-19 restrictions. As a direct result, no in-person compliance inspections were conducted by CNSC staff in 2020. While CNL relies on international standards and its internal reporting system to maintain safety and security, CNSC relied on virtual compliance assessment and desktop review of CNL reporting. Based on this work CNSC has rated all 14 of the 14 Safety and Control Areas (SCAs), which it uses to assess performance, at Whiteshell as “satisfactory.” This contrasts with ROR assessments in 2018 and 2019, which assessed the *Security* SCA as “below expectation”. The MMF is concerned with the assessment approach which CNSC uses to fulfill its performance assessment requirements, as it relies heavily on the reporting of the Proponent (CNL), to provide sufficient compliance data. This reliance on CNL’s self-reporting data was increased in 2020 due to COVID restrictions.

3.1.1 Métis Engagement

In 2020, engagement with the MMF by CNSC focused on consultation and accommodation commitments and obligations, as well as continuing to build relationships. These efforts are viewed as important steps forward, improving communication and transparency, however, these steps should be viewed as an ongoing process between the CNSC, CNL and the MMF. The CNSC must be proactive in engaging with the MMF about planning processes for projects, rather than informing us of decisions that are made. Further, the CNSC should, through conditions in site operating licences, encourage direct input from Métis Citizens in decisions that will impact the long-term future of the WL site. Finally, the CNSC should continue to engage with the MMF to identify methods of including MMF participation in monitoring as an important component of improving the IEMP.

3.1.2 Regulatory Compliance

Canadian Nuclear Safety Commission relied on the use of remote compliance verification activities in 2020 to assess regulatory compliance of the WL site. Overall, we find that the information provided in the ROR explaining how the remote assessment was conducted, and the limitations of such assessment



in comparison to in-person inspection, was deficient. We recognize the challenges the CNSC faced in limiting staff health risks due to COVID-19, however, it is important to identify how the assessment was impacted as a result of these changes. In addition to the overall assessment of the SCAs, CNSC should describe instances where regulatory monitoring information is either insufficient or limited due to the need to conduct remote compliance verification.

The ROR continues to refer to and draw information from the original Comprehensive Study Report for the WL site. The Comprehensive Study Report is now more than 20 years old and must be updated given the significant physical changes which have taken place during decommissioning. This new Comprehensive Study Report should focus on the remaining hazards and potential dose to the public and potential future users of the land, especially the Manitoba Métis.

In 2018 and 2019, Safety Control Areas (SCA) rating for Security at the WL site had a “below expectations”. To address this rating, CNL was to put in place an action plan. There is a lack of clarity regarding what it means for the Security SCA to be below expectations, including if there are any risks or implications that the MMF needs to be aware of given the active harvesting and land use by the Métis Community happening around the site. Further in 2020, CNSC rated Security at the WL as “satisfactory”, meeting CNSC’s expected condition for this SCA. MMF is concerned about the ability of CNSC staff to adequately evaluate and subsequently revise the status of this SCA, without having conducted in-person inspections in 2020. If CNSC does indeed feel an improved SCA rating for Security is warranted at the WL site, CNSC should provide substantially more information regarding the rationale and indicators used.

3.1.3 Environmental Monitoring

CNL, as part of its license requirements for the WL sites, conducts ongoing monitoring of releases of radioactive and hazardous substances to the air, water and soil near the WL site. Additionally, CNSC conducts monitoring activities through an Independent Environmental Monitoring Program (IEMP). Through this program, CNSC staff gather samples of air, water, sediment, soil, plants, and food from areas near the WL site. These samples are analyzed for radiological and non-radiological contaminants, to verify and confirm that licensees’ environmental protection and monitoring programs are effective. However, again, the IEMP did not conduct independent environmental monitoring around the WL site in 2020, and further, CNSC staff did not conduct independent environmental monitoring at the WL site in 2019 either. As a result, a significant gap of independent environmental data is widening, reducing the ability of CNSC to verify the effectiveness of CNL’s environmental management efforts. We believe that this is an area that is essential to adequately evaluate WL operations. The MMF requests that CNSC provides the date for the next IEMP, and strongly encourages the CNSC to engage the MMF in having a more active role in the IEMP at the WL site, similar to what has been carried out between the CSNC and AOO at the NPD site.

As of 2016, CNL began reporting levels of uranium, plutonium, americium, strontium-90 and cesium-137 released to surface waters. The release of uranium and americium is not surprising given the state of



operations at the WL site. However, the release of plutonium is unexpected, given that it is a nuclear fission product. At WL, the receiving environment is the Winnipeg River which flows to Lake Winnipeg. Although the amounts are well below the Derived Release Limits, it is unclear where these particular radionuclides, especially plutonium, are coming from in the wastewater measurements. As a result, these releases are of significant concern to Red River Métis Citizens that fish in the river, and fish caught commercially in Lake Winnipeg, could be impacted. CNSC should discuss the source of these nuclides on the WL site and if it is possible to remove the source or contain the nuclides by isolating the source. Without these controls, these releases will extend well into the future for uranium, plutonium, and americium isotopes. Where sufficient information is not available, further monitoring and investigation are required to identify the sources.

3.1.4 Decommissioning and Long-Term Waste Storage

The MMF is particularly interested in the CNL's current decommissioning activities at the WL site, as well as plans for the site, given that Métis Citizens currently exercise their Aboriginal rights and conduct harvesting activities within 100 m of the site, including use of downstream areas of the Winnipeg River. This proximity of land use to the site by the Métis Community means that it is vitally important that CNL, AECL, and the CNSC provide information to the MMF promptly regarding the current decommissioning activities and plans for the site. CNL, and AECL and the CNSC representing the Crown, must engage the MMF in developing a mutually agreeable Communication Strategy for the current site decommissioning activities. This strategy should include a process to inform the MMF on an ongoing basis about decommissioning and demolition activities, potential adverse effects, as well as a process for shared decision-making. The MMF as the democratically elected, self-government representative of the Red River Métis Community, must be meaningfully involved in the determination of the plans for the WL site alongside CNL and AECL. This would include, among other things, requiring the consideration and integration of Métis traditional knowledge, land use, and occupancy information at and around the site in the monitoring and mitigation measures and plans, including during closure and post-closure periods.

A critical aspect of CNL and AECL's plans for decommissioning the WL site is ensuring sufficient waste storage space is available at the AECL-owned Chalk River site (the expected destination for the waste) for contaminated materials removed from the AECL-owned WL site. However, no discussion or analysis of the availability/suitability of storage at the AECL-owned Chalk River site is provided in the RORs. Furthermore, there is no discussion or analysis of alternative methods for transporting the waste. These plans are highly relevant to the oversight of the WL site as they will determine the nature and level of risk for future management of the site. While CNL is considering a possible In-Situ Decommissioning (ISD) plan for the WL site, this plan has not yet been approved by CNSC. Regulatory oversight and the ROR must align with the existing and currently licensed plan, not a potential future approach that has not yet been approved. The CNSC must provide additional information regarding the suitability of CNL's plans to transport and store low- and intermediate-level waste at Chalk River Laboratories in Ontario. The feasibility of these transport and long-term storage plans are of utmost importance in decision



making and management of the WL site and will impact the ability and confidence of the Métis Community to utilize the site in the future.

The MMF requests that CNSC, CNL, and AECL thoroughly review the issues and recommendations that have been brought forward by the MMF in previous ROR and other reviews regarding the decommissioning of the WL site. We believe that it is incumbent on the CNSC to do so to uphold the Crown's duty to consult and accommodate under the honour of the Crown which further outlines the goal of advancing reconciliation with the Red River Métis. The MMF acknowledges that the CNSC, CNL, and AECL have already communicated and engaged with the MMF on these matters to some degree. However, unaddressed issues are remaining that the CNSC, CNL, and AECL must address in future planning and decision making regarding the WL site.

4.0 Conclusions and Recommendations

The MMF recognizes the improvements CNSC has made to the ROR process, as well as the limitations it has had to overcome in conducting oversight of the WL site given COVID public health restrictions. However, overall, the MMF is concerned regarding the effectiveness of the 2020 assessment of the WL site, which was conducted largely based on remote compliance assessment activities, with little independent or third-party analysis. As a result, it is recommended that CNSC provide additional information regarding how remote compliance assessment activities were conducted, as well as detailed limitations of these remote assessments relative to in-person inspection by CNSC staff.

The ROR process overall continues to rely heavily on monitoring data collected by CNL. We believe that CNSC must increase the amount of information collected by independent or third parties, as a means of monitoring and compliance verification. The MMF collects high-quality environmental and culturally relevant information in the area surrounding the WL site, which should be included in the independent evaluation of WL compliance. The MMF is interested in having a more active role in the independent assessment and contributing to the decision-making at the WL site, similar to what has been carried out between the CSNC and Algonquins of Ontario at the NPD site. This would facilitate a process to consider and address the MMF's stated concerns regarding outstanding impacts on the Métis Community, the exercise of Métis stewardship rights and obligations, and the need to incorporate Métis traditional knowledge into monitoring and decommissioning plans and activities.

5.0 References

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Appendix A – Specific Comments 2020 Regulatory Oversight Report (CNL)

Comment Number	Section/Reference	MMF Comment	MMF Request
GENERAL COMMENTS			
1	General Comment	<p>The ROR process does not adequately acknowledge, recognize, or account for the rights, claims, and interests held by the Métis Community that are established and protected under s. 35 of the Constitution Act, 1982. The Métis Community’s constitutionally protected rights to the territory in which the WL site is situated are a crucial distinction between the Métis Community and the general public or other stakeholders.</p> <p>Although the wording in the 2020 ROR for Canadian Nuclear Laboratories Sites suggests that CNL has met its regulatory obligations for Indigenous Engagement and has satisfied the CNSC requirements, it is unclear how obligations for Crown consultation, and where appropriate, accommodations, are included in this process.</p> <p>Although the CNSC suggests that CNL engaged the Métis Community through a more targeted approach, it is not clear if or how the described letters, phone calls, meetings, and e-mail correspondence, site visits</p>	<p>The CNSC, as a representative of the Crown, must require and ensure engagement, consultation, and accommodation processes, and deliverables such as plans, applications, and assessments, are developed in collaboration with the MMF and revised to reflect the MMF’s input. The CNSC should use a distinctions-based approach for consultation and accommodation, an approach that explicitly recognizes and accounts for the distinct rights, claims, and interests of the Red River Métis, as well as its significant history with the WL site and connection to the land. The CNSC must consult MMF, as the democratically elected self-government representative of the Red River Métis, on how they would like to be engaged in these processes on an ongoing basis to ensure the rights, claims, and interests of the Métis Community are adequately considered and, where required, accommodated.</p>



		<p>and tours, and workshops were distinct from the approach taken with the general public and First Nations to account for the unique rights of the Métis Community. It is also unclear what the outcomes and results were from the above engagement methods with respect to the Crown's obligations, including if the Crown has effectively addressed or accommodated any issues the MMF has concerning the WL site. As previously noted in other MMF reports regarding the WL site and proposed decommissioning activities, while positive relationships with CNL have developed recently, there are still outstanding issues and concerns that remain unresolved.</p> <p>Where there are Crown actions or decisions that have the potential to impact constitutionally protected rights, claims, or interests of the Métis Community, a meaningful consultation process to address these impacts and concerns is required. While "engagement" may be a best practice, consultation is legally required in these circumstances. While the Crown can rely on boards, agencies or commissions to discharge its duty to consult and accommodate, the responsibility for discharging the duty and upholding the honour of the Crown always remains with the Crown. No matter what process or entity is relied on to fulfill the duty, consultation and accommodation with respect to Métis rights and interests involving the</p>	<p>In cases where impacts to the rights, claims and interests of the Métis Community cannot be avoided or mitigated, accommodations must be provided. The MMF must be consulted regarding the development of accommodation measures, where required, as part of fulfilling the duty to consult and accommodate. Such impacts to rights and interests could include but are not limited to, instances such as a reduced ability to use or access the land in restricted-access areas in and around the WL site, the timing of decommissioning activities that result in disruption to Métis harvesting practices or seasons, and decisions related to remediation or reclamation that affect whether native species or plants relied on by Métis harvesters are reintroduced into the area. Additionally, accommodations must be provided if wildlife or plant materials are found to be contaminated, impacting the ability of the Métis Community to exercise their rights to harvest and consume wild and traditional foods and medicines that are below thresholds considered safe for human consumption at a frequency that is appropriate for Citizens to exercise their rights.</p> <p>We recommend the following measures be implemented to ensure more meaningful</p>
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		<p>WL site activities, plans and impacts must be meaningfully undertaken.</p> <p>Additionally, in the current ROR process, CNSC staff are reporting on CNSC staff performance and licensee performance, which could lead to potential unintentional biases in the regulatory oversight process. There is always a possibility that CNSC staff may unintentionally interpret licensee actions in the best light possible, as a result of their unconscious biases. Third-party audits must take place to eliminate the risk of conflicts of interest and biases in the ROR process.</p>	<p>consideration of the rights, claims, and interests of the Métis Community:</p> <p>Establish a Communication Protocol for informing the MMF of any regulatory oversight activities happening within the Métis Homeland. Such a protocol should include clear timelines and processes that not only inform the MMF but solicit our feedback and allow for modification to the planned activities in light of information and concerns raised by the MMF. Joint decision-making opportunities should be built into this process wherever possible.</p> <p>Provide adequate capacity support for the MMF to meaningfully participate in regulatory oversight programs, for example, by funding a Métis Liaison position within the MMF or an Indigenous oversight committee.</p> <p>Develop policy guidance collaboratively with the MMF around the integration of Métis Traditional Knowledge, land, and resource use into the CNSC’s regulatory oversight programs, and AECL’s site ownership and decision-making roles, including licensing requirements. This should include how Métis Traditional Knowledge will be used to inform ongoing monitoring, environmental protection and remediation or</p>
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			<p>reclamation activities in institutional and post-institutional control periods.</p> <p>Provide the MMF with the opportunity to be involved in all aspects of regulatory oversight, and safety and control framework activities, including, but not limited to, the following:</p> <ul style="list-style-type: none"> (i) environmental protection programs (ii) emergency planning and response (iii) transportation route planning <p>Set out requirements within the Safety and Control Framework that compel facility operators to meaningfully involve the MMF in all aspects of the management system.</p> <p>CNL and AECL must engage the MMF to establish a decision-making process and framework that enables the MMF, to be meaningfully involved in the determination of the plans for the WL site alongside CNL and AECL.</p> <p>CNL, and AECL representing the Crown site owner, must engage the MMF to establish formal long-term relationship agreements (LTRAs) or similar agreements that enable the MMF, as the democratically elected, self-</p>
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			<p>government representatives of the Métis Community, to address all of the following recommendations concerning the operation of the WL site, and all future decommissioning activities. Moreover, CNL and AECL must consult with the MMF regarding these plans so that Métis traditional knowledge, the exercise of Métis rights, and Métis land use information can be considered and incorporated into the plans during closure and post-closure periods.</p> <p>A third party must be responsible for providing audits and third-party reviews on licensee performance as part of the ROR process, to allow for a truly independent and unbiased assessment and adjudication of CNSC and licensee performance.</p>
2	General Comment	The MMF is disheartened to find that the data from their community-based water quality sampling program was present or considered in the Regulatory Oversight Report for Canadian Nuclear Laboratories Sites: 2020 Report.	<p>The MMF requests that CSNC clarify if the data from the community-based water quality sampling program was considered or incorporated into the report in any way.</p> <p>If not, the MMF requests an explanation and that the data be incorporated going forward.</p>
3	Page 2 – Plain Language Summary	“CNSC staff’s work to ensure safety and protection of people and the environment”. The performance of CNL’s management of sites such as Whiteshell is assessed in these RORs by CNSC staff, however how effective that approach is and whether staff are	The CNSC should seriously consider using a third party to examine the ROR process and how well staff evaluate CNL performance. IAEA inspections are for the sites only and not the full CNSC evaluation process. An independent



		accurately evaluating CNL performance is open to question. This affects the credibility of the ROR evaluation process.	auditor should help improve the credibility of the process with the public.
4	Page 2 – Plain Language Summary	“In 2020, CNSC staff performed a total of 15 inspections across the CNL sites.” There was no inspection at WL in 2020.	The lack of CNSC inspection at WL in 2020 should be acknowledged here as the later evaluations in the report rely entirely on desktop evaluations that are not as strong as on-site inspections.
5	Page 7 Whiteshell Laboratories	In the site description, there should be an acknowledgement that the site is on traditional and/or treaty territories.	This information should be added to the site summary.
MÉTIS ENGAGEMENT			
6	Page 3 – Indigenous Engagement - Plain Language Summary	“In 2020, the activities undertaken by CNSC staff supported their ongoing commitment to meeting consultation and accommodation obligations, and to continuing to build relationships with Indigenous peoples in proximity to CNL sites.” Efforts to improve communication and transparency in the review process are good but should be continuing to improve. Efforts to incorporate input from the MMF should start much sooner in project design and development.	Given the use of the land by MMF Citizens and the need to leave the land in pristine shape at the end of decommissioning, MMF input should be an integral part of land use planning and the definition and condition of the site in its final state. The CNSC should ensure that input is present in all planning phases of decommissioning.
7	Page 30 – Section 5.2.1 CNSC Public Engagement	“CNSC staff also seek out other opportunities to engage with the public and Indigenous groups, often participating in meetings or events in communities with interest in nuclear sites.” This is the minimum of	The CNSC should encourage through site operating licences and other means to include MMF Citizens, as potential future land users, in



		public outreach that should be conducted by CNSC staff. Greater efforts should be encouraged by the CNSC to include the MMF in the planning process for projects, rather than informing them after completion of the project.	the planning and design of projects with long-term time frames.
8	Page 33 – Section 5.3.1 CNSC Indigenous Consultation and Engagement	“As environmental monitoring is often a topic of interest, CNSC staff have increasingly involved Indigenous groups in the IEMP.”	This is one area that the MMF is willing to participate and will continue to be involved. It is important that the IEMP review its sampling program and significantly improve the design (e.g., sampling types, numbers, locations and analysis) for any future work at WL.
9	Pg 1 – Changes to the ROR reports	The changes to the ROR are appreciated, in particular the acknowledgement of traditional lands and the use of a plain-language summary. The binary rating system can be improved for situations where neither option is best (see note below). Much of the oversight by the CNSC in 2020, and probably 2021, was by “document review” only which raises questions about how effective the process was. All further comments relate specifically to the Whiteshell laboratories site.	The changes mentioned should also include a recognition that the regulated companies (e.g., CNL) should also follow similar steps in interacting with indigenous groups and in communicating with the public. The recognition of traditional lands and plain language summaries in all reports should be mandatory.
REGULATORY COMPLIANCE			



10	Page 14 – Regulatory Activities	“While remote compliance verification activities were leveraged to the extent possible, the reduction in compliance effort can be directly attributed to the lower number of on-site compliance activities because of health and safety-related restrictions implemented in response to the COVID-19 pandemic...”. It is not clear how these staffing changes relate to compliance inspections at WL. Is there an assessment of whether these changes had an impact on the management of the WL site?	Section 5.5 mentions that oversight of the sites, including WL, was conducted by “(remote inspections and verification methods, desktop review of documents and licensee submissions, etc.)”. More details of how these changes related to WL, which had no on-site inspections in 2020, should be provided. Please define “remote compliance verification activities”.
11	Page 15 - Section 3.2 Performance Ratings	“For 2020, the ratings that were used for CNL sites were either “satisfactory” (SA) or “below expectations” (BE).” There needs to be another category of NA (not available) or NP (not possible). Due to COVID, inspections and regular review of site operations were disrupted, compromising the information that the CNSC needs for performance rating assessment.	Consider expanding the options to include situations in which not enough high-quality information is available to make a valid assessment of the performance at a site.
12	Page 16 - Section 4.2 Human Performance Management	Does this SCA section include educating staff on the need to include input from the public, including the MMF community, on the end state and assessment of the site?	In addition to acknowledging land ownership, the CNSC should ensure that steps are taken within CNL to include input by potential land users, such as the MMF.
13	Page 18 – Section 4.7.1 Application of ALARA	“collective occupational dose of the proposed accelerated decommissioning compared to the deferred decommissioning assessed in the original Comprehensive Study Report.” The CSR for WL is 20+ years old and needs to be updated, given the large	There needs to be an update to the WL CSR to include the impacts of decommissioning, particularly in light of the possible in situ placement of WR-1. The focus of the update needs to be on remaining hazards and the



		physical changes that have taken place during decommissioning.	potential dose to the public and potential future users of the land.
14	Page 18 – Section 4.7.2 Worker Dose Control	“Workers, whose job functions do not present a reasonable probability of receiving an occupational dose greater than 1 mSv/y are considered non-NEWs.”	Please clarify if MMF Citizens that might work on the WL site have the same occupational dose limits as the general public.
15	Page 23 – Section 4.9.5 Environmental Risk Assessment	“CNSC staff received the ERA for the lagoon and landfill areas in 2021 and are expecting to receive a site-wide ERA in 2022.”. This provides an excellent opportunity for the MMF citizens to be included in the ERA process to ensure that VECs of importance to the community are explicitly considered.	MMF Citizens should be included in the development of ERA models and ensure valued species are included. MMF Citizens should also be included in the development of human health exposure and dose assessment models.
16	Page 27 – Section 4.12 Security	WL security was considered to be deficient in 2018 and 2019 and then judged to be “Satisfactory” in 2020, without any site inspection. Was this based solely on a “corrective action plan” and “Based on information provided by CNL,”?	More plain-language details of the nature of the deficiency and corrective actions need to be supplied.
17	Page 51 – Table E-2: List of CNSC led inspections at WL	No site inspections at WL in 2020 (and presumably the first half of 2021).	Were any special activities put in place by the CNSC to ensure that the equivalent of inspections took place at WL? Was the MMF informed of these alternative activities to ensure that conditions remained safe at WL? Additionally, the MMF should be provided with the opportunity to present Metis-specific recommendations for these alternative activities.



18	Page 61 – Table H-2: Safety and control area summary, WL, 2016-2020	<p>The Safety Control Areas (SCA) rating for Security at the WL site had a “below expectations” rating in 2018 and 2019. There is a lack of clarity regarding what it means for the Security SCA to be below expectations, including if there are any risks or implications that the MMF needs to be aware of given the active harvesting and land use by the Métis Community happening around the site. The nature of security issues that prompted the low SCA rating and the reasoning for the enforcement action order made in 2018 and associated with the low rating is not reported in the ROR and has still not been provided to the MMF to our knowledge. Without this information, it is unclear if or how the enforcement action order may have or will impact the Métis Community, or how the enforcement action was addressed by CNL or attended to by AECL as the site owner. This information is particularly important given the continuing below-expectations performance of the security SCA at WL site again in 2019, and the evidence that Métis Citizens use and rely on the area of and surrounding the WL site to exercise their harvesting and other s.35 rights. Security at the site has a direct connection to access and as such any enforcement action orders related to security may impact Métis Citizens’ access to exercise their rights.</p>	<p>It is unlikely that CNSC staff can adequately evaluate the SCAs for WL with COVID restrictions and without a site inspection in 2020. A third option of “not enough information” or “not possible to evaluate” should be included.</p> <p>The CNSC must provide greater detail on what a below expectations score means for the Security SCA and what measures it requires CNL to take at the site to improve the security performance at the site. Additional information is required to determine if Métis rights and interests were considered in the security enforcement order and what impacts on the Métis Community may result that require additional or responding actions to address. This information would be facilitated by having a Communication Protocol in place, that could be used if there are any implications or risks for the Métis Community to be aware of, especially to alert Citizens who are active harvesters in the area about changes in access or other security measures they should be aware of.</p> <p>We recommend that the current rating system be enhanced to provide more transparent information on the criteria and decision-making process for the SCA ratings. The current definitions for the SCA ratings are vague at best</p>
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			<p>(e.g., satisfactory performance correlates to "compliance within the safety and control area or specific area meets requirements and CNSC's expectations." For each of the SCA ratings at a site, it should be clearly outlined how specifically each site has rated for each SCA, and what it constitutes to "meet CNSC's expectations". Additionally, it would be ideal to also consider the MMF's evaluation of performance for SCA ratings based on Métis Liaison observations (once a position has been established and funded) and on the MMF's perspectives of performance over the past year. Such a process would allow for a more robust and impartial evaluation process.</p> <p>As stated above, CNL, AECL and the CNSC must keep the MMF informed regarding enforcement actions and orders at the WL site to ensure any incidents that may have an impact on the rights, interests, and claims of the Métis Community are communicated to the MMF promptly so that the MMF and the Métis Community can respond accordingly to minimize risks or impacts on Métis Citizens. The MMF recognizes that there may be emergencies that require an immediate response from the CNSC, however, in other circumstances advance communication with the MMF regarding enforcement actions and orders that could potentially impact Métis Citizens and</p>
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			<p>s. 35 Métis rights is required. This could include sharing the results of inspections with the MMF and providing draft enforcement action orders to the MMF for review and comment regarding how the proposed action or order may affect Métis rights-holders.</p>
19	<p>Page 69 – Figure 1-2: Average and maximum effective dose to NEWs at WL from 2016-2020</p>	<p>Whiteshell Laboratories. The effective dose (mSv/y) for workers in Figure I-2 shows an increase from 2016 to 2020, and an annual maximum effective dose of roughly 3 in 2019 and 2020, the constraint dose to the public. Does the CNSC expect the doses to continue to increase and is there an explanation for the increase (e.g., decommissioning active buildings)? What is the explanation by CNL for the increase?</p> <p>This section uses a different standard (500 mSv/y for skin and extremities) than in the main text (50 mSv/y or 100 over 5 years). There is no explanation as to what accounts for the dose to hands and feet and why this is significant. It follows that whole-body dose, with an explanation of the reasons why the values are above background, is more useful.</p>	<p>More details of the exposure scenarios and reasons for increasing effective dose from 2016 to 2020 would be useful and should be included in the text for review.</p> <p>Specifically harvested materials through either dermal contact or ingestion scenarios would be helpful to elaborate on. Changes in aquatic or terrestrial concentrations that could directly impact culturally significant harvestable species. (ex. Fish, berries, other edible or medicinal plants, fungi etc.)</p> <p>This information would have to be appropriately communicated to Red River Metis land users of the area.</p>
ENVIRONMENTAL MONITORING OF WHITESHELL LABORATORIES SITE			



20	Page 2 – Plain Language Summary	“monitoring shows that the food grown nearby is safe to eat and that the water is safe to drink”. Is this based on the monitoring by CNL or by the CNSC’s IEMP program which is not effective?	Given the disruptions to schedules and work plans in 2020 due to COVID, there should be a statement here that there was no impact on routine monitoring and that this conclusion is based on sound monitoring programs.
21	Page 23 – Section 4.9.4 Independent Environmental Monitoring Program	This is an area in the CNSC that requires vast improvement. The IEMP sampling program at WL in 2017 was seriously below industry standards and was not performed in a manner consistent with verifying the CNL monitoring program (that is generally good).	The CNSC Independent Environmental Monitoring Program needs overall improvement and a serious effort made to improve operations to fulfill its objectives. The next sampling program at WL could be improved with input from the MMF.
22	Page 23 – Section 4.9.4 Independent Environmental Monitoring Program	<p>CNSC states that: “In 2020, CNSC staff did not conduct independent environmental monitoring around CNL sites as no activities were scheduled in 2020 as part of the IEMP plan.” The MMF recognize that the last IEMP at Whiteshell Laboratories occurred in 2017 and that Sagkeeng First Nation participated by sampling a Northern Pike from the Winnipeg River, caught downstream from the Whiteshell Laboratories site¹.</p> <p>Also, on CNSC’s website, they state that: “<i>The Algonquins of Ontario (AOO) also collaborated with the CNSC to provide locations and plants of interest for sampling. It is a priority for the CNSC that IEMP sampling reflects Indigenous traditional land use,</i></p>	<p>The MMF requests that CNSC provides the date for the next IEMP.</p> <p>The CNSC should engage the MMF in having a more active role in the IEMP at the WL site, similar to what has been carried out between the CSNC and AOO at the NPD site. This would facilitate a process to consider and address the MMF’s stated concerns regarding outstanding impacts on the Métis Community, the exercise of Métis stewardship rights and obligations, and the need to incorporate Métis traditional knowledge into monitoring and decommissioning plans and activities. This could include collaboratively developing sampling plans for the WL site with the MMF, integrating</p>

¹ <http://www.nuclearsafety.gc.ca/eng/resources/maps-of-nuclear-facilities/iemp/whiteshell.cfm#r2017>



		<p><i>values and knowledge where possible so that our IEMP results are meaningful for the community.</i></p> <p><i>CNSC staff collected water, soil and vegetation samples, and with the assistance of AOO Knowledge Holders also collected traditional food and medicinal plants such as sumac leaves and berries, balsam, white pine, wintergreen, choke cherries, wild sarsaparilla root, pearly everlasting and lichen samples.”²</i></p> <p>The work that the CNSC is doing to engage the Algonquins of Ontario at the NPD site noted above is positive and sets an excellent example of how the CNSC should be engaging with the Métis Community around the CNL sites. These are the kinds of opportunities the CNSC should pursue with the MMF concerning the CNL WL site.</p> <p>In contrast, Section 4 (Protection of Workers at Site) of the 2018 ROR is based on exposure limits for workers and does not account for exposure by Métis land users. Based on monitoring of radiation doses to workers on the WL site (Section 4.2 and Appendix E of the ROR), average and maximum effective doses to workers increased slightly since 2014 as work progressed and decommissioning activities increased. Although doses increased, the amounts are still far below the annual effective dose of 50 mSV. This is</p>	<p>MMF sites of importance into the sampling program, and having MMF harvesters accompany the CNSC in the sample collection around the WL site.</p> <p>In addition, CNSC and CNL should be required to provide safety reports to the MMF so that the MMF can monitor them and consider implications for the Métis Community and harvesters who will access and use the site to exercise their harvesting and other rights following decommissioning activities. This would increase transparency regarding the decommissioning activities and exposure doses, and allow the MMF to provide information and feedback from the perspective of the use of the land by the Métis Community and their rights and interests that can be considered in these reports.</p> <p>Due to the importance of natural resources for subsistence and cultural use by the Métis Community, it is critical that monitoring of relevant country food and medicinal plant tissues for radiological and non-radiological contaminants conducted by CNL, AECL and the CNSC occur in a manner that will detect any potential impacts on the natural resources that are used by the Métis Community. Moreover, as</p>
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² <http://www.nuclearsafety.gc.ca/eng/resources/maps-of-nuclear-facilities/iemp/cnl-nuclear-power-demonstration-waste-facility.cfm>



		<p>understandable, as workers are exposed during demolition and transport of materials. These doses are indicative of doses to the public if they had full access to the site but should decline as the sources of radiation are removed or controlled. CNSC and CNL will undoubtedly continue to monitor doses to workers, which should decline at the completion of decommissioning. Doses that cannot be distinguished from background would be one indication that the site had returned to close to natural conditions.</p> <p>The Métis Community has Crown-recognized, s. 35 harvesting rights, including to fish, hunt, trap, and gather plants, firewood and other resources, that must be protected and preserved for future generations. Potential impacts on these rights, including contamination of the species relied on, must be minimized through meaningful consultation and accommodation with the MMF. The CNSC and CNL undertake ongoing environmental monitoring at the WL site through the IEMP and the Integrated Monitoring Program (IMP), respectively. This includes monitoring of effluent, environmental components, and groundwater, the results of which are reported annually. As demonstrated through the Métis Knowledge and Land Use Study (MMF, 2017), Métis harvesters have an abundance of historic and ongoing use in proximity to the WL site. Harvesters fish on the</p>	<p>the WL site is decommissioned and improved access is permitted, it will be just as important to ensure that ongoing liabilities associated with the site are managed appropriately for the type of use that the Métis Community will have. CNL must consult with the MMF regarding the development of the monitoring plans so that the distinct circumstances of the Métis Community and Métis harvesters are appropriately being considered and Métis traditional knowledge and stewardship rights are included in the plans.</p> <p>To ensure that monitoring accurately captures the data required (i.e., the locations, species, and parts of plants/animals consumed by the Métis Community) and that transparency of results is occurring, it is recommended that CNL and CNSC engage with the MMF to identify a Métis Liaison who can comment on monitoring design, review data, examine reports (e.g., Annual Environmental Monitoring Reports from CNL), then share information back to the MMF and Métis Community. This liaison should be involved in the management structure (i.e., committee) for the implementation of the IMP and IEMP. This liaison should also be able to participate in field-based data collection or identify Métis Citizens from the surrounding area who would be interested in participating.</p>
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		<p>Winnipeg River, upstream and downstream of WL, hunt in the surrounding forests, and gather a range of natural materials for food, fire and fibre. As subsistence users of the land, with Crown-recognized s. 35 harvesting rights, the Métis Community are at higher risk to exposure than the general public. Moreover, as stewards of the land, the Métis Community plays an important role in the protection of the lands and waters. For this reason, it is important that the CNSC and CNL meaningfully include the MMF, on behalf of the Métis Community, in the collection, implementation and evaluation of the environmental monitoring completed through the IEMP and IMP.</p> <p>Finally, according to the assessment and monitoring subsection of Section 4.9.3 (The Environment and the Public) of the 2020 ROR:</p> <p><i>“Through compliance activities conducted during 2020, CNSC staff concluded that all the releases to the environment in 2020 remained a small fraction of their respective derived release limits (DRLs) at all CNL sites and met the regulatory requirements.”</i></p> <p>Although it is positive that CNSC concluded that regulatory requirements were met for CNL’s environmental monitoring programs there is a lack of representation and involvement by the MMF in these programs. Given the Métis Community’s long-standing</p>	<p>The MMF has limited resources and capacity to undertake the needed oversight of the WL site and support long-term monitoring and the unique stewardship challenges that are raised by decommissioning of the WL site and nuclear facility. Therefore, the role of the Métis Liaison should be funded by AECL, the CNSC and/or CNL as part of a long-term relationship agreement.</p> <p>As Métis Citizens of the Métis Community harvest around the project site, the MMF must be consulted about remediation and specifically revegetation objectives and plan for the site to ensure that native species relied on by the Métis Community for harvesting are used in remediation and revegetation plans wherever possible. In addition, traditional Métis knowledge should inform these plans and revegetation processes, including the potential for Métis Citizens to be involved in implementing or carrying out these activities. Furthermore, CNL and AECL should incorporate site revegetation strategies into the closure of the site that is informed by this consultation with the MMF and Métis Community.</p> <p>CNL and AECL must engage the MMF for engagement and participation opportunities in any environmental protection, monitoring, awareness training programs about the WL site.</p>
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		<p>relationship to the land at and around the WL site, including knowledge of the land and access to areas used for harvesting or other traditional land uses, MMF's involvement in these programs is critically important. Including the MMF in environmental protection and monitoring would increase transparency, build trust, and foster partnerships with the MMF regarding the WL site.</p>	<p>This includes the opportunity for the MMF to provide feedback and input into the content of the environmental awareness training programs to ensure Métis traditional knowledge is adequately and appropriately integrated into these programs. This could be achieved through an ongoing Issues Resolution and Dialogue Table established between the MMF, CNL and AECL related to the WL site that includes the provision of capacity funding for a liaison staff position within the MMF (i.e., a Métis Liaison) to sit at this Table with CNSC/CNL/AECL.</p> <p>For the CNSC to truly conduct a comprehensive review of the ROR process, it must consider a formal technical review by an independent third party. Comments accepted from the public and stakeholders, while important, may not be able to adequately capture the detail required to fully address the issues.</p>
23	Page 25 – Section 4.11 Waste Management	<p>CNSC states: “CNSC staff assess CNL’s performance in the waste management SCA through desktop reviews of documents and reportable events (Appendix F) and also through the course of inspections (Appendix E).” The MMF note that not a single inspection took place at the Whiteshell Laboratory in 2020. The Whiteshell Laboratory is the only CNL site that had no inspections in 2020.</p>	<p>The MMF request that CNSC provide a reason to justify why no inspections took place at the Whiteshell Laboratory while they continued at other CNL sites.</p> <p>MMF requests details regarding the “<i>Non-Compliance to the WL Waste Management Area Facility Authorization</i>” reportable event and a summary explaining the impacts of the non-</p>



		<p>This lack of on-site oversight is concerning for the MMF. Especially since one of the four reportable events at the Whiteshell Laboratory was <i>“Non-Compliance to the WL Waste Management Area Facility Authorization.”</i></p>	<p>compliance to human health and the environment.</p> <p>The MMF request that CNSC provide the date of inspections that have occurred so far in 2021 if any.</p> <p>CNL, AECL and the CNSC must keep the MMF informed regarding enforcement actions and orders at the WL site using the Communication Strategy and Protocol to ensure any incidents that may have an impact on the rights, interests, and claims of the Métis Community are communicated to the MMF promptly so that the MMF and the Métis Community can respond accordingly to minimize risks or impacts on Métis Citizens. The MMF recognizes that there may be emergencies that require an immediate response from the CNSC, however, in other circumstances advance communication with the MMF regarding enforcement actions and orders that could potentially impact Métis Citizens and s. 35 Métis rights is required. This could include sharing the results of inspections with the MMF and providing draft enforcement action orders to the MMF for review and comment regarding how the proposed action or order may affect Métis rights-holders. We recommend that a formal and mutually agreeable Communication Protocol be established between CNSC, CNL,</p>
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			AECL and the MMF to ensure the prompt notification of any releases, incidents, site security concerns, or enforcement actions associated with the WL site. Part of this Communication Protocol must also include an issue resolution and oversight process that is mutually agreeable.
24	Page 83 – Table K-4: Whiteshell Laboratories annual radionuclide releases to surface water for 2016-2020	CNL is now reporting levels of total uranium, plutonium, americium, strontium-90 and cesium-137 released to surface waters. The release of uranium and americium is not surprising given the state of operations at the WL site. However, the release of plutonium is unexpected, given that it is a nuclear fission product. At WL, the receiving environment is the Winnipeg River which flows to Lake Winnipeg. Monitoring of these nuclides started in 2016 but presumably, they were being released before that year. Although the amounts are well below the Derived Release Limits, it is unclear where these particular radionuclides, especially plutonium, are coming from in the wastewater measurements. As a result, these releases are concerning for MMF citizens that fish in the river and fish, some commercially, in Lake Winnipeg.	<p>The CNSC should discuss the source of these nuclides on the WL site and if it is possible to remove the source or contain the nuclides by isolating the source. Without these controls, these releases will extend well into the future for uranium, plutonium, and americium isotopes (strontium and cesium will decay over several decades).</p> <p>Where sufficient information is not available, further monitoring and investigation are required to identify the sources. In light of the limited monitoring data available, additional monitoring as part of the decommissioning and post-decommissioning phases may also be required to verify that measures remain below acceptable levels over time. We recommend that a fulsome update to the 2001 Comprehensive Study report be completed, that adequately examines the potential risks associated with the site as a whole (including WR-1, the waste management area, the landfill,</p>



			and the lagoon). The MMF must have a full account of the environmental status and potential risks associated with the entire site as a whole, not just the immediate area associated with WR-1.
DECOMMISSIONING AND LONG-TERM WASTE STORAGE			
25	Page 7 – Section 2.2 Whiteshell Laboratories	CNSC indicates that “ <i>Decommissioning activities at WL commenced in 2003.</i> ” The MMF is particularly interested in the CNL’s current decommissioning activities at the WL site, as well as plans for the site, given that Métis Citizens currently exercise their Aboriginal rights and harvesting activities within 100 m of the site, including use of downstream areas of the Winnipeg River. This proximity of land use to the site by the Métis Community means that it is vitally important that CNL, AECL, and the CNSC provide information to the MMF promptly regarding the current decommissioning activities and plans for the site. As noted above, the Métis Community has distinct, constitutionally protected rights and interests that are potentially impacted by the current activities and future use of the WL site that are not adequately considered in a general public engagement or communications approach. A process for meaningfully continuing to consult with the MMF regarding proposed decommissioning activities and plans and	CNL, and AECL and the CNSC representing the Crown, must engage the MMF in developing a mutually agreeable Communication Strategy for the current site decommissioning activities. This Communication Strategy should include a process to inform the MMF on an ongoing basis about decommissioning and demolition activities and potential adverse effects, as well as a process for soliciting feedback and making revisions to the planned activities in light of MMF’s feedback and concerns. The Communications Strategy should also include a process for proactive communication with the MMF regarding proposed activities, including shared decision making regarding the timing of such activities to minimize impacts on Métis harvester’s access to the WL site and area. It should also follow a distinctions-based approach that recognizes the unique governance structure of the MMF and processes for communication with Métis Citizens. This will allow for clearer, more meaningful communication and



		<p>involving the MMF in decision-making matters related to CNL and AECL's plans for the site is required.</p>	<p>engagement between CNL, AECL, CNSC and the MMF throughout the full decommissioning process at the WL site.</p> <p>CNL and AECL must engage the MMF to establish a decision-making process and framework that enables the MMF, as the democratically elected, self-government representative of the Red River Métis, to be meaningfully involved in the determination of the plans for the WL site alongside CNL and AECL. This would include, among other things, requiring the consideration and integration of Métis traditional knowledge, land use, and occupancy information at and around the site in the monitoring and mitigation measures and plans, including during closure and post-closure periods. This decision-making process and framework should also explicitly include a role for the MMF in collaboratively determining the plans, use, and access to the site post-closure. The mechanism for this engagement should be mutually agreed on between CNL, AECL, and the MMF, but may include the creation of a Métis Liaison role, Indigenous oversight committee, and CNSC regulatory involvement.</p>
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26	Page 7 – Section 2.2 Whiteshell Laboratories	<p>A critical aspect of CNL and AECL’s plans for decommissioning the WL site is that sufficient waste storage space will be available at the AECL-owned Chalk River site (the expected destination for the waste) for contaminated materials removed from the AECL-owned WL site. However, no discussion or analysis of the availability/suitability of storage at the AECL-owned Chalk River site is provided in the RORs. Furthermore, there is no discussion or analysis of the alternative methods for transporting the waste. These plans are highly relevant to the oversight of the WL site as they will determine the nature and level of risk for future management of the site. While CNL is considering a possible In-Situ Decommissioning (ISD) plan for the WL site, this plan has not yet been approved by CNSC. Regulatory oversight and the ROR must align with the existing and currently licenced plan, not a potential future contemplated approach that has not been approved.</p> <p>Although the specifics on decommissioning the WL site are outside of the scope of the ROR, the MMF has provided several comments, including issues and suggested recommendations on how to address these issues concerning the WL site decommissioning process. CNL, AECL, and the CNSC must thoughtfully consider and incorporate all of the issues and recommendations the MMF has brought forward to</p>	<p>The CNSC must provide additional information regarding the suitability of CNL’s plans to transport and store low- and intermediate-level waste at Chalk River Laboratories in Ontario. The feasibility of these transport and long-term storage plans are of the utmost importance in decision making and management of the WL site and will impact the ability of the Métis Community to utilize the site in the future. Additionally, impacts to Red River Metis land use along the transport route (ex. If issues arise with transport of hazardous or radioactive materials being released into the environment for instance).</p> <p>The MMF requests that CNSC, CNL, and AECL thoroughly review the issues and recommendations that have been brought forward by the MMF to date regarding the decommissioning of the WL site with the perspective of what is required to comply with the Crown’s duty to consult and accommodate, advance reconciliation, and uphold the honour of the Crown related to these activities occurring within the Métis Community’s Traditional Territory and Homeland. The MMF acknowledges that the CNSC, CNL, and AECL have already communicated and engaged with the MMF to some degree on these matters. However, unaddressed issues are remaining that</p>
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		date into future planning and decisions regarding the decommissioning of the site.	the CNSC, CNL, and AECL must address in future planning and decision making regarding the WL site.
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