



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

**Mémoire de la
Première Nation de Curve Lake**

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

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Commission Registry and Registrar
Canadian Nuclear Safety Commission
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April 11, 2022
(Submitted by Email)

RE: Application for Construction of the Near Surface Disposal Facility (NSDF) at the Chalk River Laboratories (CRL) site (CMD22-H7 and CMD22-H7-1)

Dear Registrar,

On behalf of Chief & Council and our community at Curve Lake First Nation (CLFN), we hope that this written submission finds you safe and healthy during this where we sustain our efforts to keep our community, our friends, our family and our loved ones safe, healthy, and cared for. We hope that members and staff at CNSC are taking care of each other as usual.

This written submission represents the views of CLFN only. In our assessment, CLFN has made great strides in the last few years to build relationships and engage in open dialogue on a government to government and government to corporation basis as it relates to processes of consultation. Consultation and accommodation are critical in ensuring that the rights and interests of the Mississauga Anishinabek Nation are prioritized regarding projects in our territory.

Our Consultation Department has emphasized that environmental protection and sustainability is an integral component of the future of the Curve Lake First Nation. Working with Curve Lake to develop project concept, design, planning, assessment, potential and actual impacts, monitoring, etc. are necessary steps in our process. All plans and activities must be viewed through the lens of environmental protection and sustainability. These requirements ensure that Curve Lake First Nation's interests and rights are being protected within our territory; that we are able to protect the ability to exercise our rights as a people – physically, culturally, and spiritually; that we are able to foster sovereignty, cultural identity, and sustainable succession. This is central to all relationships being progressed with various regulators and proponents.

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Curve Lake First Nation is the steward and caretaker of the lands and waters within our territory in perpetuity, as we have been for thousands of years, and we have an obligation to continue to steadfastly maintain this responsibility to ensure their health and integrity for generations to come. Protection, conservation, and sustainable collaborative management are priorities for Curve Lake First Nation.

Curve Lake's vision statement must be central to development in the territory: "Upon the foundation of community values and vision that promotes and preserves our relationship with mother earth, which has defined and will continue to define our identity and culture as Anishnaabe People, the Consultation Department will build and secure the framework for our First Nation lands by putting into place ways and laws that will provide both the protection and the freedom for each person, their family, and the whole community to fulfill their potential. Each way and law will be given the consideration to its importance for our next seven generations."

We would like to acknowledge CNSC staff in their dialogue and work with our Consultation Department since 2020 and into 2022. There are many topics and projects that have been covered; as everyone can appreciate, meaningfully consulting on and addressing each topic or project takes time, commitment, and focus. As demonstrated in 2021, we continue to be optimistic that our Terms of Reference and Work Plan for 2022 and beyond will result in progress and improvements in the coming years.

We would like to acknowledge Canadian Nuclear Laboratories (CNL) staff in their similar dialogue and routine interactions with our Consultation Department that began in late 2020 and continues to present.

Our Consultation Department is progressively building capacity to be able to match the various consultation needs in the nuclear sector. We view this submission process merely as a formal check-in point and we look forward to continuing dialogue and consultation beyond the confines of this process and lead to decision points and decision making that includes Curve Lake First Nation.

Last but not least, we would like to thank CNL staff for working with us to finalize a contribution agreement to support various engagement and consultation matters with CNL projects including NSDF. While it may have taken from November 2020 to November 2021 to reach and finalize the agreement, it was time well spent, it demonstrates that it does take time to come to mutual agreement. The same can be said for other matters of interest concerning CLFN and CNL. Despite the length of time, there was no question in CLFN's perspective that we would come to mutual agreement and we would like to state that CNL demonstrated commitment even in the interim while finalization was taking place.

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Our Consultation Department has accepted the review and recommendations provided by Gary Pritchard, Principal, Indigenous Conservation Ecologist, 4 Directions of Conservation Consulting Services for the review of the associated CMDs for this project. Please refer to **Appendix A – CLFN’s Perspectives on the Environmental Assessment and Recommendations for Next Phases**

Our Consultation Department expresses the same gratitude to all parties for a well-received, well written Environmental Assessment along with the supporting documents. It demonstrated that both CNSC and CNL have been actively listening to the comments of CLFN – mainly from our routine meetings. Both CNSC and CNL have made great attempts at creating a transparent and open space given the challenges of the global pandemic and the challenges in general that we all face with growing demands and complexity of projects and meaningful consultation.

Our Consultation Department agrees that the project has low probability at causing impacts to the environment and to Indigenous rights and interests in this particular context. We want to emphasize that there is a difference between a commitment to meaningful consultation and meaningful relationship building and actual meaningful consultation and meaningful relationship building. We do not doubt the commitment demonstrated by CNSC and CNL. We want to point out that true meaningful consultation and relationship building is still to fully materialize at a time in the future. It will still evolve and there is much to be developed, defined, and created together.

CLFN would like the CNSC to take a step back and assess the statement “CNL has meaningfully engaged with the identified Indigenous Nations and communities throughout the regulatory review process and has worked to collaborate with each Indigenous Nation and community to address their questions and concerns.” While CLFN has experienced CNL’s commitment first hand, we are still not at point of meaningful consultation and meaningful relationship building; it will take time. In CMD22-H7-1, there are a number of occurrences where it states “...did not provide a response.” and in the case of CLFN “...has not provided a direct response to the questions.” This points to an opportunity to be critical about how engagement and consultation is being conducted, is being received, and if there are things that can be changed, barriers to overcome, etc. such that true meaningful responses and interactions are achieved.

This is not meant to be a criticism on effort or commitment. It is meant to suggest being more cautious with calling something meaningful. For more information, please refer to **Appendix B – Opportunities for Improvement**

The following recommendations are not specific to the Environmental Assessment, but rather to extend the relationship during the next phases of project commencement:

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1. It would be beneficial to have open educational sessions with the broader Michi Saagiig community.
 - a. These are spaces where community members can drop in and learn about these types of facilities and extend this learning opportunity beyond the traditional engagement of chief and council or resource staff.
2. Site tours would be beneficial at key project milestones to further understanding and to provided community feedback.
3. Field Monitoring by community liaisons to ensure all parties working on the project are in regulatory compliance.
4. Continued research on the bioaccumulation in traditions foods or medicines for the region.
5. Participation in the wildlife passage design using Indigenous Knowledge systems during the construction phases of works.
 - a. Community members that should be engaged are:
 - i. Trappers,
 - ii. Harvesters, and
 - iii. Community Ecologists
6. Regular meetings or open houses for knowledge sharing during the Reporting and Trend Analysis Compliance Monitoring/Reporting phase of works.

Although CLFN understands that this application is strictly for construction of the facility. CLFN is interested in learning about and being involved in the pre and post-closure protocols and design. These closure activities closely align with the seven generations mindset of CLFN and the future should be jointly considered and developed.

CLFN would like to better understand how the facility operates when there is no human interactions post closure after a certain point – assuming human extinction. More consideration to the future of ‘all our relations’ should be taken into consideration apart from human health. CNL takes into account various situations including human interventions, storms, floods, etc.

It is our hope that the contents of this covering letter and Appendix A and B will help guide the dialogue between CNSC staff, CNL staff and CLFN Consultation Department staff to make progress from information sharing, to engagement, all the way to meaningful consultation as we all continue our work in 2022 and make progress in 2023.

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We do this work to uphold our responsibilities to care for the earth and waters, for our people, our nation, and for all our relations. Our foundational belief is balance; our values and principles are built upon the respect, care, and nurturing of all life as part of an interconnected whole and necessary for the balance and harmony required for Mino-Bimaadiziwin now and for future generations.

Sincerely,

On behalf of The Curve Lake First Nation Consultation Department

Francis Chua
Support to Curve Lake First Nation Consultation Department

Gary Pritchard
Principal, Indigenous Conservation Ecologist
4 Directions of Conservation Consulting Services

cc:

- Chief Emily Whetung, Curve Lake First Nation
- Curve Lake First Nation Chief and Council
- Katie Young-Haddlesey, Chief Operating Officer, CLFN
- Dr. Julie Kapyrka, Lands & Resources Consultation Liaison, CLFN
- Kaitlin Hill, Lands & Resources Consultation Liaison, CLFN

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Appendix A – CLFN’s Perspectives on the Environmental Assessment and Recommendations for Next Phases

April 3rd, 2022

Attn: **Dr. Julie Kapyrka** and **Kaitlin Hill**
Consultation Department
Curve Lake First Nation
22 Winookeeda Road,
Curve Lake ON K0L1R0
P: (705) 657-8045

CC: **Francis Chua**

RE: CNSC Input: Construction of Near Surface Disposal Facility at Chalk River

Dear Dr. Kapyrka and Ms. Hill,

4 Directions of Conservation Consulting Services (4 Directions) is please to present our review and recommendations regarding documents presented to Curve Lake First Nation (CLFN) by CNL and CNSC as part of the required duty to consult process for the Near Surface Disposal Facility at Chalk River.

4 Directions wanted to express my gratitude to all parties for a well-received, well written Environmental Assessment along with the supporting documents. It showed that both the CNL and CNSC have been actively listening to the comments of CLFN.

It is agreed that the NSDF Project has a low probability at causing impacts to the environment and to Indigenous rights and interests. Both CNL and CNSC has made great attempts at creating a transparent open space given the challenges of the global pandemic.

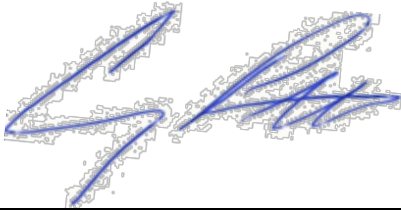
The following recommendations are not specifically to the Environmental Assessment, but rather to extend the relationship during the next phases of project commencement:

1. It would be beneficial to have open educational secessions with the boarder Michi Saagiig community.
 - a. These are spaces where community members can drop in and learn about these types of facilities and extend this learning opportunity beyond the traditional engagement of chief and council or resource staff.
2. Site tours would be beneficial at key project milestones to further understanding and to provided community feedback.
3. Field Monitoring by community liaisons to ensure all parties working on the project are in regulatory compliance.
4. Continued research on the bioaccumulation in traditions foods or medicines for the region.
5. Participation in the wildlife passage design using Indigenous Knowledge systems during the construction phases of works.
 - a. Community members that should be engaged are:
 - i. Trappers,
 - ii. Harvesters, and
 - iii. Community Ecologists
6. Regular meetings or open houses for knowledge sharing during the Reporting and Trend Analysis Compliance Monitoring/Reporting phase of works.

4 Directions suggest a meeting be held with all parties to ensure the details of these recommendations and to move forward in a good way together.

I trust that this information aids in your engagement process and the next steps forward. If you have any questions, please do not hesitate to contact myself at (705) 220-1952.

Miigwetch,



Gary Pritchard, BSc., EP., CERP.

Principal, Indigenous Conservation Ecologist
4 Directions of Conservation Consulting Services.
(e): gpritchard@4directionsconservation.com
(p): (705) 220.1952



Appendix B – Opportunities for Improvement

In an effort to improve understanding and accessibility of information, we are attempting to be critical of the CMDs presented to encourage improvements. Our goal is to assist each other communicate information better to CLFN staff, leadership, and community members. Kindly review this feedback with that lens, with that perspective in mind.

Review of CMD22-H7 - CNSC

General comments

The structure of CMD22-H7 lacks clarity. It is very hard to navigate through the CMD, mainly because the first *Table of Contents* does not properly explain how the different documents that are part of the CMD are structured, and the way things are structured is not user friendly.

- The CMD is divided into two parts, but it is unclear why it is done this way, and what is the main subject/title of the first part.
- It is hard to make sense of the CMD as a whole, as it seems to be rather an assembly of different pieces that are not linked to one another. Or, at least, the links between documents, sections and appendix are not properly explained.
- Because there are multiple documents inserted into one CMD, it is difficult to navigate through the CMD with the page numbers, as they constantly change.

Part I of the CMD

5. Indigenous consultation and engagement

5.1.2 Conclusion, p. 98.

CNSC staff states that CNL has meaningfully engaged each Indigenous Nation, and has now addressed all questions and concerns. CNSC does not mention the timeframe in which such engagement occurred (i.e., years, months, weeks, etc.). The apparent lack of response to CNL despite CNL's attempts is not mentioned anywhere in the CNSC's CMD and perhaps points to systemic issues and barriers. Perhaps there are regulatory requirements that require more clarity. Perhaps there are regulator tools that would help facilitate better interactions and engagement.

Part II of the CMD

EA Report, NSDF Project

Appendix C. Indigenous Nations and communities' concerns and issues tables

In appendix C, Indigenous communities have communicated multiple concerns with regards to the NSDF Project during the EA process, and that most, if not all of the main concerns and issues have now been responded by CNL and CNSC staff. Some of the responses provided are

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related to actions that will be taken in the future, such as monitoring, archeological findings, communication, etc. It might be beneficial to further elaborate the intention with these future actions.

CLFN01-02: About archeological findings, CNL response mentions that they will 'continue to provide notifications of project activities to all WTFN communities unless otherwise instructed'.

- It would be useful to co-develop how CNL will provide notifications of project activities to CLFN in a way that is appropriate. How will CNL communicate information that is appropriate for CLFN?
- Further to the above comment, how would CNL intend to notify First Nation's communities that do not have monthly meetings with CNL?
- Further to the above comment, what are CNL's protocols on the duty-to-consult with nations that do not have Capacity funding provided by CNL?

CLFN01-04: About Water Quality and Aquatic Environment, CNL mentions that they are committed to involve CLFN in the NSDF EAFMP. CNSC is of the view that CNL's proposed follow-up program measures are adequate.

- CLFN would like to better understand how CNSC staff will ensure that proper input from Indigenous communities has been sought on the EAFMP. What if CLFN considers that the involvement is not adequate, whereas CNL is not of the same view?

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Review of CMD22-H7-1 : CNL Written Submission

2.1.7 Williams Treaties First Nations (WTFN) Engagement, p. 42-46.

CNL mentions that due to interest from the Williams Treaties First Nations (WTFNs), a monthly information sharing meeting between CNL and WTFN was established in March 2020. CLFN is happy with the integration of these monthly meetings and appreciates the opportunity to learn more about the NSDF Project and be engaged in the licensing and EA processes. CLFN also notes that these monthly meetings have allowed CNL and CLFN to build a relationship, and that this relationship has strengthened over time.

CLFN has participated in the review of the 2016 Project description, and would have appreciated if CNL had started these meetings back then. Starting engagement late in the process is considered by CLFN as a missed opportunity for having a better project as a whole, and a better relationship with the Nation.

4.7 Environmental Assessment Follow-Up Monitoring Program, p. 99-101.

CLFN notes that CNL will integrate an Environmental Assessment Follow-Up Monitoring Program (EAFMP) to its existing environmental monitoring and management plans.

CLFN also notes that Canada warbler, eastern whip-poorwill, eastern wood-pewee, golden-winged warbler, wood thrush, bats, Blanding's turtle, and eastern milksnake will be monitored and will be integrated into CNL's existing Biodiversity Monitoring Program during the construction and operations phases as well as closure phase where appropriate.

CNL has provided opportunities for Indigenous communities and the public to participate in the development of the NSDF EAFMP, and the opportunity remains until the regulatory decision is made on the Project. CLFN would like to continue to be involved with and provide feedback on sampling and monitoring programs in the future.