



Supplementary Information

Presentation from the Algonquins of Pikwàkanagàn First Nation

In the Matter of the

Canadian Nuclear Laboratories (CNL)

Application from the CNL to amend its Chalk River Laboratories site licence to authorize the construction of a near surface disposal facility

**Commission Public Hearing
Part 2**

May 30 to June 3, 2022

Renseignements supplémentaires

Présentation de la Première Nation des Algonquins de Pikwàkanagàn

À l'égard des

Laboratoires Nucléaires Canadiens (LNC)

Demande des LNC visant à modifier le permis du site des Laboratoires de Chalk River pour autoriser la construction d'une installation de gestion des déchets près de la surface

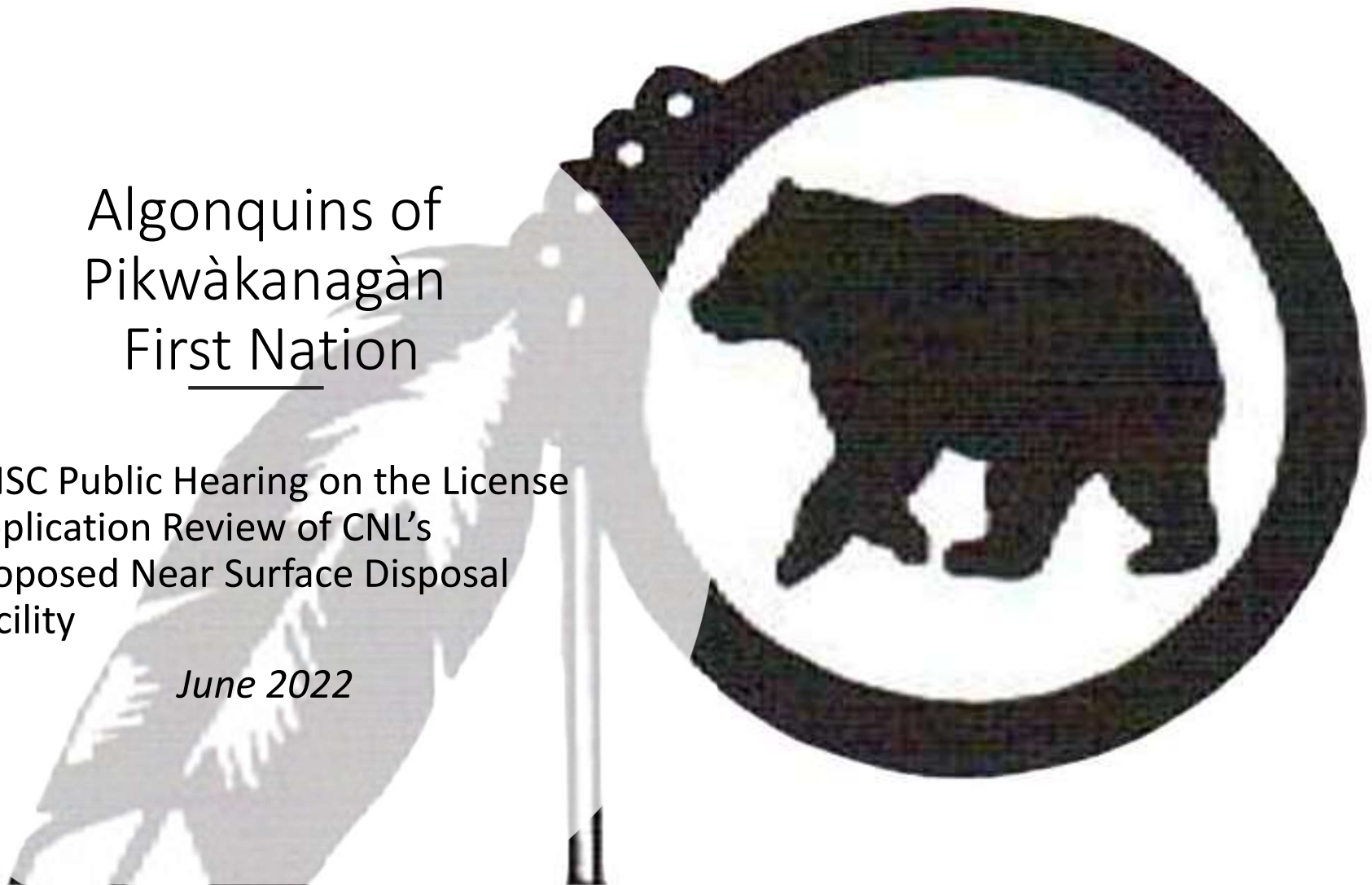
**Audience publique de la Commission
Partie 2**

30 mai au 3 juin 2022

Algonquins of
Pikwàkanagàn
First Nation

CNSC Public Hearing on the License
Application Review of CNL's
Proposed Near Surface Disposal
Facility

June 2022



Our Presentation

About the Algonquins of Pikwàkanagàn First Nation (AOPFN)

The NSDF Project in Unceded Algonquin Territory

Key Outstanding Issues and Recommendations

Closing Statement

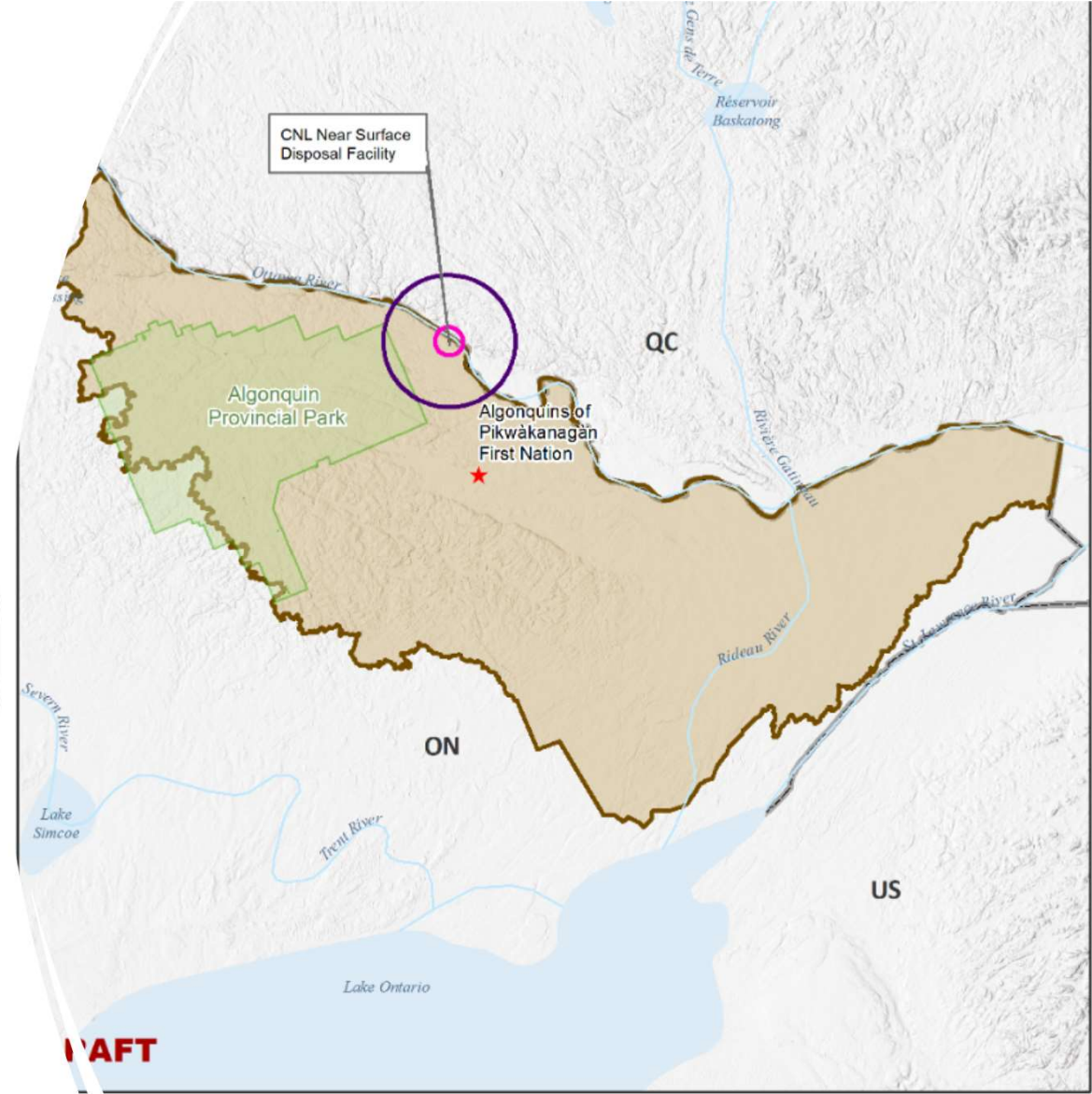


Algonquins of Pikwàkanagàn First Nation

- The AOPFN are Algonquin peoples of the Ottawa River (Kichi-Sìbì in our language) Valley. Algonquin people have lived in the Ottawa River Valley for at least 10,000 years before Europeans arrived in North America.
- AOPFN members have, since time immemorial, exercised their rights to hunt, trap, fish, gather, and perform other activities integral to their culture and way of life throughout our unceded traditional territory, including in the area where the Chalk River Laboratories is now situated. Members of the AOPFN have long exercised governance and stewardship activities in our unceded Algonquin territory.
- The AOPFN's current registered population is 2,979, with 452 members living at Pikwàkanagàn.



The NSDF Project in Unceded Algonquin Territory



THE AOPFN's Understanding of the Proposed NSDF Project

- The NSDF would be a proposed engineered permanent near surface disposal facility for solid, low-level radioactive waste, which CNL proposes to locate within the Chalk River Laboratories
- The physical footprint of the NSDF Project site would be approximately 37 hectares of currently forested area
- CNL proposes to create a previously unplanned permanent hazardous waste disposal facility in unceded Algonquin territory, close to the Kichi-Sibi

Image courtesy of CNL



Ten Key Outstanding AOPFN Issues with NSDF

1. Consultation of AOPFN by AECL and CNSC and engagement of AOPFN by CNL
2. Proximity of the NSDF Project to the Kichi-Sìbì and lack of meaningful engagement of the AOPFN in NSDF Project planning and siting
3. Lack of adoption of a “Willing Host” model for the NSDF Project, and associated lack of commitment to adhere to the AOPFN’s FPIC decision
4. Importation of radioactive waste into AOPFN territory
5. Inadequate consideration of Algonquin Knowledge leading to inaccurate assessment of Project effects on the AOPFN’s traditional land and resource use
6. Inadequate assessment of Project effects on AOPFN culture and well-being
7. Inadequate accommodation for likely residual Project impacts on the AOPFN’s rights
8. Inadequate consideration of total cumulative effects loading on multiple valued components
9. Adequacy of monitoring and adaptive management mechanisms
10. Lack of evidence of benefits to AOPFN to offset adverse changes

1. Engagement of AOPFN by CNL and AECL in the NSDF Environmental Assessment

- CNL and AECL do not have a strong track record of consulting and engaging with the AOPFN in relation to the Chalk River Laboratories
 - Consent was never sought by the Crown to build and operate nuclear facilities on our unceded territory
- Compounding this concern, engagement on the NSDF started very late, with CNL only engaging directly with the AOPFN since 2020 – at the AOPFN’s prompting
- Capacity provision and consultation by CNSC and engagement by CNL has improved since 2020, and CNL has made several commitments to improve the role of AOPFN in Project monitoring should it proceed
 - AOPFN notes that “ongoing discussions” are not commitments or conditions, and should not be given weight in this proceeding
- Engagement on critical issues – the location of the facility, planning for management of wastes, importation of wastes, respect for AOPFN’s consent requirement, and what impacts are likely should the Project proceed – has been superficial or dismissive and has not led to reconciliatory actions

1. CNSC Consultation with AOPFN

- Direct consultation initiated only in 2020; improved over time
- AOPFN concerned about narrowness of scoping of the assessment overall, focusing on outdated CEAA 2012 requirements even though IAA 2019 is a marked improvement in dealing with Indigenous issues
- AOPFN concerned about language in the CNSC staff CMDs that suggests “no new impacts” on AOPFN rights in the Project Case, which directly contradicts the findings in the joint Rights Impact Assessment
- CNSC staff also largely accepted the “no impacts” findings of the EIS on traditional land and resource use, culture and well-being, despite AOPFN’s four studies all finding that impacts, some of elevated magnitude and long-term consequence, are likely
- No evidence of meaningful “complementary measures” brought forward by CNSC staff

2. Proximity of the NSDF Project to the Kichi-Sìbì and lack of meaningful engagement of the AOPFN in Project planning and siting

- AOPFN members continue to practice our rights and interests along the Kichi-Sìbì, but this has declined over time – especially around the Chalk River Laboratories.
- In our *Consultation, Engagement, and Accommodation Requirements for all Nuclear Sector Proposed Developments in AOPFN Territory*, Principle #9 states, “Water must be clean, readily accessible and trusted by AOPFN members”. Such trust is unlikely to increase in the Kichi-Sìbì in a future with a permanent radioactive waste disposal facility close to its shore.
- The NSDF would be located within 1 km of Kichi-Sìbì. Our members have consistently raised concerns about this proximity with CNL and AECL, and about the lack of engagement of AOPFN in the consideration of alternative locations for permanent waste disposal, but no revisions have been made to the proposal as a result.
- AOPFN has never been engaged by AECL or CNL in site planning activities to date.
- **AOPFN Recommendation #4: CNSC require CNL to reconsider alternative locations and means of disposing of all LLW waste at the CRL site, including evidence that CNL meaningfully engaged Indigenous parties in this process, prior to approving of the current NSDF proposal.**
- **AOPFN Recommendation #5: AECL and CNL to engage AOPFN in a planning process regarding the desired end land use state for the CRL as a whole, prior to making determinations on where and how to permanently dispose of radioactive wastes currently at the site.**

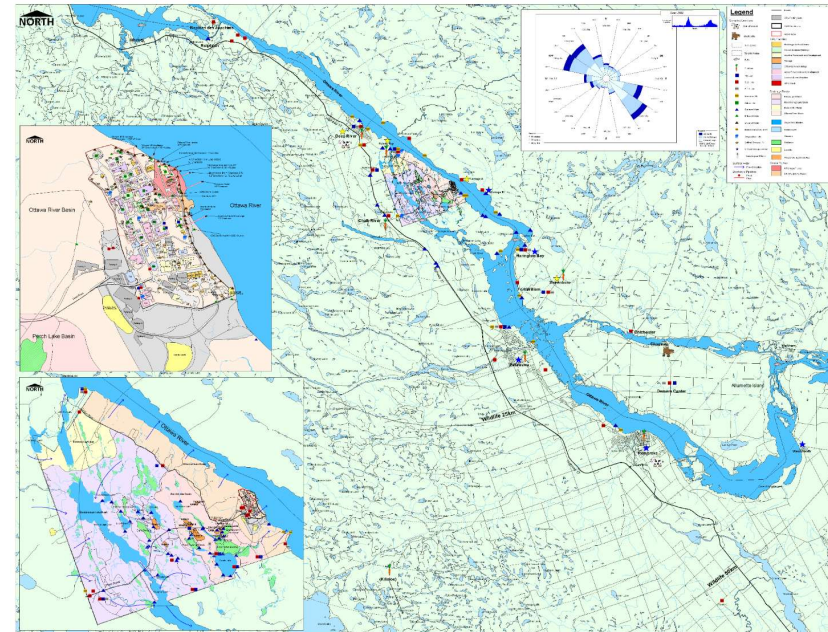


Image courtesy of CNL

3. Lack of Adoption of a “Willing Host” model for the NSDF and associated lack of commitment to adhere to the AOPFN’s FPIC decision

- The AOPFN has identified that we need to be a “Willing Host” for this permanent hazardous waste disposal facility; we are not at this time
- Linked to the “Willing Host” principle but enhanced because it is a recognized requirement under Canadian and international law, is the idea that AOPFN’s Free, Prior and Informed Consent (FPIC) should be sought and when that determination is made - regardless of whether the consent is provided or withheld - should be adhered to
- CNL and AECL have not committed to adhere to the AOPFN’s FPIC decision
- **AOPFN Recommendation #6: AOPFN requests that CNL, AECL and the CNSC all respect and adhere to AOPFN’s Free, Prior and Informed Consent decision on the NSDF Project proposal when it is made.**

3. Willing Host and FPIC

- In the NSDF instance, the following characteristics are relevant re: FPIC:
 - Canada is committed to implementing UNDRIP in all federal laws and practice of reconciliation with Indigenous peoples, and FPIC is a requirement under UNDRIP;
 - The proposed location is on unceded Algonquin territory;
 - The proposed Project is not required as an emergency solution;
 - The proposed project could be undertaken successfully and safely in other locations on and off the Chalk River Laboratories; and
 - The proposed project is in a special class of developments - hazardous waste disposal facilities - that are subject to heightened FPIC requirements under Section 29(2) of UNDRIP.
- As a result, the AOPFN holds that in the NSDF instance the need to respect and adhere to Indigenous FPIC is elevated, not reduced.

4. Importation of radioactive waste into AOPFN territory for disposal at NSDF

- The AOPFN recognizes that low-level waste at CRL need to be permanently disposed of, though it is a yet-to-be asked (let alone answered) question whether the proposed NSDF is the best approach
- However, CNL has also proposed to add as much as 10% of the total waste stream from off-site sources. This is as much as 100,000 cubic metres of waste imported into unceded AOPFN territory
- The importation of radioactive waste from other facilities, is opposed to the AOPFN's nuclear sector principles and the Anishinabek Nation and Iroquois Caucus (2017) *Declaration on Nuclear Wastes* which calls for “no imports or exports” of nuclear wastes
- The fact that Canada has already in the past imported wastes to Chalk River without AOPFN permissions, is not an acceptable argument for why this continue in the future
- The AOPFN does not accept the argument that bringing more wastes in will make conditions better at Chalk River Labs

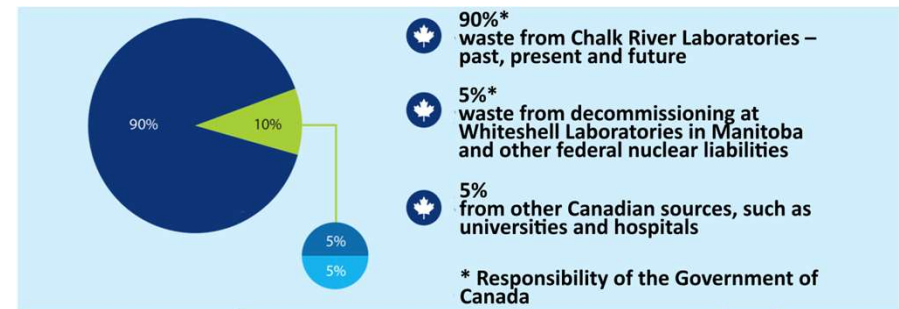


Image courtesy of CNL

4. Importation of radioactive waste into AOPFN territory for disposal at NSDF

- **AOPFN Recommendation #8: CNL proactively remove the 10% of potential “off-site” waste from its proposed NSDF waste stream.**
- **AOPFN Recommendation #9: CNL commit to not contemplate importing any wastes from outside AOPFN territory to the NSDF without written AOPFN permission.**
- **AOPFN Recommendation #10: If the CNSC issues permission for the NSDF to be developed, these permissions be made contingent on the 10% of off-site waste being removed from the NSDF Project stream. The CNSC should further identify that it will not allow for the importation of off-site wastes in any operations stage licence for the NSDF without evidence of Indigenous support for these off-site waste streams.**
- **AOPFN Recommendation #11: CNL and AECL to proactively, or in the absence of this, the Commission to require these parties, to conduct an engagement/consultation exercise with impacted Indigenous groups, where all known and suspected locations at the Chalk River Laboratories where radioactive waste is currently housed, and the nature, current storage, and proposed future storage, transportation, and disposal plans for those wastes, are transparently communicated. In addition, the CNSC should require that a report of this consultation process, verified by the Indigenous groups and showing their recommendations and associated CNL and AECL commitments, be filed with the CNSC within the next two years.**

5. Inadequate consideration of Algonquin Knowledge & inaccurate assessment of Project effects on the AOPFN's traditional land and resource use

- Algonquin Knowledge was not adequately integrated into CNL's draft or final Environmental Impact Statement (EIS), despite three AOPFN studies providing ample evidence of likely impacts on traditional use
- The EIS, instead of listening to what our members say impacts will be on them, focuses on biophysical proxy factors and existing physical inaccessibility at Chalk River Labs to assert that the Project will not add "no measurable adverse" impacts on traditional use, ignoring factors that may diminish AOPFN traditional use such as sensory experience and AOPFN members sense of safety on the land
- No AOPFN members were involved in CNL's effects predictions, meaning that impacts experienced only by AOPFN, were assessed only by non-Algonquins

5. Inadequate consideration of Algonquin Knowledge & inaccurate assessment of Project effects on the AOPFN's traditional land and resource use

AOPFN made the following recommendations:

- **AOPFN Recommendation #13: CNL recognize on the basis of the evidence filed by the AOPFN that measurable adverse residual effects on AOPFN traditional land and resource use are likely from the NSDF Project, and as a result, that a proper cumulative effects assessment is required and will be conducted by CNL in collaboration with impacted Indigenous groups.**
- **AOPFN Recommendation #14: Should CNL [*refuse to*] adhere to AOPFN Recommendation #13, the Commission is requested to find that measurable adverse impacts on AOPFN traditional land and resource use are likely from the NSDF Project and require CNL to conduct a proper cumulative effects assessment on traditional land and resource use in collaboration with impacted Indigenous groups.**
- **AOPFN Recommendation #15: Should it allow the NSDF to proceed, CNSC to implement specific traditional land and resource use-related conditions into the Project licence, and/or require a formal traditional land and resource use effects consultation and accommodation identification process prior to final permissions to construct.**

6. Inadequate assessment of Project effects on culture and well-being

- Cultural values were not adequately considered in the draft EIS, such as bald eagle, key cultural sites and Kichi-Sìbì as a cultural landscape.
- One of the critical gaps in relation to the assessment of effects on Indigenous well-being is the absence of consideration of psychosocial effects – fear, stigma, uncertainty, lack of agency – associated with permanent radioactive waste disposal. These psychosocial effects can and do have real world adverse health outcomes for Indigenous peoples and are particularly pronounced in relation to nuclear sector projects.
- **AOPFN Recommendation #16: CNL recognize on the basis of the evidence filed by the AOPFN that measurable adverse residual impacts on AOPFN culture and well-being are likely from the NSDF and conduct a cumulative effects assessment on these valued components prior to the completion of this CNSC process.**
- **AOPFN Recommendation #17: If CNL refuses to act on Recommendation #16, the Commission is requested to find that measurable adverse residual impacts on AOPFN culture and well-being are likely from the NSDF and require CNL to conduct a cumulative effects assessment on these valued components prior to making its required environmental assessment and licensing decision.**
- **AOPFN Recommendation #18: Should it allow the NSDF to proceed, CNSC is requested to implement specific Indigenous culture and well-being-related conditions and/or require a formal consultation and accommodation identification process for these valued components prior to final permissions to construct.**

7. Impacts on AOPFN's rights

- AOPFN members' rights to harvesting and traditional use, governance and stewardship and cultural continuity have been seriously constrained in the Project area during the "nuclear era" since the 1940s, but they are not extinguished.
- The NSDF Project, as shown in the joint Rights Impact Assessment conducted by the AOPFN and CNSC staff, will have additional measurable adverse impacts on those already heavily impacted rights.
- The EIS explains that security fencing in the area will remain through the decommissioning period and into post-closure, which is expected to last at least until the year 2400. This means that there will not be any harvesting rights practiced on the project footprint or in the buffer zone for many generations of AOPFN members, if ever.
- It is also likely that the creation of a permanent radioactive waste facility would increase already existing perceived risks about water and fish contamination and could result in continued reduced use of and harvesting (of fish, water and vegetation) from the Kichi-Sibi by AOPFN members, which is a critical part of the AOPFN cultural landscape and considered a critical spiritual and cultural area along its entire length.
- According to AOPFN members the Project is also likely to impact AOPFN members' ability to participate in decision-making and to practice stewardship in the NSDF and CRL site areas. This is due to continued long-term physical alienation of AOPFN members from the NSDF and CRL sites, feelings of powerlessness due to alienation from lands and waters, lack of trust in the consultation process, lack of trust in AOPFN's ability to be heard during decision-making processes regarding the Project, and lack of access to information about the Project and associated impacts.

7. Impacts on AOPFN's rights

- The joint AOPFN-CNSC Rights Impact Assessment found measurable adverse effects on two of the three “pools” of rights likely from the NSDF, including low to moderate severity impacts on AOPFN harvesting and cultural rights
 - AOPFN was very troubled to see this turned around in the Commission Members Documents by CNSC staff into a statement that the NSDF would cause “no new impacts” on AOPFN rights; this is contradictory to the RIA findings
- AOPFN and CNSC staff disagreed on impact directionality and severity of impacts on governance and stewardship rights, with AOPFN finding moderate to high severity impacts likely
- AOPFN found that the Project, combined with existing cumulative adverse effects, would contribute to moderate to high several total cumulative effects on AOPFN rights.
- **AOPFN Recommendation #20: The Commission is requested to find that measurable adverse residual impacts on AOPFN rights are likely in the Project Case, and should it allow the NSDF to proceed, require a formal accommodation identification process prior to final permissions to construct.**

8. Context of Cumulative Effects and Existing Conditions at and around the Proposed NSDF Site

- The Chalk River Labs has a history of AOPFN use and occupancy, loss of this use in the “nuclear era”, and continued desire for reconnection by AOPFN members, all of which must be considered when making decisions about future land uses like the proposed NSDF.
- AOPFN ancestors had full access to their unceded territory prior to the establishment of the European fur trade in the 1600’s. AOPFN harvesting and traditional use, governance and stewardship, and cultural continuity have all been seriously constrained throughout Algonquin territory over the last several hundred years due to cumulative effects including displacement, industrial development, contamination, settlement, and cultural disruption. Chalk River Labs was a major contributing factor to these impacts.
- Today, the Chalk River Labs are completely off-limits to AOPFN members, due to physical constraints - fencing and security - and AOPFN concerns related to safety, as principal but not exclusive factors. Impacts of alienation and loss of use extend “beyond the fenceline” as well.
- Despite this alienation and loss of use, AOPFN members have indicated they value, want to reconnect to, protect and use areas at and around the Chalk River Labs in the future.

8. Inadequate consideration of total cumulative effects loading

- The AOPFN has raised concerns that CNL has conducted little if any cumulative effects assessment as part of its EIS, focusing instead almost exclusively on assessing effects of the Project from the current, damaged baseline, thus creating three major linked problems:
 - avoiding establishing the existing cumulative effects context, which would assist in understanding vulnerability to further change;
 - underestimating Project-specific effects as a result; and
 - Avoiding conducting cumulative effects assessment on several key values where the Project is likely to have adverse effects.
- **AOPFN Recommendation #21: The Commission identify that there has yet to be a formal process by the Crown for identifying cumulative harms on Indigenous peoples from the Chalk River Laboratories, and that establishing these harms and reconciling for them should be a high priority for the federal government.**
- **AOPFN Recommendation #22: The Commission consider total cumulative effects on the VCs of Indigenous traditional land and resource use, Indigenous culture, and Indigenous well-being in its deliberations, and describe in its decision statement both its considerations and findings on this topic.**
- **AOPFN Recommendation #23: The CNSC find that the NSDF Project is likely to add additional measurable adverse residual effects on Indigenous traditional land and resource use, Indigenous culture, Indigenous well-being, and Indigenous rights on top of pre-existing significant adverse cumulative effects on these valued components, and that therefore the Project is contributing to significant total cumulative effects on these VCs.**

9. Adequacy of monitoring and adaptive management mechanisms

- There are currently no dedicated Algonquin Knowledge monitoring programs at and around CRL
- Decisions have and are still being made behind the scenes or at least without our meaningful involvement, so the AOPFN in many cases has no idea whether CRL is being managed in ways that are technically sound, and respectful and in line with AOPFN expectations and requirements.
- However, CNL has made some solid commitments to improve the role of AOPFN in monitoring and management should the Project proceed. Despite this not being adequate to allay AOPFN's extensive concerns, CNL (and AECL) should be commended for recognizing that in the future, no matter what occurs and Chalk River Labs, the AOPFN needs to play a leading role in project monitoring and management.
- **AOPFN Recommendation #24: The CNSC is recommended to increase the frequency of, level of effort conducting, and degree of Algonquin Knowledge embedded in its Indigenous Environmental Monitoring Plan for the area around Chalk River Laboratories.**
- **AOPFN Recommendation #25: Should the NSDF Project proceed, the CNSC is recommended to require CNL to report annually on how it has integrated Algonquin Knowledge and Algonquin peoples into its Project monitoring and management system.**

10. Lack of evidence of benefits to offset adverse changes – past, present and future

- Any new proposed Project must also demonstrate positive benefits to AOPFN members; we note that the assessment of positive effects is one of the key requirements under the new federal Impact Assessment Act
- AOPFN notes that there is minimal to no evidence of financial, procurement, or employment benefits for AOPFN members, communities, and businesses in the EIS
- Thus, there is no evidence that AOPFN members, who face the most risks from the proposed Project, will see much in the way of reward or “shared prosperity”. This absence of evidence is a critical consideration for the AOPFN in making its FPIC decision, and should also be meaningfully considered by the Commission
- **AOPFN Recommendation #26: The CNSC is recommended to require CNL to provide further concrete evidence of the benefits that are likely to accrue to impacted Indigenous groups, prior to the CNSC making its required decision on the NSDF Project.**

AOPFN Overall Findings

The Project as proposed does not adhere to the following AOPFN nuclear principles and requirements:

- As a self-governing Indigenous Nation, AOPFN's right of free, prior and informed consent for nuclear projects will be respected.
 - This is a hazardous waste disposal facility, with even higher consent requirements under UNDRIP
- Algonquin knowledge will be used alongside western science in planning, monitoring and management of nuclear facilities.
 - Algonquin knowledge was not integrated into the planning stages or alternative means assessment for the proposed NSDF.
- No nuclear wastes will be moved into or out of AOPFN territory without AOPFN explicit permissions.
 - The Project would see importation of up to 100,000 cubic metres of radioactive waste.
- AOPFN will be meaningfully involved in all aspects of decision-making related to nuclear project planning.
 - AOPFN has never been meaningfully involved in any planning exercise at Chalk River Labs to date, including NSDF Project planning.
- AOPFN will be accommodated for Project-specific and cumulative impacts that do occur as a result of nuclear projects, on biophysical and human environmental values and AOPFN Algonquin aboriginal rights, title, interest.
 - There is no meaningful evidence of accommodation for impacts that AOPFN has shown are likely to occur, or even a willingness to recognize these impacts.

AOPFN Overall Findings (2)

- The Project as proposed is not ready
- The AOPFN is not ready to provide its FPIC due to Project uncertainties and lack of evidence of adequate mitigation and accommodation, and that consent is paramount
- Further work is required to:
 - Confirm with impacted parties this is the best location for CRL waste storage
 - Remove incoming waste streams from the Project plan
 - Show that impacts on rights are properly predicted, minimized and accommodated for
- There is no emergency requiring immediate action; Canada and its contractor should take the time it takes to develop a Project acceptable to impacted parties
- The CNSC can play a key role in this by requiring additional work be done prior to making a decision or deeming the Project is not ready to proceed as proposed

Concluding Statement

- As the priority Constitutional rights-holding and most impacted First Nation located closest to the proposed NSDF Project, the AOPFN is committed to working with CNL, AECL, and the CNSC to ensure a meaningful assessment of effects is undertaken, and adequate mitigation and accommodation measures adopted that ensure the protection of our rights, traditional use and interests.
- The worst possible outcome, the one least contributing to reconciliation between the Crown and Indigenous peoples, would be for the Commission to state “we hear you” to the AOPFN, and then refuse to act in a meaningful way. The essence of reconciliation can only be found when listening results in acting meaningfully in alignment with what is heard.