

Our legal teachings linked to lands and conservation focus efforts on ensuring that the lands and waters within our traditional lands and territory remain safe, healthy, and life-sustaining for current and future generations. They shape our people's responsibility over the environment within our traditional lands and territory. However, this Project runs contrary to our understanding of our roles as stewards of the land. This stewardship means that the free and informed consent of NAN First Nations is required before any significant steps are taken in relation to any private development projects and any Canadian government policy exercises that may affect any part of the NAN territory.

II. NWMO'S PROPOSED DGR

The DGR, if built, would be located 43 kilometers northwest of Ignace, Ontario. The Project would provide permanent storage for approximately 5.9 million bundles of used nuclear fuel, all of which is to be shipped in from elsewhere.¹ All used nuclear fuel is currently being stored at facilities located in Manitoba, southern and southeastern Ontario, Quebec, and New Brunswick. The closest facility to the DGR, Whiteshell Laboratories, is approximately 400 kilometers from the proposed DGR. The furthest facility, Point Lepreau Nuclear Generating Station, is over 2,500 kilometers from the proposed DGR.

The Nuclear Waste Management Organization ("**NWMO**" or "**Proponent**") proposes that this used nuclear fuel be transported across the country to the DGR, where it will be disposed of permanently. The Proponent has estimated that it will take up to 50 years to transport the bundles to the DGR, assuming shipments occur six days per week for nine to eleven months of the year.²

Although transportation routes remain partially classified for national security reasons, several of the potential rail and road routes pass through or adjacent to our member First Nations' Treaty and traditional territories within which our member First Nations live and exercise constitutionally protected Aboriginal and Treaty rights. The DGR is a matter of significant interest to NAN.

For decades, NAN has consistently and publicly stated its firm opposition to the DGR.³ We maintain that nuclear waste should be stored as near to its place of origin as possible, subject to the free, prior, and informed consent of the host Nations, and that the storage of nuclear waste be maintained above ground in order to be able to monitor and control these dangerous substances.

We strongly disagree with the NWMO's misplaced assertions that burying nuclear waste benefits future generations and relieves them of this burden. It does the opposite. Burying

¹ Nuclear Waste Management Organization, "Initial Project Description: Deep Geological Repository (DGR) for Canada's Used Nuclear Fuel Project" (December 2025), s 10 online: <iaac-aeic.gc.ca/050/documents/p88774/164317E.pdf> [IPD].

² Nuclear Waste Management Organization, "Preliminary transportation plan" (December 2021), s 1.4 online: <nwmo.ca/-/media/Reports-MASTER/Corporate-reports/2021-Preliminary-transportation-plan.ashx> [Preliminary Transportation Plan].

³ See, for example, *High Level Nuclear Waste Concept*, NAN Chiefs-in-Assembly, (August 1995) Res 95/36; *Nuclear Waste Free Zone*, NAN Chiefs-in-Assembly, (July 2005) Res 05/57; *Nuclear Waste Free Zone and the Nuclear Waste Management Organization's Nine-Step Site Selection Process*, NAN Chiefs-in-Assembly, (November 2009) Res 09/88; *Nuclear Waste Public Education*, NAN Chiefs-in-Assembly, (August 2013) Res 13/37; *Opposition to Nuclear Waste Management Organization's Proposed Deep Geological Repository*, NAN Chiefs-in-Assembly, (August 2022) Res 22/13.

the issue deep underground to sit within and poison our sacred lands for thousands of years to come is a betrayal to our descendants.

Our governance and stewardship rights, which are deeply rooted in our laws and legal teachings, have for too long been dismissed and ignored. We have now reached a point at which many of our people are pessimistic that their voices have any real meaning in decision-making; that government will accept whatever plans for development industry brings to them, severely impacting their ability to live within our laws and legal teachings and to fulfill our responsibilities over the lands.

It is within this context that we provide our comments on the proposed DGR's IPD.

III. CONCERNS WITH THE INITIAL PROJECT DESCRIPTION

NAN has significant concerns about how the Proponent has described the scope of the DGR in its IPD. In particular, the Proponent proposes to completely exclude reference to the 50 years of transportation of used nuclear fuel from the Project description. It also takes a narrow and conservative view of Project risk, particularly to watersheds. Furthermore, the Proponent has failed to develop any concrete plan for retrievability, despite acknowledging this as an issue of major public and Indigenous concern. These are unsound and unacceptable characterizations of the Project and its impacts. The Proponent has created an artificial boundary in an attempt to circumvent the robust engagement and assessment processes that are necessary for considering the transportation component of the Project.

NAN submits that the Impact Assessment Agency of Canada ("**Agency**") should reject this characterization of the Project given that:

1. it improperly excludes the input of Indigenous people from a project that stands to have direct and longstanding impacts on their constitutionally protected rights;
2. the IPD does not meet the minimum legislated requirements for initial project descriptions;
3. it runs contrary to legislative purpose and intent;
4. the "alternative" processes put forward by the Proponent are not appropriate substitutes for a comprehensive federal impact assessment; and
5. it fails to uphold the *United Nations Declaration on the Rights of Indigenous Peoples* ("**UNDRIP**") commitments.

It is therefore critical that the Agency require that the NWMO revise the Project description appropriately to include complete transportation routes, not just the access roads, to include a detailed and feasible retrievability plan, and to recognize the true scope of potentially impacted Indigenous groups by recognizing that watershed boundaries are not static before this assessment proceeds further.

(a) The IPD excludes proper Indigenous participation

The IPD's overly narrow scope unduly excludes proper rights-holding Indigenous groups from the assessment process. If the Crown intends to rely on the impact assessment process as a strategy for fulfilling its constitutional consultation and accommodation obligations, the exclusion of transportation makes this impossible.

The IPD lists only five communities as “potential affected Indigenous groups”.⁴ As one of the largest national projects under consideration, with a geographic scope of roughly 5,000 km, this is an untenable proposition. Had the Proponent properly scoped the Project, it would become apparent that the number of potentially affected Indigenous groups is significantly higher.

Transportation Corridors

While exact details regarding transportation routes remain confidential for national security reasons,⁵ at least six NAN member First Nations have reserve situated along transportation routes that will inevitably be used,⁶ and many more of our member First Nations exercise Aboriginal and Treaty rights along the transportation corridors and the watersheds within which the transportation corridors sit. By not including transportation within the IPD, we are effectively being excluded from critical discussions that have very real impacts on our People.

In addition to the real risks involved in the transportation dimension of this Project, there will be significant impacts on our ability to exercise our rights due to the perceived Project risks, especially those stemming from transportation of waste through our territory. One of our primary concerns is the use of the Trans-Canada Highway 11 transportation corridor for road transportation of used nuclear fuel. NAN has long-raised concerns about transportation risk in this corridor and participated in a government led task force on the matter, as well as passing Resolution 19/46: Commercial Vehicle Safety and Improved Driver Training. The very fact that transportation will be taking place along this route will have a chilling effect on our willingness and ability to exercise constitutionally protected Aboriginal and Treaty rights in the area.

The focus must shift to whether Indigenous peoples will perceive changes, not just on whether Western science will be able to measure such change. All NAN members have cultural rights, and the ability to freely practice that culture in preferred ways and preferred areas is critical for the exercise of those rights, our well-being, and our quality of life. It is therefore essential that the Proponent focus more on observational and perceptual parameters.

Highway 11 is a lifeline for many of our member First Nations but sees frequent severe and fatal accidents involving commercial trucks and transports year-round.⁷ Not only is there an increased risk of severe accidents along this route, but it takes significantly longer to respond to accidents and emergencies in this area due to its remoteness. The collaboration of Indigenous communities in these remote areas to respond to crises would be an important planning aspect of this Project, both for their safety of the impacted Indigenous Nations and those involved in the nuclear industry.

⁴ [IPD](#), s 21.1.

⁵ As highlighted in the Preliminary Transportation Plan, routes, timing, and locations for the transportation of nuclear waste remain secret for security purposes. Consequently, the determination of these routes is not subject to robust public engagement or consultation with Indigenous peoples. See [Preliminary Transportation Plan](#), s 2.3.2.

⁶ Ginoogaming First Nation, Long Lake No. 58 First Nation, Constance Lake 92 First Nation, Taykwa Tagamou First Nation, Matachewan First Nation have reserves situated along Trans-Canada Highway 11.

⁷ See, for example, the Ontario NDP Party, “Northern Highway Safety Plan” online: ontariondp.ca/sites/default/files/northern_highway_safety_plan.pdf.

Watersheds

Water and watercourses across our traditional lands and territory were, and continue to be, central to our identity and livelihood. Our watercourses have also been used by our peoples as travel routes and access corridors, facilitating travel across our traditional lands and territory and allowing access to seasonal camps and key harvesting areas. Freshwater bodies have long sustained our people, who harvest and consume fish as part of our diet year-round. Fishing is fundamental to our lives and culture and provides culturally valued and nutritious food and a means by which cultural values, such as sharing food with the community, and teaching harvesting knowledge and skills to younger generations, are practiced.

We have serious concerns with how the Proponent has characterized the Project's potential impacts on watersheds and water systems. The NWMO has adopted an artificially narrow approach to defining affected watersheds. The Proponent's characterization of watershed boundaries and potential impacts to groundwater further artificially restricts the list of potentially impacted Indigenous groups.

We understand far less about underground water movement over such an immense expanse of time than the Proponent will admit. Natural systems change over time, and human activity, including the drilling and excavation required for the DGR, will alter and compromise the region's geological formations in ways we cannot fully anticipate. The Long Lac, Ogoki and Lake St. Joseph diversions on the Albany River demonstrate how human intervention has reshaped ecological systems in this region. Diverting water from the Hudson Bay watershed into the Lake Superior and Lake Winnipeg basins has fundamentally altered natural patterns that have existed for millennia. Any storage of nuclear waste must be isolated completely from the hydrological function of the adjacent watersheds. Regional seismic activity, fracking operations, and mining operations may further complicate predictions about long-term stability and containment.

The DGR's water-based activities further demonstrate the Project's potential to impact water systems beyond the Proponent's narrow characterization. The Project will require temporary and permanent sump and dewatering systems that will directly interact with and potentially alter groundwater flow patterns,⁸ yet the Proponent provides no explanation for how these systems will be maintained and monitored indefinitely. Pumps fail, infrastructure degrades, and institutional capacity wanes. The Proponent cannot credibly assert that monitoring and maintenance will continue for the DGR's lifespan when the systems required to prevent contamination will inevitably fail without active intervention. These activities, combined with the construction and long-term presence of the repository itself, introduce additional pathways for contamination that cannot be neatly contained within the Proponent's defined watershed boundaries, particularly once the infrastructure meant to manage water ceases to function.

This westernized approach to assessing the risk and impacts of this Project does not align with our way of knowing. Given this Project could impact our lands and our rights forever, we assert NWMO's delineation of impacts is made without a full understanding of the long-term environmental changes and evolution of interconnected water systems.

The Proponent appears to be using watershed boundaries as a tool to exclude potentially affected Indigenous Nations from the assessment process, rather than acknowledging the realistic risks of contamination spreading beyond these arbitrary lines. Our member First Nations are particularly affected and vulnerable given our reliance on these water systems for

⁸ See [IPD](#), s 9.5.2.

drinking water, fishing, and ceremonial purposes. Moreover, the transportation of used nuclear fuel will traverse multiple watersheds over the 50-year shipping period. In the event of a transportation disaster or eventual repository leakage, contamination could impact water systems across a vast geographic area. All potentially affected watersheds must be properly considered in this assessment, not artificially confined to serve the Proponent's narrow project description.

It is clear to us that the Crown is relying on this impact assessment process to fulfill its duty to consult and accommodate. Without a properly scoped Project that includes transportation, we see no other viable means for the Crown to fulfill this duty; as we discuss in greater detail below, the alternative regulatory processes the NWMO suggests do not include acceptable public participation opportunities and are not intended to assess the impacts of transportation activities on our Aboriginal and Treaty rights. As such, the alternative is not what is proposed by NWMO. Rather, it is to engage in consultation and accommodation discussions with every Indigenous Nation along the proposed transportation route that will be in a particularly vulnerable position due to remoteness and more likely to be called upon to be involved in harm management.

Our member First Nations who stand to be directly impacted by this Project need to be included in the impact assessment process. Without a properly scoped impact assessment, the voices and concerns of our member First Nations who hold and exercise rights along this transportation corridor will be excluded altogether. Strategies to mitigate the impacts on our rights will not be considered. A properly scoped impact assessment is the most efficient way the Crown can fulfil its obligations.

(b) The IPD does not meet minimum legislated requirements

Beyond these critical Indigenous rights concerns, the IPD also fails to meet basic legal requirements. The NWMO has failed to meet the requirements under s. 10(1) of the *Impact Assessment Act*, which requires that the IPD include the information prescribed by Schedule 1 of the *Information and Management of Time Limits Regulations* (the "**IMTL Regulations**").⁹ It is also missing important and necessary information regarding the potential adverse effects of the Project.

The IPD is missing critical project information. Schedule 1, Part B of the IMTLR requires the Proponent provide 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."¹⁰ The Agency's "Guide to Preparing an Initial Project Description and a Detailed Project Description" elaborates on this requirement, explaining that:

This [list of activities] is to include the physical activities that are incidental to the designated project. In determining such activities, the following criteria shall be taken into account:

- nature of the proposed activities and whether they are subordinate or complementary to the designated project;

⁹ [Impact Assessment Act, SC 2019, c 28, s 1](#), s 10(1); [SOR/2019-283 \[IMTL Regulations\]](#).

¹⁰ [IMTL Regulations](#) at Schedule 1, Part B, Item 9.

- whether the activity is within the care and control of the proponent;
- if the activity is to be undertaken by a third party, the nature of the relationship between the proponent and the third party and whether the proponent has the ability to “direct or influence” the carrying out of the activity;
- whether the activity is solely for the benefit of the proponent or is available for other proponents as well; and
- the federal and/or provincial regulatory requirements for the activity.¹¹

Transportation falls squarely within the definition of an activity incidental to the DGR:

- transportation is fully subordinate to the DGR – there will be no used nuclear fuel transportation if the DGR does not proceed;
- transportation to the DGR is fully within the Proponent’s care and control and will not be undertaken by a third party;
- transportation solely benefits the Proponent – there will be no waste transported to other facilities; and
- as discussed in greater detail below, the transportation of used nuclear fuel is a federally regulated process.

The transportation of used nuclear fuel from offsite facilities to the DGR is an activity and it is clearly associated with and incidental to the DGR’s operation. Without used nuclear fuel onsite, there is no DGR. The omission of this critical Project activity renders the IPD incomplete.

Having an improperly scoped Project will create numerous issues for this impact assessment. First, the Agency risks creating unnecessary project delays if it does not properly scope and assess the Project. As the Federal Court of Appeal decision in *Tsleil-Waututh Nation v Canada* demonstrates, an assessment that fails to properly include physical activities incidental to the project under assessment can amount to a failure on the regulator’s part to comply with its statutory obligations.¹²

The Agency regularly assesses the effects of nuclear waste transportation, including transportation along existing corridors such as public highways, as part assessments for nuclear projects. For example, the environmental assessment of the in-situ decommissioning of the Whiteshell Reactor #1¹³ included the transportation of off-site waste transportation

¹¹ Government of Canada, “Guide to Preparing an Initial Project Description and a Detailed Project Description” (date modified: 7 August 2025) online: <canada.ca/en/impact-assessment-agency/services/policy-guidance/practitioners-guide-impact-assessment-act/guide-preparing-project-description-detailed-project-description.html#_Toc17794709>.

¹² *Tsleil-Waututh Nation v Canada (Attorney General)*, 2018 FCA 153.

¹³ Project Reference Number 80124.

from Pinawa to Chalk River, nearly 2,000 kilometers away.¹⁴ Similarly, the Wheeler River Project's environmental assessment¹⁵ included locations along the nearly 400 kilometer mine-related transportation route.¹⁶

Furthermore, the Proponent has also left out necessary details on the potential effects of the Project. Schedule 1, Part E of the IMTLR requires that the IPD include:

21 With respect to the Indigenous peoples of Canada, a brief description of any non-negligible adverse impacts on physical and cultural heritage, the current use of lands and resources for traditional purposes [...] – occurring in Canada and resulting from any change to the environment – that may be caused by the carrying out of the project [...]

23 An estimate of any greenhouse gas emissions associated with the project.

The adverse impacts of transportation on these required matters are also notably absent from the IPD.

The IPD also contains an incomplete picture of the potential alternative means of carrying out the Project, which are required under Schedule 1 Part B of the IMTLR.¹⁷ Transportation plays a critical role in the site selection process and in determining how the NWMO will carry out the DGR. Leaving the assessment of transportation impacts to a later time is an empty process; once the DGR is approved, our opinion on transportation will not matter. It will be a matter of *how* the waste gets to the DGR, not *if*. There will be no opportunity to assess alternative project sites or the implications of site selection on transportation avenues after the current impact assessment concludes. It is therefore critical that transportation form part of this impact assessment.

The premature nature of this Project and the IPD is further evidenced by the Proponent's failure to develop a concrete plan for retrievability. The IPD acknowledges public concerns regarding the ability to retrieve nuclear waste once buried yet provides no substantive response or plan to address this concern.¹⁸ The Proponent has rushed this assessment without determining this critical element of the Project's design. NAN and our member First Nations are being asked to place our trust in the NWMO's assurances that this material can be safely retrieved thousands of years into the future, without providing a plan for doing so now. This fundamental gap in the Project description renders the assessment premature and undermines any meaningful evaluation of the Project's true impacts and risks.

It is therefore incumbent on the Agency to require the NWMO to revise the IPD to include both transportation and a concrete retrievability plan in order to meet the requirements of s. 10(1) of the *Impact Assessment Act*. If the Agency fails to revise the Project scope to properly include the transportation of used fuel from the current storage locations and to require a detailed retrievability plan, the Crown will have failed to properly exercise its duties under the

¹⁴ See Canadian Nuclear Laboratories, "Environmental Impact Statement for the In Situ Decommissioning of WR-1 at the Whiteshell Laboratories Site – Revision 5" (January 2025), s 3-36 online: <iaac-aeic.gc.ca/050/documents/p80124/160905E.pdf>.

¹⁵ Project Reference Number 80178.

¹⁶ See Denison Mines Corp., "Wheeler River Project Final Environmental Impact Statement" (November 2024), s 14-1 online: <iaac-aeic.gc.ca/050/documents/p80178/159977E.pdf>.

¹⁷ [IMTL Regulations](#) at Schedule 1, Part B, Item 12(a).

¹⁸ [IPD](#), ss 12.1.1.1.

Act. The Proponent's failure to include these critical elements in the IPD are not minor omissions—they are a fundamental breaches of statutory requirements and will inevitably lead to significant delays.

(c) Descoping contradicts the Act's purpose

The Proponent attempts to justify excluding transportation by pointing to alternative regulatory processes. However, descoping used fuel transportation contradicts the purpose and underlying intent of the *Impact Assessment Act*. The assessment regime is intended to be a robust and effective means of assessing an array of project impacts in a singular process; the recitals of the legislation highlight Canada's desire to design an assessment process that "supports coordinated action" and "is transparent, efficient and timely".

A single, comprehensive assessment is a more appropriate approach than seeking to reduce the various interconnected aspects of the DGR into a series of siloed regulatory approvals, each taking place during different phases of the project's life cycle, involving different agencies, and undertaking different types of analyses. This descoped approach aims to assess discrete aspects of the project in isolation, which will lead to an incomplete and misleading picture of the DGR's true impacts. Such an approach runs in clear opposition to the goals of the *Impact Assessment Act*.

Furthermore, one of the stated purposes of the *Impact Assessment Act* is to prevent or mitigate against adverse environmental, health, social, and economic effects of projects.¹⁹ The movement of used nuclear fuel across provinces on a near-daily basis for 50 years has the potential to have negative impacts. These impacts will occur if the Project moves ahead as there is no scenario where the DGR becomes an operational project without used nuclear fuel on site. The Proponent's decision to locate the DGR in a location that is quite remote from current waste stores results in a need for extensive long distance transportation of used nuclear fuel—a process that will invariably have impacts that must be considered. Nonetheless, the Proponent submits that the Agency and Minister ought to descope transportation, thereby disregarding the purpose of the *Impact Assessment Act*.

(d) Alternative processes cannot adequately assess transportation impacts

The Proponent justifies its exclusion of used fuel transportation from the Project scope by suggesting that there are alternate federally regulated means of assessing this aspect of the DGR.²⁰ However, the scopes of these "alternate" processes do not involve the same assessments of environmental, health, social, economic, or cumulative impacts generally or in respect of the rights of Indigenous peoples, or alternative means for carrying out the Project. They are inadequate substitutes for the comprehensive federal impact assessment process.

The transportation of radioactive materials within Canada is regulated jointly by the Canadian Nuclear Safety Commission ("**CNSC**") and Transport Canada under the *Nuclear Safety and Control Act*,²¹ and the *Transportation of Dangerous Goods Act, 1992*,²² respectively. The applicable regulations are:

¹⁹ [Impact Assessment Act](#), s 6(1).

²⁰ [IPD](#) at 51.

²¹ [Nuclear Safety and Control Act, SC 1997, c 9](#).

²² [Transportation of Dangerous Goods Act, 1992, SC 1992, c 34](#).

- *Packaging and Transport of Nuclear Substances Regulations, 2015* (“**PTNS Regulations**”);²³ and
- *Transportation of Dangerous Goods Regulations* (“**TDGR**”).²⁴

The PTNS Regulations contain a technical review process through which the CNSC provides certification of authorized transport package designs for radioactive material and licences to transport nuclear substances. Applications to the CNSC are assessed by transport specialists through a technical review focused on package design, safety, emergency response plans, and transportation security plans prior to the issuance of a certificate or licence.²⁵

There is no consideration of an activity’s potential environmental, health, social, economic, or gender impacts of the Project, or impacts on Indigenous rights under the PTNS Regulations. The CNSC is of the view that the transport of nuclear substances is considered to have “no interaction with the environment”, and is therefore excluded from requiring an Environmental Protection Review as a condition of granting certificates and licences.²⁶ Furthermore, since the environmental impacts are outside the scope of the CNSC’s consideration for certificates and licences under the PTNS Regulations, any cumulative impacts of used nuclear fuel transportation on the exercise of constitutionally protected Aboriginal and Treaty rights by NAN’s member First Nations are similarly outside the scope of the CNSC’s assessment. The process set out in PTNS Regulations can therefore not be characterized or relied upon as an acceptable alternative to an impact assessment.

Similarly, the TDGR’s transportation approval processes do not include an assessment of an activity’s potential impacts, including on Indigenous rights. Under the TDGR, Transport Canada is responsible for setting the requirements for displays of safety marking for transportation of dangerous goods, assigning training requirements for drivers/transporters of nuclear materials, conducting inspections to ensure compliance with the *Transportation of Dangerous Goods Act and Regulations*, and approving emergency response assistance plans.²⁷ Through the TDGR, Transport Canada’s focus is on ensuring the safety of the public, and does not include within its scope assessment other potential impacts, including cumulative impacts to the rights of Indigenous peoples.²⁸ It is therefore also not an appropriate substitute to an impact assessment.

The Proponent’s attempt to descope the assessment fragments what should be a comprehensive review, relegating critical components to processes never designed to assess the wider impacts. This approach is both legally deficient and practically inadequate.

(e) The IPD does not uphold UNDRIP commitments

Furthermore, this proposed approach runs against Canada’s adoption of UNDRIP into positive Canadian law. NAN’s member First Nations cannot provide their informed consent to the DGR without understanding how used nuclear fuel will be transported across their territories. The

²³ [SOR/2015-145 \[PTNS Regulations\]](#).

²⁴ [SOR/2001-286](#).

²⁵ [PTNS Regulations](#), s 7; [SOR/2025-219](#), s 100.

²⁶ *Licence Application Guide: Nuclear Substances and Radiation Devices*, Canadian Nuclear Safety Commission REGDOC-1.6.1, version 2 (April 2017) at 19 online: <api.cnsccsn.gc.ca/dms/digital-medias/REGDOC-1-6-1-Licence-Application-Guide-Nuclear-substances-and-Radiation-Devices-version2-eng.pdf/object>.

²⁷ [Transportation of Dangerous Goods Act, 1992](#), ss 7–8.

²⁸ [Transportation of Dangerous Goods Act, 1992](#), s 7(3).

meaningful exercise of Free, Prior and Informed Consent (“**FPIC**”) is impossible when the assessment is artificially fragmented and impacted Nations have no ability to appreciate the potential impacts of a project within their territories. For those Nations with the right of FPIC in connection with this Project, they will be missing critical and necessary information needed in order to exercise this right.

UNDRIP must inform the Agency’s assessment of the DGR and its impacts on our constitutionally protected rights. The Supreme Court has confirmed that UNDRIP has been “incorporated into the country’s positive law”,²⁹ and the Federal Court has reiterated (in the context of a nuclear waste project) that “it is presumed that the interpretation of section 35 of the *Constitution Act, 1982* will be done in a manner that conforms to international agreements that Canada is a part of, including the UNDRIP.”³⁰

UNDRIP states that “States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.” A central issue to be considered in the Crown decision making to be supported by this impact assessment is whether the construction and operation of this Project, including the required transportation activities, are consistent with Canada’s commitments to implementing UNDRIP. To undertake these considerations, both the Crown and Nations need information on the risks and benefits of the transportation of waste that necessarily follows from the Proponent’s decision to site the DGR in an area far removed from existing waste storage. To not include transportation at this point will deprive Indigenous groups of that information and undermine the ability of the impact assessment process to serve as an FPIC-seeking process.

IV. CLOSING REMARKS

The NWMO claims this Project takes accountability for nuclear waste and removes the burden from future generations. We do not share this perspective. This approach fundamentally contradicts Indigenous perspectives on stewardship and intergenerational responsibility. Our people have stewarded these lands for millennia, and we will continue to do so long after the Proponent’s institutional memory fades.

Our determination of what constitutes acceptable risk levels is not the same as the scientists and engineers who designed this Project. Our Peoples, our lands, and our rights stand to be affected forever by the DGR. The Proponent’s perspective reflects a fundamental disconnect from the sacred relationship we hold with the land and water. Health and wellness, not just of our people, but of all living things, including the land, are at the centre of our lifeworld. Many, if not all, of our laws are tied to the balancing of all the things that it takes for people and the environment to be healthy and live a good life. The DGR does not uphold this balance. As we stated at the outset of this letter, above ground rolling stewardship, not burial and abandonment, is the only responsible path forward.

The DGR is one of the most significant nuclear undertakings in Canadian history. If this Project is to proceed, it must at minimum be subject to a complete and comprehensive assessment. The question of how the used nuclear fuel makes its way from nuclear facilities to the DGR is an integral component of the Project; without transportation, there is no project.

²⁹ [*Reference re An Act respecting First Nations, Inuit and Metis children, youth and families*, 2024 SCC 5 at para 4.](#)

³⁰ [*Kebaowek First Nation v. Canadian Nuclear Laboratories*, 2025 FC 319 at para 85.](#)

This impact assessment is the only avenue we have presently to consider the full scope of impacts associated with this Project. There is no appropriate alternative means for our member First Nations to participate meaningfully and make an informed decision about the Project. A fragmented assessment that excludes critical components leads to a misleading and incomplete picture of the DGR's impacts. It undermines public trust in the impact assessment process, defeats the purpose and intent of the legislation, undoes years of attempts by NWMO to build public trust, and undermines Canada's legally binding commitment to uphold UNDRIP.

We therefore request that the Agency exercise its authority under the *Impact Assessment Act* and require the Proponent revise the Project description appropriately to include complete transportation routes, not just the access roads, to include a detailed and feasible retrievability plan, and to recognize the true scope of potentially impacted Indigenous groups by recognizing that watershed boundaries are not static or airtight before this assessment proceeds further.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Fiddler', written in a cursive style.

Grand Chief Alvin Fiddler
Nishnawbe Aski Nation