



**CMD 26-M4.7**

Date: 2026-01-28

**Written Submission from the  
Kebaowek First Nation**

**Mémoire de la  
Première Nation Kebaowek**

In the matter of the

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À l'égard du

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**Regulatory Oversight Report for  
Canadian Nuclear Laboratories  
Sites: 2024**

**Rapport de surveillance réglementaire  
des sites des Laboratoires Nucléaires  
Canadiens : 2024**

**Commission Meeting**

**Réunion de la Commission**

March 2026

Mars 2026

Canadian Nuclear Safety Commission  
280 Slater St.  
Ottawa, ON K1P 5S9

January 28, 2026

**Sent via email to:** [interventions@cnsccsn.gc.ca](mailto:interventions@cnsccsn.gc.ca)

**Re: Comments from Kebaowek First Nation on the Regulatory Oversight Report (“ROR”) for Canadian Nuclear Laboratories Sites: 2024**

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Kebaowek First Nation (KFN) welcomes the opportunity to provide its views and recommendations to the Canadian Nuclear Safety Commission (CNSC) in response to CNSC Staff’s “Regulatory Oversight Report (“ROR”) for Canadian Nuclear Laboratories Sites: 2024.”

In providing these written comments, we also request the opportunity to address the Commission at the upcoming ROR meeting scheduled for the week of March 23, 2026.<sup>1</sup>

Kebaowek First Nation is an Algonquin Anishinabeg First Nation and one of the eleven communities that constitute the broader Algonquin Nation. For centuries, the Algonquin Nation occupied the length of the Kichi Sibi (Ottawa River) watershed, from its headwaters in north central Québec, all the way to its outlet in Montreal. Algonquin peoples have long exercised our customary laws and governance, known as Ona’ken’age’win, on our traditional territory. This law is based on Algonquin peoples’ mobility on the territory, to hunt, gather, and control the use of the lands and waterways for future generations. The Algonquin Nation has never ceded its traditional territory, and its rights and title have not been extinguished. As Algonquin peoples we regard ourselves as keepers of the land, with seven generations worth of responsibilities for livelihood security, cultural identity, territoriality, and biodiversity.

Our comments are based on our extensive experience with federal regulators and agencies, and involvement in regulatory matters including impact assessments, licensing hearings, project reviews and law reform initiatives. This submission is focused on ensuring that oversight, decision-making and regulatory processes are aligned with our ability to participate in decisions that impact our rights.

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<sup>1</sup> CNSC, “[Participant funding for the regulatory oversight reports for the 2024 calendar year](#),” 2025-07-09.

## 1. UNDRIP, FPIC & KFN'S RIGHTS & RESPONSIBILITIES ASSESSMENT LAW

UNDRIP sets the minimum standards for the survival, dignity, and well-being of Indigenous peoples.<sup>2</sup>

Through the *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c 14 (“UNDA”), Canada affirmed the Declaration as a universal international human rights instrument with application in Canadian law and that should be implemented without delay.<sup>3</sup>

The Supreme Court of Canada confirmed that UNDRIP has been incorporated into Canada’s domestic positive law.<sup>4</sup> The Federal Court and appellate courts have further confirmed that UNDRIP acts as an interpretative lens through which federal and provincial laws must be viewed and the minimum standards against which they are to be measured.<sup>5</sup>

Courts have held that UNDRIP must be given the same weight as a binding international instrument and applies when section 35 rights are engaged.<sup>6</sup> The federal government, through the UNDA, has endorsed UNDRIP and bound itself to applying UNDRIP and acting in conformity with it. UNDRIP must inform all actions taken under statute, as well as the execution of the duty to consult and accommodate. UNDA’s purposes are to “affirm the Declaration as a universal international human rights instrument with application in Canadian law” and to “provide a framework for the Government of Canada’s implementation of the Declaration.”<sup>7</sup> The Government of Canada is legally required under section 5 of UNDA to “take all measures necessary to ensure that the laws of Canada are consistent with the Declaration.”

UNDRIP informs the scope of the Crown’s obligations under section 35 of the *Constitution Act*, and requires the Crown to obtain the Free, Prior, and Informed Consent (“FPIC”) of Indigenous Peoples whenever the state propose to store or dispose of hazardous materials on the lands and territories of Indigenous peoples.<sup>8</sup> UNDRIP further requires states to cooperate in good faith with Indigenous peoples through their own representative institutions and to respect their laws, traditions, and customs.<sup>9</sup>

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<sup>2</sup> *United Nations Declaration on the Rights of Indigenous Peoples*, Art 43 [UNDRIP].

<sup>3</sup> *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c 14, ss 2(3), 4(a).

<sup>4</sup> *Reference re An Act respecting First Nations, Inuit and Metis children, youth and families*, 2024 SCC 5 at 15.

<sup>5</sup> *Gitxaala v BC (Chief Gold Commissioner)*, 2025 BCCA 430 at 7; *KFN v Canadian Nuclear Laboratories*, 2025 FC 319 at 76; see also *R v Montour*, 2023 QCCS 4154.

<sup>6</sup> *R c Montour*, 2023 QCCS 4154 at para 1201.

<sup>7</sup> UNDA, s 4.

<sup>8</sup> UNDRIP, Art 29.

<sup>9</sup> UNDRIP, Arts 32(2); see also UNDRIP, Arts 11, 12, 27.

In November 2025, KFN ratified a Rights & Responsibilities Assessment Law which provides a structured process through which the Crown and proponents may obtain KFN's FPIC for physical projects and legislative proposals. The Rights & Responsibilities Law incorporates the standards of UNDRIP and is grounded in Anishinaabe laws, knowledge, and processes.

We require CNSC and the proponents it regulates to adhere to the Rights & Responsibilities Assessment Law and to meet or exceed the standards set out in UNDRIP. Section 5.2(a) of the Rights & Responsibilities Assessment Law affirms that FPIC is not a one-time event, but a process that occurs through the implementation of a project. Under section 20, KFN retains jurisdiction to amend or withdraw its FPIC where a proponent fails to diligently implement FPIC conditions or proposes fundamental changes to the project, or where new adverse effects arise, including where a spill, accident, or malfunction occurs.

As a preliminary matter, KFN has never granted its FPIC for the nuclear facilities, activities and projects under review. Our participation in reviewing and providing comments on Regulatory Oversight Reports is an expression of our right of self-government and jurisdiction to ensure that all projects respect our inherent rights and uphold our responsibilities to all of our relations, as stewards and caretaker of the lands.

CNSC must collaborate with KFN respect to its oversight activities and work to achieve consensus on the following matters:

- the assessment of whether licensees have met applicable requirements under the *Nuclear Safety Control Act*, KFN's Rights & Responsibilities Assessment Law, and Canada's international obligations, including UNDRIP; and
- the determination of whether licences should be renewed, suspended in whole or in part, amended, revoked, or replaced based on the proponent's adherence to the licence conditions or the FPIC conditions specified by KFN.<sup>10</sup>

As was made clear in *Kebaowek First Nation v Canadian Nuclear Laboratories*, 2025 FC 319, the CNSC must consider UNDRIP and the free, prior, and informed consent standard when assessing whether its duty to consult has been met and must align its processes to reflect KFN's laws, knowledge, and processes, and to work toward achieving agreement.

The UNDA Action Plan commitment #34 sets out the federal government's commitment to support Indigenous participation in decision-making and enable them to exercise federal

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<sup>10</sup> *Nuclear Safety Control Act*, SC 1997, c 9, ss 25, 35(3), 37(2)(d) [these sections specify when the CNSC or its delegates may renew, suspend, amend, revoke, or replace licences]

regulatory authority. KFN has raised with the CNSC many opportunities to meet this commitment. The CNSC must ensure KFN can fully participate in decision-making in matters affecting its rights in accordance with KFN's own procedures and based on the principle of free, prior and informed consent.

KFN underscores the importance of meaningful consultation and engagement with its community, emphasizing the need for improved transparency, communication, and collaboration to align industry activities with the laws, knowledge, processes, rights, values, and interests of KFN. CNSC must work with KFN to enhance regulatory oversight while addressing both realized and perceived impacts of the CNSC's operations on communities and the environment.

## **2. REFORMING THE REGULATORY OVERSIGHT REPORT PROCESS**

In July 2025, the Government of Canada initiated a program to reduce so-called regulatory red tape. As part of this effort, a red tape reduction office<sup>11</sup> was created to conduct a "red tape review" aimed at eliminating outdated or overly complex processes, unnecessary or duplicative rules, and inefficient or unpredictable regulatory administration and service delivery.<sup>12</sup> Inspired by "the red tape review," the CNSC sought to reduce the administrative burden of Regulatory Oversight Reviews.

The "red tape review" raises significant concerns for Kebaowek, as it appears to allow the CNSC to further derogate from meaningful engagement on the RORs, existing consultation laws and RegDoc updates. Furthermore, by consolidating ROR meetings into a single Commission meeting, instead of the staggered schedule previously provided, provides less time for Kebaowek to provide a thorough review of separate and significant nuclear regulatory topics. It also introduces a significant burden to meet not just one - but four or five - ROR deadlines for written comments and oral interventions which now fall on the same day.

Over the years, our experience has been that Kebaowek's feedback is given little consideration in RORs. Our involvement is typically limited to a subject submission and a 20-minute meeting intervention, with no Commission feedback or mitigation follow-up actions on our comments. This approach is inconsistent with the duty to consult and meaningful engagement and makes

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<sup>11</sup> Government of Canada, *Red Tape Reduction Office* (Ottawa: Government of Canada, online: <https://www.canada.ca/en/government/system/laws/developing-improving-federal-regulations/red-tape-reduction-office.html>)

<sup>12</sup> Canadian Nuclear Safety Commission, *Red Tape Review* (Ottawa: Canadian Nuclear Safety Commission, n.d.), online: <https://www.cnsccsn.gc.ca/eng/acts-and-regulations/red-tape-review/>

us question the Commission's potential capacity to consider our interests alongside other criteria, such as our rights and responsibilities.

We also learned - just two weeks prior to the deadline for comments on the RORs - of “CNSC’s work to modernize reporting” for the RORs.<sup>13</sup> As was announced to us via email:

In the Notice of Meeting for the upcoming RORs, the Commission noted that changes to the ROR format and reporting approach may be considered moving forward.

The CNSC is working to improve its approach to reporting to the Commission and the public, including improvements to the timeliness, accessibility, and availability of data and information.

CNSC staff will provide an information update to the Commission at the March 2026 Commission meeting, presenting initial improvements on how information and data will be reported to the Commission and shared publicly for reporting on 2025 data. Attached is a presentation which summarizes the project.

#### **Working with you:**

The CNSC encourages Indigenous Nations and communities, and other interveners, to share their views with staff and the Commission regarding the future of reporting on regulatory oversight data and information, and potential improvements, as part of their interventions for the 2024 RORs. CNSC staff will work through feedback to incorporate it into the new approach as appropriate.

The CNSC is committed to engaging with interested Indigenous Nations and communities to regularly seek input on the future of engagement reporting to the Commission moving forward.

Kebaowek and the CNSC have a long term relationship agreement and meet regularly; however, we were not informed of this red tape reduction exercise until we received five ROR requests to be reviewed by the same deadline and the need for ‘modernization’ and ‘increase efficiency,’ something we learned of in CNSC Staff’s ROR webinar series.

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<sup>13</sup> Email from CNSC Staff, Kirsten Sellers to KFN, 14 Jan 2026

To summarize our concerns:

- We do not support the CNSC eliminating “the “feedback on comments period” for regulatory consultations, shortening timelines by 6 to 8 weeks per project. This erodes transparency and engagement with interested parties.
- We question how CNSC will respect its long-term relationship agreement with KFN while cutting back on consultation timeframes and funding capacity

Kebaowek continues to reiterate that the ROR is a missed opportunity for the Commission to co-develop an ROR which is responsive to KFN’s concerns and interests, recognizing we are a rights-bearing community disproportionately affected from legacy nuclear operations, ongoing operations (including research and waste disposal) and radiological risk for incalculable generations to come.

**Kebaowek recommends** that instead of removing opportunities to hear directly from and engage with impacted rights holders including Kebaowek, the Commission should be ensuring it provides generous and stable funding to communities necessary to build and sustain capacity and engagement that takes into account community capacity, such that timelines are flexible and the ROR process iterative and responsive to our involvement.

### 3. CONSULTATION AND INDIGENOUS ENGAGEMENT

Comments are made throughout the ROR that lend a very favourable picture of CNSC consultation with Indigenous Nations. For instance, the opening land acknowledge refers to creating “meaningful opportunities for long-term engagement and open, two-way dialogue” in a “culturally aware” way.<sup>14</sup> It also repeatedly references funding opportunities, as means of “supporting participation” and building “knowledge and capacity.”<sup>15</sup> These statements frame the CNSC’s consultation record as effective and rights-respecting, even where Kebaowek’s lived experience demonstrates that engagement has been delayed, minimized, or treated as a procedural formality rather than an obligation grounded in Indigenous rights and Crown duties.

As we have repeatedly shared with the Commission over the years,<sup>16</sup> we remain of the view that

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<sup>14</sup> Regulatory Oversight Report, p 1

<sup>15</sup> Regulatory Oversight Report, p 68, 75, and 129

<sup>16</sup> *See for instance* Kebaowek’s Letter to CNSC dated August 12, 2021 “Follow up to April 17 2021 Meeting and Honour of the Crown,”; Kebaowek and AANTC Letter to Prime Minister dated May 14, 2020 “Canada’s Need for an Overreaching Indigenous Cooperation Agreement with the Algonquin Nation for Chalk River Nuclear Site Proposed Development”; Kebaowek’s Review of the Regulatory Oversight Report for the Use of Nuclear Substances in Canada 2023 (4 October 2024), p 8 – 10.

CNSC Staff and the CNSC's nuclear licensing approach, continue to frustrate rather than advance meaningful, UNDRIP-conforming consultation. In our experience, the CNSC has been obstructionist to good faith efforts by Kebaowek to bring forward solutions—many of which predate the renewed consultation process and are now being taken up because of the Court's direction in *Kebaowek First Nation v CNL*, 2025 FC 319<sup>17</sup>.

Predating the court-order renewed consultation, for years Kebaowek has been requesting capacity support to undertake a UNDRIP pilot project that would review and report on the state of UNDRIP implementation in the CNSC regulatory process, including the implementation of the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDA) Action Plan measures. This proposed pilot was raised in our comments in last year's ROR and was intended to meaningfully address the systemic issue of UNDRIP implementation prior to carrying out project-specific work.

CNSC staff have repeatedly used language that is dismissive and disrespectful to our well founded and ongoing concerns about nuclear licensing and lack of inclusion of UNDRIP principles. For instance, CNSC staff expressed disdain at our use of the term “pilot” with respect to our request for a pilot project, and remarked they wanted to “move away from the word pilot” because they did not know if KFN was “talking about someone who drives an airplane or what.”<sup>18</sup> These types of comments from CNSC staff are delivered in a belittling and insensitive manner and serve to create an environment where Kebaowek's legitimate concerns about impacts to its rights and territory, and its efforts to uphold its obligations to its current and future generations, are disrespected and minimized.

There is also a pattern of relying on future, yet-to-occur public comment periods or CNSC-directed processes to pacify requests by Kebaowek for active involvement and engagement - with RORs being no exception and RegDoc 3.2.2 *Indigenous Engagement* being another.<sup>19</sup> While RegDoc 3.2.2 is mentioned in the ROR, it fails to include the important context that engagement is yet to occur - despite being mentioned as an opportunity to weigh in and reform CNSC Indigenous engagement back in July 2023.

Consultation on RegDoc 3.2.2 continues to be repeatedly postponed without justification, and timing remains undetermined. This pattern of delay is very unfortunate especially when regulatory decisions continue to move ahead and the CNSC continues to rely on an outdated, unconstitutional policy that aims to exempt many licensing activities from consultation

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<sup>17</sup> *Kebaowek First Nation v. Canadian Nuclear Laboratories*, 2025 FC 319 (CanLII), <<https://canlii.ca/t/k9l24>>

<sup>18</sup> Remarks made by CNSC Staffer during meeting with KFN

<sup>19</sup> REGDOC-3.2.2, *Indigenous Engagement*, Version 1.2



requirements.<sup>20</sup>

We share this experience with the Commission by virtue of the positive comments made about the CNSC's Indigenous engagement effort in this year's ROR. This reinstills the need to action the recommendations we set out in Parts 1 and 2, above, and the need for the Commission and its staff to take necessary steps to move ahead in a way that advances reconciliation - a core purpose and fundamental objective that underlies the Honour of the Crown.<sup>21</sup>

#### 4. JUDICIAL REVIEWS OF THE CNSC'S NSDF LICENSING DECISION

The ROR makes reference to the three judicial reviews filed against the CNSC's 2024 licensing decision authorizing the construction of the Near Surface Disposal Facility.<sup>22</sup> While it is not contested that two of the three judicial reviews remain under court review, it is not clear why the ROR makes direct and explicit reference to 'CNL appealing the decision' and provides hyperlinks to their press releases.

As the ROR states:

More information on the three judicial reviews can be found below:

Kebaowek First Nation v. CNL (File No. T-227-24)

- On February 19, 2025, the Federal Court released its decision partially granting the judicial review, [CNL is appealing the decision](#)

Kebaowek First Nation v. Canada (Attorney General) (File No. T-647-24)

- On March 14, 2025, the Federal Court released its decision granting the judicial review, [CNL is appealing the decision](#)

It's very unclear why the CNSC would seek to promote the position of CNL instead of (1) offering a synopsis of the case, (2) setting out actions it is taking to become UNDRIP compliant or (3) parallel links to KFN's position.

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<sup>20</sup> See Section 1.2 Scope which states: The following are examples to which the requirements contained in this document do not apply:

- licence renewals with no proposed changes to existing operations as authorized by the Commission
- administrative licence amendments
- Class II nuclear facilities in existing hospitals
- users of portable nuclear gauges and radiography equipment

<sup>21</sup> *Haida Nation v BC*, [2002 SCC 73](#)

<sup>22</sup> Regulatory Oversight Report, p 78

As KFN has continued to raise in its submissions before the CNCS, Ministers and other federal agencies, we believe the CNSC is biased and does not demonstrate independence from the industry it regulates, to hold our trust.<sup>23</sup> This is yet another example of the CNSC's promotion of industry views and positions absent equal recognition for Indigenous nations who, like Kebaowek, are fighting to protect their lands and waters against nuclear activities developed and operated absent our consent. We carry the burden of advocating for our rights and our community every day, all day.

Therefore, we provide the following non-exhausting list of media naming Kebaowek First Nation and its position in the context of the judicial reviews. These are among the many media pieces the ROR could have sought to reference and include alongside direct links to CNL:

- Brett Forester, [“Kebaowek First Nation faces off against CNL at Federal Court of Appeal over Chalk River nuclear waste dump”](#) (9 August 2023)
- Brett Forester, [“Federal judge orders nuclear regulator to renew consultation with Kebaowek First Nation on Chalk River nuclear waste dump”](#) (21 February 2025)
- CBC News, [“Another win for Algonquin community in fight against nuclear waste dump”](#) (March 2025)
- The Energy Mix, [“First Nations, Citizen Groups Demand Halt to ‘Glorified Landfill’ for Radioactive Waste”](#) (8 February 2024)
- Stop Nuclear Waste, [“Stop Nuclear Waste”](#) .
- Levin Chamberlain, [“Appeals on Appeals: Kebaowek First Nation and Canadian Nuclear Laboratories Submit Written Arguments Over UNDRIP Case”](#) (18 July 2025)
- RAVEN Trust, [“Kebaowek First Nation”](#)

## 5. SPECIFIC COMMENTS ABOUT CNL'S CHALK RIVER SITE

### *a. Reportable Events*

KFN is deeply concerned about the lack of transparency and accountability in reporting and addressing incidents, and ensuring their timely and accurate communication with KFN. Below, are among the reportable events at Chalk River Laboratories (CRL) in 2024 KFN remains concerned about that:

1. **Lapses in Radiation Protection Training:** Over 400 employees had expired Radiation Protection training due to a failure in the electronic learning management system to

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<sup>23</sup> See for instance: [Kebaowek First Nation Submission on review of the Canadian Impact Assessment Act \(IAA\) Regulations Designating Physical Activities \(the “Project List Regulation”\)](#), 27 Sept 2024

notify managers and supervisors of upcoming training requirements (HSSE-24-0139)

2. **Security Non-Compliance:** Details of this event are confidential (HSSE-24-2043).
3. **Package with Higher Radiation Levels:** A shipment received had higher-than-expected radiation levels, requiring a safe back-out procedure (ERM-24-1505).
4. **Unregistered Radioactive Source:** An unregistered radioactive source was discovered in out-of-service effluent monitoring equipment in Building 109 (HSSE-24-1647).
5. **Visitors Left Unescorted:** Details of this event are confidential (S&T-24-1683).
6. **Smoke from Experimental Oven:** An experimental oven caused smoke, leading to a building evacuation (HSSE-24-1810)
7. **Noncompliance with Reporting Requirements:** CNL failed to submit an updated compliance verification document as required by the CRL Licence Conditions Handbook (CTA-24-1996).
8. **Improper Storage of Uranium Material:** Natural uranium carbide waste was found stored in the ZED-2 reactor facility, which was not an allowable form of fissionable material (S&T-24-2244).
9. **Unauthorized Export:** Hydrogen isotope exchange catalyst was exported to the USA without the required CNSC permit (BUS MGMT-24-3202).
10. **Broken IAEA Seal:** An IAEA seal on a safeguarded waste package was found broken due to improper placement (ERM-24-3323)
11. **Incorrect Packaging for Radioactive Liquid Shipment:** A shipment of radioactive liquid samples was packaged in a drum not rated for Type A liquids (ERM-24-3657).
12. **Incorrect Facility Authorization:** A neutron generator operated contrary to the facility authorization, producing neutrons when the getter valve was closed (S&T-24-4032).
13. **Sewage Leak:** As we detail in greater depth below, the ROR does not mention any sewage leak into the Ottawa River at Chalk River Laboratories (CRL) as a reportable event but only as “Other areas of public and media interest included Sanitary Sewage Treatment Facility non-compliance.”<sup>24</sup>

#### ***b. CNSC-led Inspections at CRL***

According to the ROR, there were 58 occurrences of notices of non-compliance and 17

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<sup>24</sup> Regulatory Oversight Report, p 74

inspections.<sup>25</sup> In comparison to the ROR for the year prior, there were 77 notices of non-compliance (NNC) and 19 inspections.<sup>26</sup>

These inspection and compliance trends are significant because they are indicative of whether regulatory oversight is identifying issues early, preventing repeat non-compliances, and ensuring timely corrective action—particularly in a context where there are potential impacts to lands, waters, and human health.

Therefore, to support transparency, accountability, and trust in the CNSC’s regulatory oversight, **Kebaowek asks:**

- Are any of the NNCs related in issue or nature (i.e., repeat non-compliances), and if so, what escalation measures are triggered to prevent recurrence?
- What tracking and verification processes are in place to ensure each NNC is remedied (including timelines, corrective action plans, and confirmation of closure)?
- Is there a correlation between the number of inspections conducted and the number of non-compliances identified? For example, in 2023 there were 2 more inspections and approximately 20 more NNCs—does this suggest that fewer inspections may reduce the detection/reporting of non-compliances rather than reflect improved performance?
- Why was there a reduction in inspections in 2024, and what risk-informed rationale was applied to ensure oversight remained adequate?

### ***c. Environmental Risk Assessment***

Based on the ROR, Kebaowek understands that CNL’s most recently accepted Environmental Risk Assessment (ERA) was completed in 2019, and per REGDOC-2.9.1 was due for review on a five-year cycle, meaning an updated ERA was expected in January 2024. After CNL requested a one-year extension due to delays in follow-up studies, CNSC staff accepted a revised deadline of January 31, 2025, and concluded that human health and the environment remained protected in the interim. CNL submitted an updated ERA in January 2025, but CNSC staff requested further information and revisions, with a revised resubmission date now committed for October 2025.<sup>27</sup>

**Kebaowek requests** the CNSC make all material referenced with the ROR publicly available and ensure its public availability, before seeking to present and rely on it. Upon review of CNL’s public portal which documents its environmental protection reporting, we can confirm that this

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<sup>25</sup> Regulatory Oversight Report, p 6

<sup>26</sup> [ROR for CNL: 2023](#), p 97

<sup>27</sup> Regulatory Oversight Report, p 12 and 13

updated ERA is not among the publicly available reports. The most recent ERA is dated 2019.<sup>28</sup>

The ERA is a document relied upon by the CNSC to support their findings that human health and the environment remain protected per the *NSCA*. Thus, without public accessibility, Kebaowek cannot assess the assumptions, uncertainties, monitoring results, or proposed mitigation measures that underpin this conclusion. This is an unfortunate exclusion as it means Kebaowek is unable to review and thus comment on and raise any substantive questions regarding the updated ERA.

**Kebaowek recommends** the Commission require CNSC staff to hyperlink all resources contained in the ROR to ensure their public accessibility and ensure, in keeping with public disclosure and consultation obligations that licensees - including CNL - ensure their publicly posted materials remain up to date and reflection of most recent versions. This is necessary to uphold procedural fairness and enable meaningful participation, particularly where the Commission and CNSC Staff rely on these materials to justify findings.

**Kebaowek requests** the CNSC disclose the comments provided to CNL that prompted revision of the ERA (now due October 2025), as these comments are necessary for Kebaowek to understand the deficiencies identified, their potential implications for risk conclusions, and the nature of the information CNSC is seeking to resolve outstanding uncertainties. Upon receipt of these materials, Kebaowek retains the right to provide further comment to the Commission for its review and response.

**Kebaowek also requests** participant funding be provided upon receipt of these documents to facilitate an informed review, including access to independent technical expertise where required.

#### ***d. Sewage Release at Chalk River***

We are deeply concerned that a troubling discovery of non-compliance at Chalk River did not merit inclusion in the ROR with the exception of one sentence, flagging it as an area of ‘media interest.’<sup>29</sup> In 2024, Canadian Nuclear Laboratories (CNL) reported a failure at its sanitary sewage treatment plant at the Chalk River Laboratories site, leading to the discharge of toxic effluent into the Ottawa River. Below, is a recap of the event:

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<sup>28</sup> [Environmental Risk Assessment of Chalk River Laboratories](#), 2019-01-21

<sup>29</sup> As the ROR at p 74 states, “Other areas of public and media interest included Sanitary Sewage Treatment Facility non-compliance “

- **Timeline:** The discharge began following a disruption in the plant's biological treatment process ("activated sludge") on **February 21, 2024**. The facility remained out of compliance until at least **late April 2024**.
- Canadian Nuclear Laboratories (CNL) officially reported the 2024 sewage event to the public on **March 26, 2024**, through a community information bulletin. This Initial Notification was issued nearly five weeks after the failure was first detected on **February 21, 2024**.<sup>30</sup>
- **Nature of Toxicity:** The sewage failed "acute lethality" tests, meaning samples were toxic enough to kill more than 50% of rainbow trout within 96 hours. In some tests, the mortality rate was 100%.
- **Contaminants:** CNL stated the issue was not related to radiological contaminants but was caused by a disruption to the micro-fauna in the treatment system. Specific non-radiological pollutants responsible for the toxicity were not publicly identified.
- **Volume:** The facility discharges an estimated average of 683 cubic metres of sewage effluent daily into the Ottawa River.
- **Content of Disclosure:** The March 26 announcement reported that routine sampling results were "non-compliant with requirements" due to a disruption in the facility's "activated sludge" treatment process.
- **Subsequent Clarification:** It was not until a follow-up bulletin on **April 24, 2024**, that CNL explicitly confirmed for the first time that the non-compliance had been ongoing since February.

On April 24, 2024, CNL issued a follow-up bulletin explicitly disclosing for the first time that routine sampling of effluent from the Sanitary Sewage Treatment Facility (SSTF) at Chalk River Laboratories revealed non-compliance with regulatory requirements. This finding is troubling, particularly given the delay and the vague nature of the initial report, noting that it did not specify the toxic nature of the discharge. This is unacceptable given the downstream communities reliant on the waterbody for recreation and drinking water.

Kebaowek First Nation has criticized both CNL and the CNSC for not alerting the public immediately when the event happened questioning the corporation's transparency in matters sensitive to environmental contamination of the land and water, which holds immense spiritual and cultural significance for our community.

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<sup>30</sup> Canadian Nuclear Laboratories, "Non-compliance in sewage effluent", online: [https://www.cnl.ca/public\\_disclosures/non-compliance-in-sewage-effluent/](https://www.cnl.ca/public_disclosures/non-compliance-in-sewage-effluent/)

In a public letter and the press release we sent out at the time,<sup>31</sup> KFN noted that the Ottawa River is not merely a body of water – it serves as a vital water source for communities across Ontario and Quebec. The incident underscored the critical need for immediate and comprehensive actions including:

- **Thorough investigations:** CNL and the Canadian Nuclear Safety Commission (CNSC) must conduct rigorous investigations to determine and expose the root causes of the non-compliance and identify corrective measures;
- **Compliance measures:** Immediate steps should be taken with consultations with Kebaowek First Nation on each step, to bring the Sanitary Sewage Treatment Facility back into compliance with regulatory standards to prevent further environmental and health harm;
- **Transparency and accountability:** CNL must enhance transparency and accountability in reporting and addressing such incidents, ensuring timely and accurate communication with affected communities and regulatory agencies.

Kebaowek also called upon the CNSC and federal Minister of the Environment to closely monitor the situation and ensure that CNL fulfills its obligations to protect the environment and public health, and take immediate and proactive steps to rebuild trust with the communities affected by this non-compliance.

We therefore **request the CNSC** to confirm why such a significant event was not reviewed in the ROR, discussed and an update provided. As we shared at the time, a significant period of time had also passed between the discharge event and Kebaowke being notified. This event not only raises immediate concerns for the environment, but misgivings about assurances provided by CNSC and CNL that sufficient plans are in place to prevent the NSDF from posing adverse environmental effects.

This critical gap in information included in the ROR also underscores the need to implement our recommendations - set out in section 1 above - that the ROR be co-developed with impacted Nations so that it *is* responsive to KFN's concerns and interests.

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<sup>31</sup> See [Online](#)

***e. Assessment of Projects on Federal Lands: Modern Combined Electrolysis and Catalytic Exchange facility and Gentilly-1 Fuel Transfer Project***

The ROR contains some information about the Modern Combined Electrolysis and Catalytic Exchange (MCECE) but fails to provide a timely ‘update’ that the project is presently paused. Instead, it presumes the project will advance - noting “[a]s the project advances, CNSC staff will continue to monitor CNL’s progress and maintain regulatory oversight.

Since, at the time of the writing of the ROR a federal effects assessment per the section 82 of the *Impact Assessment Act* had not been made - which is a prerequisite to any project activities - we submit it is premature of the CNSC to presume its advancement. It’s also unclear why the ROR does not provide a current update on the status of the project when it does so for the NSDF judicial reviews, noted above, and other projects like the ‘New Nuclear’ project at the Darlington site, as referenced in another ROR for the same window of time.

Our attempts to engage regarding the MCECE Project have laid bare the complete lack of coordinated framework for section 82 assessments, including consultation that addresses CNSC’s and the federal authorities roles, and requirements for consultation or engagement in the review process. We need to know which entity from among CNSC, AECL, and CNL is the decision-making authority at a given time, and which entity is responsible for consultation, both constitutionally and practically through delegation.

Our experience to date with section 82 assessments has been limited by virtue of outreach never having occurred on prior section 82 assessments (or analogous assessments carried out under section 67 of the *Canadian Environmental Assessment Act, 2012*). The compounding deficiencies and ongoing gaps highlighted in the attachments underscores why this remains an issue of profound significance to KFN.

Regardless of the MCECE and whether it continues, in any instance where the CNSC acts a federal authority for s 82 project assessments or, is involved by virtue of conducting a licensing basis review, there must be real consideration of our rights and knowledge. This requires our free, prior and informed consent (“FPIC”) before decisions are made. Our experience shows section 82 assessments to be *ad hoc*, uncoordinated and lacking support and expertise from the Crown in undertaking consultation.

**Kebaowek recommends** a major shift in the planning, coordinating and decision-making of section 82 assessments is needed if AECL/CNL and CNSC are to ensure a way forward that upholds our rights, which includes the duty to consult and FPIC. Since November 2021, KFN has



been requesting a framework for section 82 project engagements. We reiterate this is now long overdue and must be developed.

***f. Gentilly-1 Fuel Transfer Project***

According to the ROR, 88 spent fuel bundles, stored in 11 concrete silos, were transported via road from the Gentilly nuclear site in Quebec to CNL's Chalk River Site. The ROR further states:

The decision to grant CNL the approval to ship spent fuel was predicated on the fact that there would be minimal impact to the health and safety of workers, the public and the environment, as a result of these activities. CNSC staff also concluded that CNL met all of the regulatory requirements in order to ship the fuel safely.

A safety assessment of the retrieval of the spent fuel from storage at the G1WF, as well as a safety analysis of the transportation package that would be used to ship the fuel. CNL also applied for a license to transport, submitted a transport security plan, as well as obtained agreement from the IAEA to move the spent fuel from the G1WF to the CRL site.

Kebaowek is deeply concerned that it only learned of this information upon the publication of this ROR. No notice or inclusion of the CNSC's "decision to grant CNL approval to ship spent fuel" was communicated to us, nor was the decision shared. The above-noted documents, including CNL's transport licence application, were also not conveyed to us and at no point was there an opportunity presented for our engagement. **We request** they be disclosed in full without delay.

This approach is in direct conflict with the Honour of the Crown and the duty to consult, which arises whenever the Crown has real or constructive knowledge of the potential existence of KFN's rights and contemplates conduct that might adversely affect its rights. The Crown's duty to consult is also an ongoing obligation - throughout the life of a project - and thus new activities or new decisions can trigger consultation obligations.

The CNSC's approach and allowance of this waste transfer is also inconsistent with Canada's UNDRIP commitments, which include respect for KFN's rights and our meaningful inclusion. In light of the ongoing s 82 assessment and licensing amendment proposed for the G-1 site,<sup>32</sup> **KFN submits** the CNSC cannot proceed without first remedying this breach of the Crown's duty to

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<sup>32</sup> Impact Assessment Agency of Canada. *Decommissioning of the Gentilly-1 Waste Facility* (Project Reference No. 90092). Canadian Impact Assessment Registry, <https://iaac-aeic.gc.ca/050/evaluations/proj/90092?culture=en-CA>

consult and UNDRIP and in moving ahead, must ensure the process respects our constitutionally protected rights.

## **CLOSING REMARKS**

As we have consistently stated, the Commission is responsible for the Honour of the Crown - which means being able to demonstrate that there will be no inequitable, unjust or disproportionate impacts to KFN, our rights and interests. The substantial gaps in information, our involvement and respect for laws and principles remain fundamentally lacking must be remedied.

FPIC is a decision-shaping requirement, not a procedural objective or an outcome left to the discretion of the Crown. FPIC means that a project cannot proceed where Indigenous consent has not been given. It also means that Indigenous law and knowledge must guide assessment methodologies, impact determinations, risk evaluations, and long-term stewardship decisions.

Kebaowek remains committed to constructive, good-faith, justification based engagement and requests the Commission advance nuclear oversight that respects our Indigenous jurisdiction, law, and governance.