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Supplementary Information

Presentation from the Kebaowek First Nation

Renseignements supplémentaires

Présentation de la Première nation de Kebaowek

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



**KEBAOWEK FIRST NATION SUBMISSION TO THE CANADIAN NUCLEAR SAFETY COMMISSION
REGARDING THE REGULATORY OVERSIGHT REPORT FOR CANADIAN NUCLEAR
LABORATORIES: 2020**

Canadian Nuclear Safety Commission Meeting
November 25, 2021
Ottawa Ontario

Chalk River Laboratories Location

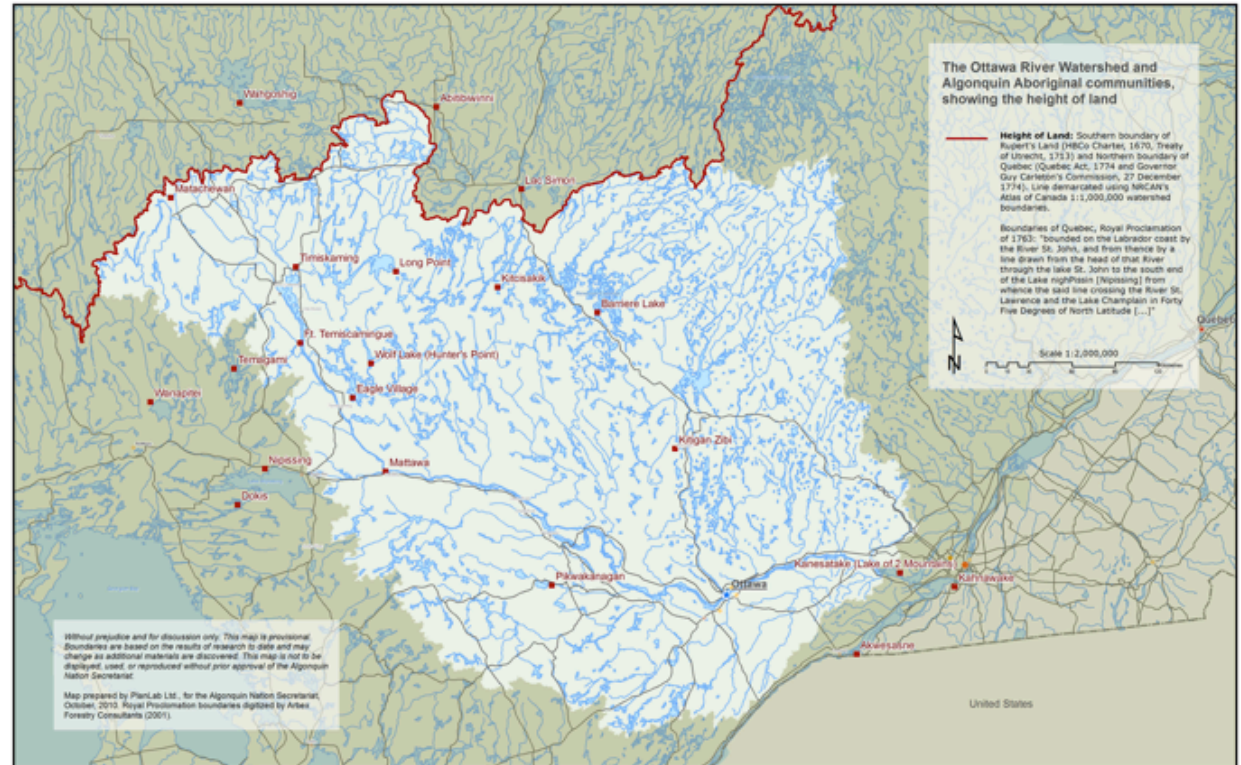
Kebaowek First Nation appreciates this opportunity to raise issues and concerns around safety performance of sites that are licensed to Canadian Nuclear Laboratories (CNL) by the Canadian Nuclear Safety Commission (CNSC) particularly CNL licensed sites at Chalk River Laboratories (CRL) – the focus of this submission as CRL is located on unceded Algonquin Anishinaabeg Nation lands and the Kitchi-sipi waterway.



Aerial view of CRL (source: CNL)

The Algonquin Nation

The traditional territory of the Algonquin Nation includes the entire Ottawa River watershed straddling Quebec and Ontario. Algonquins have never relinquished rights or title to our territory or our rights as “Anishnabe”



A Nation of Waterways

The Nation is organized around the Ottawa River Basin. The Algonquin heartland being the entire length of the Kichi sipi , literally “big river”, from its headwaters in north-central Quebec to the sacred sites at Bird Rock across from Chalk River and Akikodjiwan (Chaudiere Falls) in Ottawa to its outlet near Montreal.



Temiskaming Sagahigan upper Kichi sipi

CNL Nuclear Projects at Chalk River

- The 2020 ROR provides that “CNL continues work on the proposal to construct and operate a Near Surface Disposal Facility (“NSDF”) at the CRL site.” The 2020 ROR states “Additionally, Global First Power is proposing a small modular reactor (“SMR”) at the CRL site.”
- KFN remains concerned about the continued lack of open discussion over how the Commission deemed the CNL_EIS complete for the NSDF without CNL having completed land use and occupancy or social cultural economic assessment studies with KFN as required under Section 67 of CEAA 2012 and further scheduling a two-part hearing for the NSDF project proposal February 22 and May 31 in advance of this CEAA work being completed.
- KFN maintains that the commission approval of the EIS guidelines for the scope of the assessment for GFP first-of-a-kind small modular reactor (SMR) at the Chalk River Laboratories (CRL) site on Algonquin territory must be revisited and include scoping review and revisions by both KFN and Algonquin Anishinaabeg Nation Tribal Council members who were excluded from contributing to the guidelines.

CNL Approving its own Nuclear Projects?

- During the period from November 2020 to March 2021, numerous waste-related projects were posted on the federal Impact Assessment Registry under section 82 of the Impact Assessment Act, with very little information other than the following headings:
- 81139 Canadian Nuclear Laboratories Cask Facility Project
- 81177 Canadian Nuclear Laboratories Intermediate Level Waste Storage Area
- 81178 Canadian Nuclear Laboratories Bulk Storage Laydown Area
- 81209 Canadian Nuclear Laboratories Material Pit Expansion Project

CNL Approving its own Nuclear Projects?

Continued

- 81375 Canadian Nuclear Laboratories Building Demolition Project
- 81389 Canadian Nuclear Laboratories Waste Management Area Modification Project
- 81403 Canadian Nuclear Laboratories Heel Storage Removal Project
- 81424 Canadian Nuclear Laboratories Effluent Monitoring Stations Upgrade Project
- 81443 Canadian Nuclear Laboratories Multi-Purpose Waste Handling Facility
- KFN was not consulted on any of the Chalk River location projects on the above list. KFN is further concerned that for each of these projects, a “Notice of Determination” has now been issued by CNL. The ROR should clarify that AECL, and not CNL, is the federal authority responsible for making determinations as to whether these projects have significant environmental and social cultural impacts to rights and title holders.

Questions?

KFN is asking the Commission how does CNL a privately owned company with foreign interests determine that this long list of project activities, carried out on federal lands, won't cause significant adverse environmental effects and impacts on both Canadians and Algonquin Aboriginal Rights and Title holders?

This CNL approval process raises a number of questions by KFN and other interveners. Why are none of these projects mentioned in the 2020 ROR?

- KFN requests a description of the current plans for these projects and an overview of CNL's analysis and Indigenous consultation plan for determining that they are not likely to cause significant adverse environmental effects or impact on Algonquin Aboriginal Rights and Title.



Questions? Continued

Does the CNSC receive notice of these projects?

Are CNL determinations provided to the CNSC?

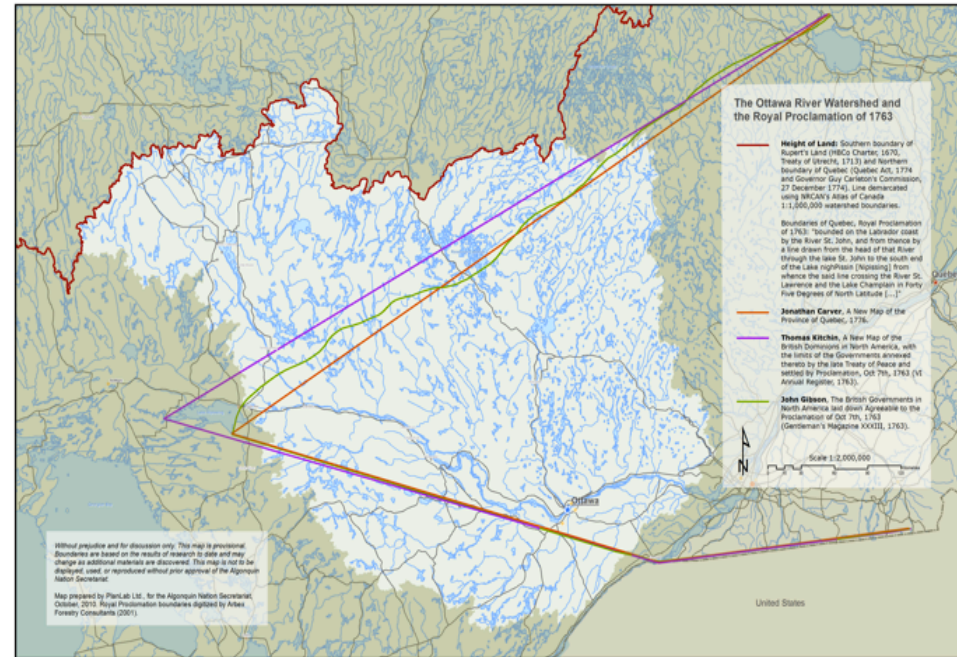
Has the CNSC weighed in on any?

How does the CNSC safeguard against conflicts caused by CNL, as a licensee, also being a decision maker for EA?"



Algonquin Nation – Cumulative Effects

- Traditional territory and traditional use of territory protected from disturbance by the Royal Proclamation of 1763 issued by Britain's King George III and the instructions of Governor Murray of 1763.
- KFN concerned about cumulative effects since 1763 including historical and modern day Chalk River Nuclear Projects



Algonquin Interests

KFN exercises historical and contemporary land use and occupancy on our territory.

We have cultural knowledge of our lands and waterways that support sustainability of our resources and our future needs.

We want to protect our Section 35 interests for future generations.



The Duty of Care

- Concerned about the health and well being of present and future generations
- Need for precaution
- Need for multi-jurisdictional collaboration
- KFN supports the submission of the concerned citizens of Renfrew



INDIGENOUS WORLDVIEWS AND KNOWLEDGE AND THE CRL

"Bird Rock" is a rock face that rises 150 meters above the Kitchi sibi across from Chalk River Laboratories on the north side of the river. It is recognized as a sacred site by our peoples.

KFN asks the CNSC why is there no mention in the 2020 ROR of CNL's role in the implementation of the Federal

Nuclear Science and Technology Work Plan, promoting Chalk River Laboratories – as Canada's largest science and technology complex? – "to contribute to the government's health, science, innovation and climate change objectives."

KFN recommends that CNL's role in the implementation of this Plan be readdressed by CNSC on KFN's behalf in the context of inclusion of Indigenous history and worldviews and knowledge exchange regarding the Chalk River Laboratories and its location on Algonquin lands and waterways.



Obligation of Nation to Nation Relations

- Governments continually suggest “Aboriginal Capacity Building”
- What is government’s capacity to really consult with First Nation peoples in a Nation to Nation context?
- In Canada, the **duty to consult** and accommodate with Aboriginal peoples arises when the Crown contemplates actions or decisions that may affect an Aboriginal person's Aboriginal or Treaty rights. ... This **duty** flows from the honour of the Crown and its **fiduciary** relationship with Indigenous peoples which can give rise to a fiduciary duty to Indigenous peoples.
- We know from the history at Chalk River Laboratories that this duty is not honored.
- We understand the current government wants to change this history and develop meaningful Nation to Nation relationships.

Environmental Legislative Reform and the Duty to Consult

- The current government was committed to reforming environmental legislation that currently affects the Chalk River Laboratories site and the Canadian Nuclear Safety Commission.
- We are especially concerned with groundwater and aquatic issues related to historic and current use of the Chalk River Nuclear Site located on the Ottawa River.
- We are seeking a consultation, conflict and collaboration analysis that could potentially lead to a consultation framework agreement with our community and other members of the Algonquin Nation.
- Objective is to meaningfully connect Algonquin knowledge and stewardship to the Chalk River Laboratories and long term management of the Ottawa River and its fisheries.

Historic and Current Issues

- Indigenous Consultation and Engagement
- We question the recent licensing status if the only Aboriginal engagement and resourcing for engagement for the relicensing was with the AOO and the MNO.
- KFN does not endorse accept, or acknowledge any claims to any Aboriginal or Treaty Rights made by the Algonquins of Ontario (“AOO”) or any members of AOO.
- We do not agree with commercialized nuclear waste disposal as part of the CNL license.
- We are especially concerned with groundwater and aquatic issues related to historic and proposed site development.



Nuclear Waste Management

- The 2020 ROR provides one-sentence descriptions of site-specific waste management activities completed at CRL, WL,PHP, PGP, DP, G-1 and NDP.³⁴ The ROR does not describe the type of waste that it intends to dispose of at each site in adequate detail, nor does it describe the specific steps taken to prevent unreasonable risk to the environment and human health. This level of depth is insufficient. KFN recommends that a detailed overview of waste management activities being undertaken at the CRL site be included in the ROR.

Building new rules

- Going forward with a nation-to-nation relationship between the CNSC and Algonquin communities needs to be structured immediately.
- We are requesting CNSC enters into a consultation, conflict and collaboration analysis that could potentially lead to a consultation framework agreement with our community and other members of the Algonquin Nation.
- We are requesting CNSC regroup on the environmental assessment processes of the NSDF and NPD closure projects adjusting consultations in keeping with the improved legislative criteria for Indigenous engagement under the 2019 Impact Assessment Act and supporting regulations.

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CNL Integrated Waste Strategy

- The 2020 ROR makes no mention of CNL's Integrated Waste Strategy¹², which lays out a plan to dispose of CNL managed Low Level Waste at CRL and to transfer CNL managed Intermediate Level Waste and High Level Waste from other sites to CRL for storage until final disposal is available. Since this strategy represents a radical departure from radioactive waste practices and strategies previously espoused by Atomic Energy of Canada.
- KFN recommends that a discussion of the Integrated Waste Strategy and the consolidation of high, intermediate, and low-level waste at CRL be included in the ROR.



Nuclear Waste Transportation

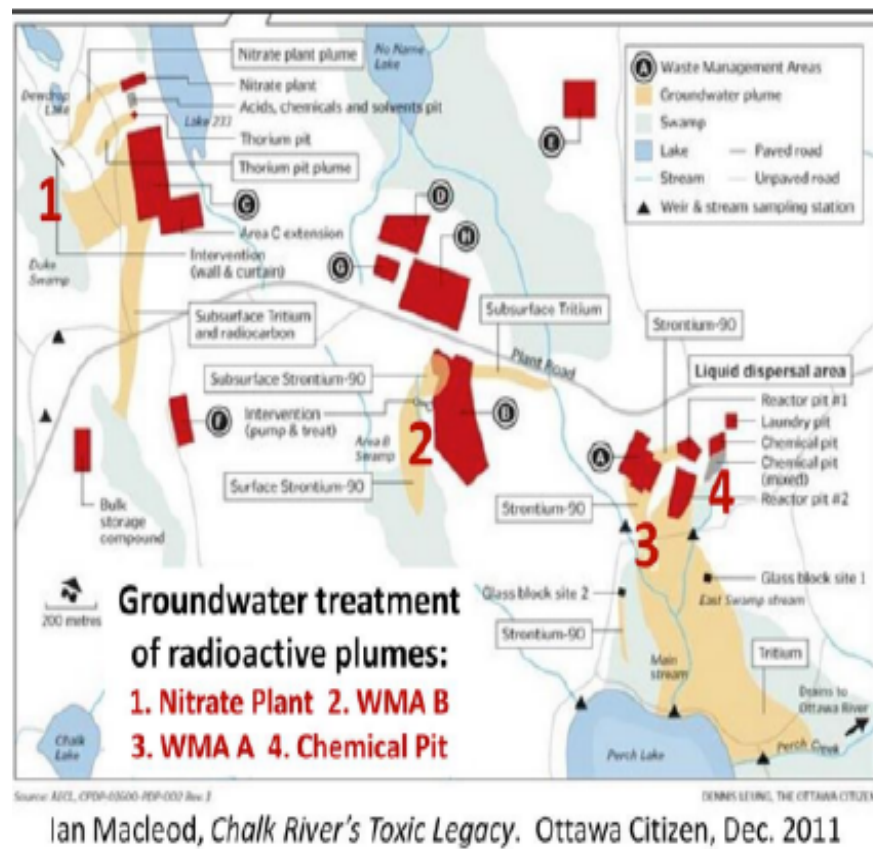
- The 2020 ROR also makes no mention of the extensive transport of radioactive materials that has been, continues to be, and will be taking place in the future on Algonquin Anishinaabeg lands in order to achieve the aforementioned consolidation of radioactive waste at CRL. CELA notes at the “Environmental Stewardship Council” virtual meeting on October 21, 2021, CNL said that it plans to start the Whiteshell High Level Waste shipments next summer.
- Since there are increased risks associated with the transportation of radioactive waste—specifically increased radiation exposures and increased risks of transport accidents—the ROR should provide an update on the status of CNL’s waste transfer activities, and specifically state that the High Level Waste transfer from Whiteshell to CRL will begin in summer 2022.
- The transfer of wastes is critical to the CNSC's oversight as Canada's nuclear safety regulator. The ROR provides an opportunity for the CNSC to consider issues like waste transfers and the licensing of the casks in which these transfers occur. This is as a matter of significant Algonquin Anishinaabeg and public concern.

Radionuclide Reporting

- KFN recommends the ROR 2020 addresses that radionuclides data should be reportable and accessible on Canada's National Pollutant Release Inventory ("NPRI") in a similar manner as pollutants currently reported.

Chalk River Leaking Wastes

- KFN requests the 2020ROR addresses the Chalk River Leaking Waste Areas and Contaminants currently onsite. It is unclear to KFN what remediation is in progress. What is the contaminant load in the Ottawa River?



Considering Climate Change

- As climate impacts become more frequent and pronounced, KFN urges the CNSC to discuss climate change in the context of licensee oversight because of the major safety and environmental issues that they pose to operations.
- KFN submits oversight of potential climate impacts is within the purview of the CNSC's review because of the both the CNSC and Algonquin Nation's responsibility to protect the environment from unintended radioactive releases.
- Catastrophic weather events are becoming more frequent and KFN like other intervenors recommend the CNSC review the climate resiliency of licensees as part of their regulatory oversight reporting and ask that the Commission direct CNSC Staff to include this in future RORs.



Chi Meegwetch



- Thank you to the CNSC and organizers for helping expand this dialogue today and into the future.
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