



**Written submission from the
Kitigan Zibi Anishinabeg
First Nation**

**Mémoire de la
Première Nation des Anishinabeg
de Kitigan Zibi**

In the Matter of the

À l'égard des

Canadian Nuclear Laboratories (CNL)

Laboratoires Nucléaires Canadiens (LNC)

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

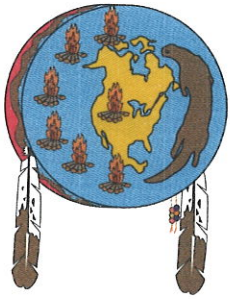
Demande des LNC visant à modifier le permis
du site des Laboratoires de Chalk River pour
autoriser la construction d'une installation de
gestion des déchets près de la surface

**Commission Public Hearing
Part 2**

**Audience publique de la Commission
Partie 2**

May and June 2022

Mai et juin 2022



KITIGAN ZIBI ANISHINABEG

P.O. Box 309, Maniwaki, QC J9E 3C9 Tel: (819) 449-5170 Fax: (819) 449-5673

April 11th 2022,

Louise Levert
Senior Tribunal Officer, Registry
Canadian Nuclear Safety Commission
280 Slater Street P.O Box 1046, Station B
Ottawa, Ontario K1P 5S9

Dear Mrs. Levert

The following comments constitute the written submission from Kitigan Zibi Anishinabeg First Nation (KZA) in regards to the hearing for the Near Surface Disposal Facility located at Canadian Nuclear Laboratories Chalk River site.

The proposed project is located on un-ceded KZA traditional territory that overlaps lands shared by our brothers and sisters of other Algonquin nations. We have never signed any agreements or treaties that would extinguish our rights to these lands. We therefore assert our rights not only to hunt, fish and occupy but also the right to govern and co-manage these lands. Our concerns both environmental and legal are linked to these aforementioned rights. It is our duty and right to protect the resources that have allowed our people to thrive from time immemorial and to continue to do so for generations to come.

The project must acknowledge that Anishinabeg women are the water keepers. It is their duty to protect the water for the future generations. They must be involved in all decisions related to water on the traditional territory.

Consultation Process

One of the major concerns that we have with this project is the way that indigenous consultations were carried out by both CNSC and CNL. We disagree with the assessment by CNSC that CNL has met its obligation for meaningful consultation. As a registered first nation who has strong territorial claim to the territories on the Chalk River site, we find it highly inappropriate that CNL and the CNSC, until very recently, used the Algonquin Anishinabeg Nation Tribal Council (AANTC) as a proxy and replacement for direct involvement with our community. The AANTC entered into a funding agreement with CNSC to have experts analyse the environmental impact statement and provide support for communities, not to speak on behalf of the communities. By the time this mistake was acknowledged and rectified (fall 2021), The final environmental Assessment report had been accepted (July 2021) and the CNSC Environmental Assessment report was being prepared.

While we did manage to apply for funding to participate in the hearing, we had very little time to engage with experts on the environmental effects of this project. Moreover, at this stage of the process, most of the experts in this narrow scientific field were already working for either the proponent or other stakeholders and therefore were unavailable due to conflict of interest. Only now, weeks before the deadline for submissions to the hearing, are we beginning to grasp some of the environmental concerns that this project poses to the health of the Ottawa River. Knowing that our concerns stem mostly from the effect that this project will have on water, both CNL and the CNSC should have done a much better job of being transparent with some of the environmental concerns being brought forward from different groups and how these concerns will be mitigated.

It is unrealistic, given the well known capacity shortages that first nations are faced with to deal with the ever increasing volume of consultations, to expect our small department to sift through hundreds of pages of documentation and countless hours of webinars in order to find out how our concerns are being addressed. The onus is on the proponent and the crown to prove that this project will not have significant impacts on our rights not the other way around. Much more could have been done to summarize key aspects of this documentation and make it easily digestible for council members, elders, knowledge keepers and community members who have a stake in the health of the Ottawa river but who lack the technical language required to analyse these documents.

Environmental Concerns

In preparation for the hearing, we have spoken to other stakeholder to find out how the project addresses the same concerns that we have for the health of the Ottawa river. We echo some the same concerns being brought forward by other groups:

Low-level waste

We were surprised to find out that the term "low-level waste" is indeed a misleading term. From what we understand, the term is very loose and will vary depending on the life expectancy of the landfill project. Therefore, if the life expectancy of the project is 350 years then low level waste refers to waste that will become safe for humans in terms of radioactivity at the end of the lifespan. Does this then imply that if the life expectancy of another project is 400 years than the definition for low-level waste changes? Does this also mean that if the functional capabilities of the landfill degrade quicker than expected than some of the low-level waste becomes intermediary waste? We find this term both misleading in the fact that it can contain some highly radioactive material such as Cobalt-60, and ambiguous since the definition can be adjusted depending on the specification of the facility (moving goalposts). In our view, low level waste should have a fixed definition in regards to it's radioactivity and should certainly not include materials that could potentially kill human if not using the proper PPE.

Controlling the inputs to the landfill

We share the concerns of other groups that materials other than low-level waste could make its way into the landfill. The classification of materials appears to be a mix of assumptions based on historical

use and sampling. It is therefore not unreasonable to expect that some intermediate level waste will make its way into the landfill. While we did not have time to properly analyse the proposed monitoring procedures we are sceptical that the proposed monitoring plan is foolproof and would therefore strongly suggest that CNL and CNSC take proposed improvements from other groups seriously. We have also been made aware that other toxic non-radioactive materials will be allowed in the site. These materials have no half-life and will remain toxic after the lifespan of the facility. There does not appear to be any mitigation measures to ensure that leachates from these materials do not eventually make their way into the Ottawa river.

Tritium and Water

We are opposed to the very high tritium threshold for the release of water from the treatment facility to perch lake. Although CNL modelling suggest that tritium levels may be below the 7,000Bq/L threshold once it reaches the Ottawa river, this has yet to be proven. Further, there are no mechanisms in place to restrict the flow from Perch lake to the Ottawa river and withhold water if levels do rise above the maximum threshold. It is therefore a wise precautionary approach to not release water from the treatment facility if tritium levels are above 7000Bq/L. We support protecting the open cells from rain in order to limit radioactive leachate as much as possible. We have not had the opportunity to review the weather shielding design.

Site Selection

The proximity to the Ottawa river, the slope, and the geological makeup of the site are all reasons why a more serious look at alternative sites should have been conducted by CNL. To our knowledge only CNL lands were assessed. If the assessment criteria would have been opened up to all federal lands in proximity to the site, we expect that a better location could have been identified. Ideally, the site would have deep soils, very little slope and would allow for a proper below ground disposal facility.

Long-term Monitoring

We find that the assumptions that the site will be under institutional control for 350 years and beyond unrealistic. Historically, very few corporate entities last for over a century and for CNL to expect to be around for the duration of the NSDF's lifespan seems a far fetched. The chances that a governmental regulatory board will eventually be entirely responsible for ensuring that the site does not leak contaminants into the Ottawa River is much more likely. This will of course have a significant cost to society since maintenance costs will likely be far greater towards the end of facility lifespan.

Precautionary Approach

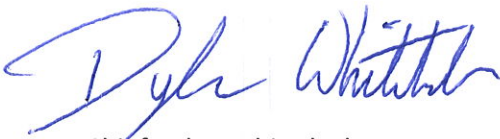
As with all projects that have potential negative effects to the environment, we advocate for a precautionary approach rather than make arrogant assumptions based on current scientific understanding and modelling. For this particular project, this means lowering the thresholds for waste

material allowed into the site “low level waste” and lowering the thresholds for the release of treated water into the environment. We also note that there does not seem to currently be a solution for the long-term storage of material and waste that fall above the low level threshold. This should be at the top of the priority list for environmental remediation of the chalk river site.

Conclusion

In conclusion, we do not give our consent for this project in its current form. While we do understand the need to dispose of radioactive waste in a controlled environment, we consider that there are too many loose ends with this project that have not been addressed. As mentioned above we also do not consider that we have been adequately and meaningfully consulted and especially not accommodated on this project.

Please accept my best regards

A handwritten signature in blue ink, appearing to read "Dylan Whiteduck". The signature is fluid and cursive, with the first name "Dylan" written in a larger, more prominent script than the last name "Whiteduck".

Chief Dylan Whiteduck

CCs./

Chief Adrienne Jérôme, Nation Anishnabe du Lac-Simon, adrienne.jerome@lacsimon.ca

Chief Monik Kistabish, Abitibiwinni First Nation, monik.kistabish@pikogan.com

Chief Régis Pénosway, Anicinape Community of Kitcisakik, regis.penosway@kitcisakik.ca

Chief Arden McBride, Timiskaming First Nation, chief@parolink.net

Chief Steve Mathias, Long Point First Nation, steevemathias@lpfn-aki.ca

Chief Tony Wawatie, Algonquins of Barriere Lake, wawatie.tony@gmail.com

Chief Lisa Robinson, Wolf Lake First Nation, lisarobinson@wolflakefirstnation.com

Chief Dylan Whiteduck, Kitigan Zibi Anishinabeg, Dylan.whiteduck@kza.qc.ca

Chief Wendy Jocko, Algonquins of Pikwakanagan, chiefcouncil@pikwakanagan.ca

Chief June Black, Wahgoshig First Nation, wfnchief@wahgoshigfirstnation.com

Norm Odjick, Director General, Algonquin Anishinabeg Nation Tribal Council
dg@aantc-ctnaa.ca

Acting Grand Chief Savanna McGregor, Anishinabeg Nation Tribal Council, savannam@aantc-ctnaa.ca