



BIIGTIGONG
NISHNAABEG

February 2, 2026

To: Project Review Teams for the Impact Assessment Agency of Canada and the Canadian Nuclear Safety Commission, nuclearwaste-dechetsnucleaires@iaac-aeic.gc.ca

Re: Biigtigong Nishnaabeg's Comments on the Initial Project Description for the Deep Geological Repository (DGR) for Canada's Used Nuclear Fuel Project, Project Ref: 88774

Enclosed please find the comments of Biigtigong Nishnaabeg (Ojibways of the Pic River First Nation) with respect to the Initial Project Description for the proposed Deep Geological Repository for Canada's Used Nuclear Fuel Project, Reference Number 88774 (DGR; the Project).

With respect to the Project, Biigtigong Nishnaabeg understands that the Nuclear Waste Management Organization (the NWMO; the Proponent) is proposing a new underground deep geological repository system designed to contain and isolate used nuclear fuel. Furthermore, Biigtigong Nishnaabeg understands that Wabigoon Lake Ojibway Nation (WLON) and the Township of Ignace have been selected as the host communities for the proposed project, which is located 21 kilometres southeast of the WLON and 43 kilometres northwest of the Town of Ignace, Ontario along Highway 17. As proposed, the DGR would provide permanent storage for approximately 5.9 million bundles of used nuclear fuel. The project is expected to span approximately 160 years, encompassing site preparation, construction, operation and closure monitoring. Biigtigong Nishnaabeg understands that the project assessment is being conducted by the Impact Assessment Agency of Canada (IAAC) in collaboration with the Canadian Nuclear Safety Commission (CNSC).

Biigtigong Nishnaabeg submits the following comments with respect to the Initial Project Description and is of the view that following activities must form part of the assessment of the DGR:

Transportation of the used fuel from the source reactor sites to the Project site

The Initial Project Description indicates that currently, the Description of the Project does not include "transportation of used fuel from reactor sites to the Project beyond primary and secondary access roads at the Project site, as this is regulated separately under CNSC certification and uses existing transportation infrastructure". Biigtigong Nishnaabeg is of the view that such transportation must be included in the Project Description and assessment for the following reasons:

As per the [Information and Management of Time Limits Regulations: SOR/2019-283](#), information required in an Initial Description of a Designated Project includes "A list of *all activities*, infrastructure, permanent or temporary structures and physical works to be included in and associated with the construction, operation

and decommissioning of the project” (Schedule 1, Part B(9)) [emphasis added]. Without the transportation of the used nuclear fuel from the source reactor sites to the DGR site, there would be no DGR project to complete. The transportation of the fuel from the source reactor sites to the DGR site is an activity of great material significance to the operation of the Project and therefore **must** be included in the impact assessment of the DGR.

The purpose of the [Impact Assessment Act, 2019](#) is “to prevent or mitigate significant adverse effects within federal jurisdiction — and significant direct or incidental adverse effects — that may be caused by the carrying out of designated projects, as well as significant adverse *environmental effects*...by establishing processes to anticipate, identify and assess the potential effects of those projects in order to inform decision making...” (S.6(1)). Exclusion of the transportation of the used fuel from the source reactor sites to the DGR would run contrary to the purposes of the *Impact Assessment Act*, by preventing the establishment of a **rigorous, fulsome and complete** process to anticipate, identify and assess potential effects of the project. As Biigtigong Nishnaabeg can attest, the conditions of the roads north of Lake Superior, including but not limited to Highway 17 and Highway 11 (that would be relied upon to transport the used fuel) are woefully inadequate. These roads are in desperate need of significant repair, maintenance and upgrading to improve road safety. Poor road conditions, coupled with degraded standards for transport truck driver training and licensing requirements, and the unpredictable nature of weather patterns north of Lake Superior combine to dramatically increase the likelihood of traffic and roadway accidents. The risks of such accidents must be factored into the DGR assessment to “anticipate, identify and assess” potential significant adverse environmental effects that this project activity could have if a roadway accident damaged the fuel bundles and released radioactive contamination.

An additional purpose of the [Impact Assessment Act, 2019](#) is to ensure that “The Government of Canada, the Minister, the Agency and federal authorities, in the administration of this Act...exercise their powers in a manner that fosters sustainability, respects the rights of the Indigenous peoples of Canada recognized and affirmed by section 35 of the *Constitution Act, 1982*, takes into account Indigenous knowledge, considers the cumulative effects of physical activities, applies the precautionary principle and promotes cooperation among jurisdictions and with the Indigenous peoples of Canada” (S. 6(2)). The transportation routes most likely used to transport the fuel, including but not limited to Highway 17 and Highway 11, traverse not only lands subject to treaties between the Crown and many First Nations, but also – as in the case of Biigtigong Nishnaabeg – unceded and unsurrendered Aboriginal Title land that is subject to settlement privileged negotiations between Biigtigong Nishnaabeg, the Government of Canada and the Government of Ontario. As determined in *Haida*, SCC, and as noted by the Canadian Department of Justice (DOJ), the Crown owes a duty to consult First Nations “where the Crown is contemplating undertaking conduct that could have an adverse impact on section 35 Aboriginal or treaty rights” (DOJ, [Duty to Consult and Accommodate](#)). In the case of the DGR, the Crown is contemplating the approval of this project via the impact assessment, which would de facto necessitate and result in the transportation of used nuclear fuel through treaty and Title territories. This transportation, as noted above, presents a risk of accidental impacts to the fuel and associated radioactive contamination which would have **immense and irreversible impacts** to the natural and cultural resources upon which the exercise of section 35 rights relies.

Cumulative impacts on First Nations, emergency response strategies omitted, and a failure to adequately regulate

Canada’s international commitments to nuclear safety include the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (the “Convention”). The Convention does not apply to off-site transportation of nuclear waste and provides little comfort to the substance of NWMO’s proposed transportation strategy that will see significant volumes of nuclear waste pass through Biigtigong Nishnaabeg territory and the Biigtigong Nishnaabeg community. In August 2024,

Canada issued its eight report on the Convention and acknowledged that off-site nuclear emergency preparedness – which includes highway transportation accidents, is a multi-jurisdictional responsibility entirely dependent upon the provinces who carry primary responsibility for off-site safeguard measures and nuclear emergency preparedness responses. A legitimate criticism of this safety framework is the resulting gap in communication from the time of an off-site highway transportation accident, the arrival of first responders - including volunteer fire-fighters, provincial police, and the dispatch of federal delegates from CNSC. In 2001, a fatal head-on collision between two transport trucks occurred approximately 25 kilometres east of Dryden and resulted in the Trans-Canada Highway being closed for 20 hours. The radioactive material – iridium – was found to be securely stored but nobody knew what they were looking for and the accident caused a heavy debris field off the highway. CNSC’s incident reporting is wholly inadequate for these serious accidents and likewise, federal and provisional transportation permitting does not impose a safety reporting measure following large accidents involving the transportation of nuclear waste.

In a similar manner, the August 2024 report regarding Canada’s compliance to the Convention suggests a high level of consultation with First Nations, including an emergency response strategy. And yet, Biigtigong Nishnaabeg has no record of the NWMO or the CNSC extending an invitation to participate in policy discussions. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) requires free, prior and informed consent of Indigenous peoples in the development of storage programs involving hazardous materials (Article 29(2)), and yet, the current proposal does not even provide notice with respect to when the nuclear waste will be transported through Biigtigong Nishnaabeg territory. The provision of notice has been viewed as a minimum safeguard in other comparative jurisdictions where large volumes nuclear waste are transported across Indigenous lands (i.e., the Navajo Nation). Biigtigong Nishnaabeg is not alone in these concerns. The Township of Conmee has passed a resolution on August 27, 2024, urging NMWO to find storage solutions near or on the source reactor sites and avoid transportation into northern Ontario. Finally, Canadian courts are increasingly looking at reconciliation between First Nations and the Crown in a more purposive perspective. While this imposes a higher standard of care on NMWO in situations like this, it results in potentially better public policy because the assessment process must consider the cumulative environmental impacts within a First Nations’ territory (*Yahey v British Columbia*, [2021 BCSC](#)).

At the World Economic Forum in Davos Switzerland, Prime Minister Mark Carney told the world that “Canada is a pluralistic society that works. Our public square is loud, diverse and free. Canadians remain committed to sustainability...and we have something else. We have a recognition of what’s happening and a determination to act accordingly.” The Prime Minister called for **honesty** about the world as it is. With respect to the DGR, here is the honest truth – to scope out the transportation of the used fuel would be to scope out countless First Nations from having a voice in this process. It would serve to allow the Crown to **circumvent the duty to consult**. It would allow the Crown to circumvent section 35 of the Constitution. To paraphrase the Prime Minister’s words – we call on the IAAC and CNSC to recognize what is happening and demonstrate a determination to act accordingly – the transportation of the used fuel from the source reactors to the site must be scoped into this assessment. Failure to do so, only calls for future court challenges and judicial reviews of such decisions.

Alternatives to the Project and to project processes

Per the [Information and Management of Time Limits Regulations: SOR/2019-283](#), information required in an Initial Description of a Designated Project includes a list of “potential alternative means of carrying out the project that the proponent is considering and that are technically and economically feasible, including through the use of best available technologies; and potential alternatives to the project that the proponent is considering that are technically and economically feasible and directly related to the project” (Schedule 1, part B(12)(a)(b)). The Project as proposed, involves moving the used fuel thousands of kilometers from its

source locations – being reactors with established security and containment processes and mechanisms, located in areas with rapid access to highly qualified emergency services should an accident occur – to the selected site in northern Ontario where the required technical expertise and rapidly deployable emergency services do not exist. This presents immense risks to the population living in northern Ontario should a catastrophic accident or event occur. The Initial Project Description indicates that a previous alternative assessment was conducted via the Choosing a Way Forward: The Future Management of Canada's Used Nuclear Fuel study and as such "further assessment of alternatives to the Project is not required through the IA [impact assessment] process" (pg. 28). The study and alternatives assessment referenced was conducted in 2007 – nearly 20 years ago. Much has changed since that time with respect to not only technologically and economically feasible alternative means but also with respect to social license and public opinion. The impact assessment cannot rely on a 20-year-old alternatives assessment – doing so would ignore new means of carrying out the Project and knowledge that could improve upon the project plan.

Additionally, the Initial Project Description details a description of the production process whereby used fuel is repackaged upon delivery to the DGR site into "buffer boxes" to be dispatched underground. This process of repackaging onsite presents untold risks for accidents and impacts to the fuel resulting in radioactivity and contamination. Project processes such as these require rigorous alternatives assessments to be detailed in this impact assessment to inform sound decision making and project planning.

While the comments herein reflect the views of Biigtigong Nishnaabeg as a potentially impacted First Nation with section 35 and asserted Aboriginal Title rights, we also feel our comments serve to reflect the best interests of Canadians writ large. Decisions and actions with respect to nuclear energy are decisions and actions that will result in impacts measured not in generational time scales but in geological time scales. This nuclear waste, now created, will outlive all living beings on this planet. It will stretch into a future not yet imagined and not yet guaranteed. These are not small decisions. This assessment must bear the weight of that responsibility. It must scope in, rather than scope out risks and considerations. It must be rigorous, fulsome and complete. Anything less would be a fatal error for which future generations would suffer the consequences.

With Respect,



Duncan Michano, Chief of Biigtigong Nishnaabeg

Cc: JoAnne Michano, Band Manager, Biigtigong Nishnaabeg, joanne.michano@picriver.com
Debi Bouchie, CEO, Biigtigong Nishnaabeg, debi.bouchie@picriver.com
Juanita Starr, Director Sustainable Development, Biigtigong Nishnaabeg, juanita@picriver.com
Brittany Moses, Environmental Manager, Biigtigong Nishnaabeg, brittany.moses@picriver.com
James Hopkins, Counsel, Nahwegahbow Corbiere, jhopkins@nncfirm.ca
David Carruthers, Land User Planner, PlanLab, david@planlab.ca
Tracy Zanini, Sociality Consulting Inc., tracy.zanini@sociality.ca