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February 4, 2026

Deep Geological Repository for Canada's Used Nuclear Fuel Project
Impact Assessment Agency of Canada
160 Elgin Street, 22nd Floor
Ottawa, Ontario K1A 0H3

Via email: nuclearwaste-dechetsnucleaires@iaac-aeic.gc.ca

Dear Integrated Review Team at the Impact Assessment Agency of Canada,

Re: Comments from Kebaowek First Nation in Response to NWMO's Initial Project Description – Deep Geological Repository (IAAC Reference No. 88774)

Kebaowek First Nation (KFN) provides these comments in response to the Impact Assessment Agency of Canada's ("Agency") call for feedback on the Nuclear Waste Management Organization's ("NWMO") Initial Project Description ("IPD") for the Deep Geological Repository ("DGR").[1]

KFN 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 Sìbì (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.

KFN can attest to the historical industrial development of our lands that have caused significant effects on core federal environmental interests, including transboundary water and airsheds, forest species at risk, fisheries species at risk and our Aboriginal Rights and Title territory. Our ancestors never

[1] Nuclear Waste Management Organization, Initial Project Description: Deep Geological Repository (DGR) for Canada's Used Nuclear Fuel Project and Initial Project Description Plain Language Summary - English (December 2025) [**IPD].**

contemplated our lands and waterways to be obstructed or industrialized. Nor has government legislation ever adequately protected our lands and waterways. When the Government of Canada initiated the installation of nuclear facilities at Chalk River, no impact assessments were undertaken to determine how these nuclear installations might affect Algonquin peoples.

We provide this history of our people and the impacts we bear because of the nuclear operations in our territory, which continue absent our consent, are critical context for this proposed project, which would see nuclear fuel presently stored at Chalk River, handled, moved and transported, to the DRG.

1. KEBAOWEK'S EXTENSIVE EXPERIENCE WITH IMPACT ASSESSMENT

Kebaowek has participated actively in the federal environmental law reform process since consultations began in 2016. We have contributed written and oral submissions to the Canadian Environmental Assessment Act (CEAA) Expert Panel, the National Energy Board (NEB) Expert Panel, the federal Discussion Paper, to the House of Commons Standing Committee on Environment and Sustainable Development (ENVI)on amending BillC-29 and to the Minister of Environment on legislative amendments to the Impact Assessment Act (IAA) in 2024.

We have provided comments on Canada's modernized nuclear policy and supported resolutions on this subject at the Assembly of First Nations. Clearly there is a strong link between nuclear regulation and Indigenous peoples in Canada, a link that is becoming clearer every day. We are very much are looking forward to the modernization of the Canadian Nuclear Safety Commission (CNSC).

As such, your agency's nuclear assessment work is both urgent and critical to our First Nation and we urge you, and other regulatory bodies to not further disparage or trivialize our assertion of territory, environmental knowledge, constitutional rights and implementation of United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and act in compliance with our own Rights and Responsibilities Assessment Law.

We have welcomed many changes to the IAA. These include: (1) the mandatory consideration of Indigenous Knowledge; (2) a necessary assessment of impacts on rights in decision-making; (3) regulatory opportunities for our First Nation government to lead impact assessments ourselves; and (4) the direct reference and jurisprudence surrounding federal legislation as it relates to UNDRIP.

Like many other First Nations across Canada, our interventions have often focused on ensuring that the review process and impact assessment regime for energy and industrial projects are aligned with our ability to participate in decision-making regarding industrial activities that impact our rights and to provide protections for our lands and waters.[2] For this reason, this proposed project is of direct importance and interest to our community.

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[2] *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; "Kebaowek First Nation Submission on regulations being developed for the Canadian Impact Assessment Act ("IAA") in Bill C-69, namely, the Regulations Designating Physical Activities (the "Project List Regulation") and Information Requirements and Time Mana" 31 May 2019.

2. PRINCIPLES AND LAWS THAT MUST GROUND THIS IMPACT ASSESSMENT AND DECISION-MAKING

UNDRIP sets the minimum standards for the survival, dignity, and well-being of Indigenous peoples.[3]

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.[4]

The Supreme Court of Canada confirmed that UNDRIP has been incorporated into Canada's domestic positive law.[5] 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.[6]

Courts have held that UNDRIP must be given the same weight as a binding international instrument and applies when section 35 rights are engaged.[7] 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."[8] 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.[9] 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.[10]

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 the IAAC and IA project proponents 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 &

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[3] *United Nations Declaration on the Rights of Indigenous Peoples*, Art 43 [**UNDRIP**].
[4] *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c 14, ss 2(3), 4(a).
[5] *Reference re An Act respecting First Nations, Inuit and Metis children, youth and families*, 2024 SCC 5 at 15.
[6] *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.
[7] *R c Montour*, 2023 QCCS 4154 at para 1201.
[8] UNDA, s 4.
[9] UNDRIP, Art 29.
[10] UNDRIP, Arts 32(2); see also UNDRIP, Arts 11, 12, 27.

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 impact assessment for nuclear projects 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 caretakers of the lands.

As was made clear in *Kebaowek First Nation v Canadian Nuclear Laboratories*, 2025 FC 319, the IAAC 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.

Furthermore, 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 regulatory authority. The IAAC 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.

3. AN IMPACT ASSESSMENT IS NEEDED FOR THIS PROJECT

Kebaowek's lived experience with other federal review processes – namely the Canadian Nuclear Safety Commission's (CNSC) nuclear licensing process - demonstrates that engagement has been delayed, minimized, or treated as a procedural formality rather than an obligation grounded in Indigenous rights and Crown duties. 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.

As we have repeatedly shared with the Commission over the years,[11] we remain of the view that 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

[11] *See for instance* 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.

process and are now being taken up because of the Court's direction in *Kebaowek First Nation v CNL,* 2025 FC 319[12].

We share this experience with the IAAC to instill the need for an impact assessment for this project and denounce any suggestion by the proponent, NWMO, that nuclear licensing, pursuant to the *Nuclear Safety and Control Act,* is an equivalent substitute or stand-in for impact assessment.[13]

4. THE TRANSPORT OF NUCLEAR FUEL WASTE MUST BE WITHIN THE SCOPE OF THE IMPACT ASSESSMENT

KFN seriously objects to NWMO's vision for the project that would exclude transportation activities from the scope of the IA. As they propose, "transportation activities along the new access roads, site roads, and rail spur constructed for the Project, and activities related to the Project within broader transportation networks remain outside the Project's scope."[14]

While the NWMO states these activities would be subject to transport licenses and certificates from the CNSC, our recent experience with this process indicates it is neither transparent, inclusive of KFN, nor participatory in any way. Something as significant as the shipment of the highest level of radioactive waste ought to be subject to the most thorough review and public scrutiny.

As we recently learned in the CNSC's Regulatory Oversight Report for the 2024 operating year (released in 2025), 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, here in KFN territory.

As the ROR describes:

> 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 shares this information and experience with the IAAC to highlight our deep concern, should it agree with the NWMO, and exclude transportation from IA review. KFN only learned of this shipment of high-level radioactive material 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 license application, were also not conveyed to us and at no point was there an opportunity presented for our engagement. While we have since requested these documents be disclosed in full without delay, we are yet to receive them.

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[12] *Kebaowek First Nation v. Canadian Nuclear Laboratories*, 2025 FC 319.
[13] *Impact Assessment Act,* s 16(2)(f.1).
[14] IPD, p 26.

The CNSC's conduct regarding the transport of radioactive material 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.

5. CLOSING REMARKS

The IAAC 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. That means substantial gaps in information, our involvement and respect for laws and principles remain must be remedied.

In closing, we also wish to reiterate the extensive Indigenous-led advocacy that has taken place in the lead up to this IA, that must be accounted for in the IAAC's deliberations. For instance, KFN has led on countless resolutions, adopted by the Assembly of First Nations, calling for[15]:

- **The free, prior and informed consent of all First Nations whose lands, territories and/or other resources may be affected, including via the transportation of any spent nuclear fuel**
- **Canada to fully adhere to the standard of UNDRIP, and the protections under the *Constitution Act, 1982,* where information on the nature, size, pace, reversibility, and cope of any proposed nuclear project are transparently disclosed and where an assessment likely economic, social, cultural and environmental impacts are provided to First Nations sufficiently in advance of any commencement or authorization of a nuclear project**

We again ask – and trust – that these principles and resolutions be adopted and respected, in full.

Sincerely,

Lance Haymond

Chief Lance Haymond
Kebaowek First Nation

cc Ian Ketcheson
Vice-President of Indigenous Relations and Corporate Services
Chief Financial Officer at the Impact Assessment Agency of Canada

[15] Resolution #37, "Securing accountability of nuclear technology, waste, transport and storage," passed at the AFN General Assembly, 13 July 2023

ANNUAL GENERAL ASSEMBLY
JULY 25, 26, & 27, 2017, REGINA, SK **Resolution no. 48/2017**

TITLE:	**Opposition to Nuclear Waste Disposal and Abandonment**
SUBJECT:	Nuclear Waste, Environment
MOVED BY:	Chief R. Donald Maracle, Mohawks of the Bay of Quinte, ON
SECONDED BY:	Chief Elaine Johnston, Serpent River First Nation, ON
DECISION	Carried by Consensus

WHEREAS:

A. The United Nations Declaration on the Rights of Indigenous Peoples states:

- **i.** Article 29 (2): 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.

B. The Canadian Nuclear Safety Commission and Natural Resources Canada have failed their constitutional duty to consult and accommodate the Anishinabek Nation and other First Nations regarding storage and operations at the Canadian Nuclear Laboratories Near Surface Disposal Facility and Chalk River Laboratories.

C. The Anishinabek Nation and Chiefs of Ontario released the following resolutions to demonstrate the unified opposition to nuclear waste activities*: AN 2010/30: Environmental Protection Against Nuclear Waste*; *AN 2015-14: Continued Opposition to Nuclear Waste Storage within the Anishinabek Nation*; *AN 2016-16: Re-statement of the Opposition to Nuclear Waste Storage within the Anishinabek Nation Territory*; *AN 2017-05: Collaboration on the Opposition of Transportation and Abandonment of Radioactive Waste*; and *COO 59/16: Nuclear Power Generation and Nuclear Waste Repository*.

Kebaowek First Nation
Federal Radioactive Waste Policy Review

Discussion Paper Comments

(final version)

presented to
Natural Resources Canada

31 May 2021

NOTE

This document is the final version of the comments of the Kebaowek First Nation adopted by the Chief and Council the 31st of May 2021.

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Please accept the following comments from Kebaowek First Nation in response to Natural Resources Canada policy review and modernization of Canada's Radioactive Waste Policy.

PART 1–OVERVIEW

Kebaowek First Nation ("KFN"), is an Algonquin Anishinabeg First Nation asserting rights over lands that straddle the Ottawa River basin on both sides of the Québec-Ontario boundary.

Along with Wolf Lake First Nation and Timiskaming First Nation, Kebaowek First Nation jointly released a Statement of Asserted Rights ("SAR"), which summarizes our Aboriginal rights, including title. Copies of the SAR, maps and background documentation were transmitted to the governments of Canada, Québec and Ontario in January 2013. We have not relinquished our Aboriginal rights and title to our traditional territory and we have provided detailed evidence to substantiate it.

Today, the on-reserve population of Kebaowek is about 300, with approximately another 700 members living off reserve, more than half in Ontario. Most Kebaowek members are dispersed among Kipawa, and Témiscamingue Quebec, or North Bay Ontario, but all remain connected to the territory as members of our community continue to occupy, manage, safe guard and intensively use our land and water ways as we carry out traditional and contemporary activities. All such initiatives are based on a model of self-determination and a history of Algonquin traditional knowledge, eco-logical sustainability and land governance.

For KFN, the starting point in reviewing and modernizing Canada's Radioactive Waste Policy and the supporting policy framework must be in recognizing that Algonquins, like all First Nations in Canada, began with both rights to their territories and rights as people governed under customary laws. Algonquin historical research supports that mutuality, respect and consultation are integral to Algonquin social and political organization on a number of levels: family to family, band to band, and nation to nation. From an Algonquin perspective, the current radioactive waste policy review process and the resulting policies and policy framework must be harmonized with this expectation. We are an order of government with rights and jurisdiction to our lands to be addressed from a "Nation to Nation" perspective.

Natural Resources Canada announced the review of Canada's radioactive waste policy

in November 2020.[1] While the Minister's announcement clearly indicated that the Government of Canada would be engaging with Indigenous peoples throughout the process, Natural Resources Canada (NRCan) was slow to engage with Kebaowek First Nation regardless of our early requests to the Minister's office. It was not until May 05, 2021 that NRCan reached out to the Alognquin Anishinabeg Nation Tribal Council about the consultation and subsequently approached Kebaowek First Nation on May 14, 2021. Unfortunately, this review process has been marred by short notice periods, insufficient funding and timing for Aboriginal communities like Kebaowek First Nation to prepare comments. This is unacceptable as it marginalizes First Nation communities ability to participate in this important matter of Radioactive Waste Disposal that could potentially effect Indigenous lands across the country.

In the absence of NRCan-initiated Indigenous engagement sessions held on a government to government basis between Kebaowek and Canada, Kebaowek First Nation participated in four public roundtables on March 4th, 2021 (Principles of Radioactive Waste Management and Waste Minimization), March 24th (Waste Disposal), May 4th (Waste Storage) and May 18th (Decommissioning) as observers.

Keabowek First Nation has reviewed the four Discussion Papers provided along with the roundtables, considered comments made during the Roundtable sessions and NRCan's responses provided at that time, and have consulted with experts and community members on best policy options going forward. This submission is a summary of that review and the input received.

Kebaowek First Nation plans to review the Government of Canada's "What We Heard Report" and provide formal input representing Kebaowek First Nation perspectives, and provide further input on the draft policy options when they are released by Natural Resources Canada later this year.

PART 2 – OVERARCHING PRINCIPLES

Context

Natural Resources Canada did not provide a discussion paper on principles that will drive radioactive waste policy. Information on guiding principles are limited to the following points:

> Guiding values and principles of a modernized for Radioactive Waste Policy
> Going into the engagement process, the core values and principles to the policy that are important to Canadians and Indigenous peoples must be part of the new forward-looking, modernized Radioactive Waste Policy. These principles include:
>
> - Safety of People and the Environment
> - Openness, Transparency and Public Consultation
> - Indigenous Reconciliation
>
> The core principles of **Safety of People and the Environment**, **Openness, Transparency and Public Consultation** and **Indigenous Reconciliation** represent a few tenets of what the revised policy will entail.

[1] https://www.canada.ca/en/natural-resources-canada/news/2020/11/canada-launches-radioactive-waste-policy-engagement.html

NRCan website https://www.rncanengagenrcan.ca/en/content/about-policy-review
Comments
As an Algonquin First Nation government Kebaowek First Nation has a duty to protect our lands, waters and environment for our present and future generations. Therefore, Canada's Radioactive Waste policy must first and foremost respond to the question of whether radioactive waste generation and storage will undermine the safety of future generations. This concern must be a central driver of sustainability and sustainable development in Canada and addressed by the requirement of full need assessments within the policy.
Kebaowek accepts and supports the core principles of Safety of People and the Environment, Openness, Transparency and Public Consultation and Indigenous Reconciliation as put forward by Natural Resources Canada as a beginning point for a statement of principles and values for the radioactive waste policy.
However, the guiding principles and values must both reflect and drive actual commitments and must embody a profound commitment to the recognition of the Indigenous knowledge, laws and rights of the Algonquin Anishinabeg and other Indigenous Nations, and to moving forward on a government to government basis.
A section of the Nuclear Waste Policy should reference the Canadian and international requirements for consultation and obtaining the Free Prior and Informed Consent (FPIC) of Indigenous Peoples.

We recommend the policy demonstrate how nuclear waste proposals meet the obligations for the Duty to Consult as per Section 35 of the constitution, and the extent to which it has met requirements of the UN Declaration on the Rights of Indigenous Peoples, including Article 32 regarding obtaining the Free Prior Informed Consent of Indigenous Peoples *"prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.*"[2]

While the NRCan explanation of the "principle" of "Indigenous Reconciliation" speaks of the Government of Canada being "deeply committed to advancing reconciliation and a renewed relationship with Indigenous peoples, based on the recognition of rights, respect, co-operation, and partnership" the radioactive waste policy must direct the operationalizing of that professed commitment in co-operation with Kebaowek First Nation's definition of "Indigenous reconciliation" not just Canada's. Given there are many First Nations across Canada there is not one size fits all definition of reconciliation. For Kebaowek, reconciliation flows from the land, waters and teachers. Also Anishinabeg reconciliation will be somewhat different than Haudeneshone because each Nation has its own thoughts and ways to address reconciliation. This must be respected and not imposed.
Federal radioactive waste policy must align with the following expectations and aspirations of Kebaowek First Nation:

- Incorporate direct reference to the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration).
- Recognize Indigenous governing bodies exercising jurisdiction

- Affirm that engaging in Government of Canada processes or joint processes is without prejudice to the Aboriginal rights and title of those Indigenous communities being represented, including their constitutional and international rights of self-government;
- Require mandatory consideration of Indigenous Knowledge
- Recognize that the exercising of our rights is inextricably linked to healthy ecosystems and the species that depend upon them
- Protect the ability of future generations to exercise and benefit from their rights

The existence of nuclear facilities and the carrying out of nuclear activities, including transportation, in and around Algonquin Anishinabeg lands and waterways have adverse impacts on the unceded, inherent rights of Algonquin Anishinabeg Peoples in perpetuity. The radioactive waste policy framework must recognize the authority of the Algonquin Anishnabeg Nation to protect these rights and the exercising of these rights, and a commitment on the part of the Government of Canada to moving forward on a government-to-government basis.

In addition to the above expression of the expectations from Kebaowek First Nation in terms of how the principles will be expressed, we also commend to you the Joint Declaration between the Anishinabeg Nation and the Iroquois Caucus on the transport and abandonment of radioactive waste[2] and the five principles embodied in that Declaration:

1. No Abandonment: Radioactive waste materials are damaging to living things. Many of these materials remain dangerous for tens of thousands of years or even longer. They must be kept out of the food we eat, the water we drink, the air we breathe, and the land we live on for many generations to come. The forces of Mother Earth are powerful and unpredictable and no human-made structures can be counted on to resist those forces forever. Such dangerous materials cannot be abandoned and forgotten.

2. Monitored and Retrievable Storage: Continuous guardianship of nuclear waste material is needed. This means long-term monitoring and retrievable storage. Information and resources must be passed on from one generation to the next so that our grandchildren's grandchildren will be able to detect any signs of leakage of radioactive waste materials and protect themselves. They need to know how to fix such leaks as soon as they happen.

3. Better Containment, More Packaging: Cost and profit must never be the basis for long-term radioactive waste management. Paying a higher price for better containment today will help prevent much greater costs in the future when containment fails. Such failure will include irreparable environmental damage and radiation-induced diseases. The right kinds of packaging should be designed to make it easier to monitor, retrieve, and repackage insecure portions of the waste inventory as needed, for centuries to come.

[2] https://www.anishinabek.ca/2017/05/02/joint-declaration-between-the-anishinabek-nation-and-the-iroquois-caucus-on-the-transport-and-abandonment-of-radioactive-waste/

4. Away from Major Water Bodies: Rivers and lakes are the blood and the lungs of Mother Earth. When we contaminate our waterways, we are poisoning life itself. That is why radioactive waste must not be stored beside major water bodies for the long-term. Yet this is exactly what is being planned at five locations in Canada: Kincardine on Lake Huron, Port Hope near Lake Ontario, Pinawa beside the Winnipeg River, and Chalk River and Rolphton beside the Ottawa River.

5. No Imports or Exports: The import and export of nuclear wastes over public roads and bridges should be forbidden except in truly exceptional cases after full consultation with all whose lands and waters are being put at risk. In particular, the planned shipment of highly radioactive liquid from Chalk River to South Carolina should not be allowed because it can be down-blended and solidified on site at Chalk River. Transport of nuclear waste should be strictly limited and decided on a case-by-case basis with full consultation with all those affected.

PART 3 - COMMENT ON NATURAL RESOURCES CANADA DISCUSSION AREAS

Natural Resources Canada has produced four discussion papers which they employed as a focus for seeking comments through an online "discussion forum" built into their web site, through a series of online meetings including the public Roundtables which Kebaowek participated in as an observer (there were no Indigenous Roundtable sessions as originally offered), and through written submissions.

Many topics that are of great interest and concern to Kebaowek First Nation were not included in the four papers titled: waste minimization, waste storage facilities, decommissioning and waste disposal. Important topics such as transportation, environmental monitoring, and waste characterization and inventories – all related to one or more of the four discussion paper topics – were not addressed. Given that the process to date has not solicited input into radioactive waste policy for these areas, it is unclear how the policy basis for strategies related to transportation, environmental monitoring, and waste characterization and inventories will be developed.

Kebaowek First Nation shares the concerns and disagreement expressed by others during the roundtable sessions over the Nuclear Waste Management Organization having been assigned the lead role in the development of radioactive waste management strategies. The narrow scope of this policy review raises the level of concern, particularly given the lack of attention in the discussion papers to such important topics as transportation, environment monitoring, and waste characterization and inventories. There must certainly be policies and strategies related to each of these areas: how will the policies and strategies be developed, given their absence from this review?

The Algonquin Nation holds a rich legacy deep within the Ottawa River watershed. The *Kitchi sibi (great river)* as we know it, or Ottawa River as settlers have since renamed it, has been our home and transportation highway since time immemorial. For centuries

Anishinabeg peoples have relied onour lands and waterways for our ability to exercise our inherent rights under our own system of customary law and governance, known as *Ona'ken'age'win.* This law is based
on mobility on the landscape, the freedom to hunt, gather and control the sustainable use of our lands and waterways for future generations. Policy must advance and incorporate Indigenous knowledge and Ona'ken'age'win offering clear and coherent strategies that protect the rights and interests of Algonquin Anishinabeg Peoples in perpetuity.

Migizi Kiishkaabikaan (in Anishnaabemowin), also called "Oiseau Rock" or "Bird Rock" is a rock face that rises 150 meters above the Kitchi sibi across from Chalk River Laboratories, on the north side of the river. It is recognized as a sacred site by our peoples. Anishinabeg peoples left a legacy of ancient pictographs painted in red ochre several hundred and possibly several thousand years ago on the rock that have been since defaced by modern graffiti. We provide this information to emphasise the importance and centrality of the Chalk River laboratories site and the desecration and destruction of sacred sites within our territory.

It is important for our community to note that before the Government of Canada completed construction of the Chalk River Laboratories (CRL) in 1944, no assessment was undertaken to determine how the nuclear complex might affect upstream or downstream areas of the Kitchi sibi. No thought was given to how the nuclear complex might affect the members of the Algonquin Nation, our dependence on the then plentiful watershed resources of the Kitchi sibi, or our multi-generational socio-cultural connection to the places and customs associated with the Kitchi sibi. No thought was given to whether the promises of the Royal Proclamation could be upheld if the complex was built. No thought was given to Algonquin jurisdiction around the Kitchi sibi.

Largely through the lens of Kebowek First Nation concerns related to the Chalk River Laboratories history and development on the Kitchi sibi, please find Kebaowek First Nation's comments on the four discussion papers.

1. Waste Minimization

The Chalk River Laboratory is the site of multiple projects, some of which illustrate concerns related to the topics set out in the waste minimization paper.

Recycling / Reprocessing
The discussion paper does not explicitly identify reprocessing as one of the waste "minimization" strategies, but makes multiple references to "recycling", which in recent months has been a stand-in term used by both government and industry for reprocessing of irradiated nuclear fuel (spent fuel or fuel waste).

The Chalk River laboratory site operator, the Canadian Nuclear Energy Alliance, has invited developers of small modular reactors to site "demonstration" small modular reactors at the Chalk River laboratory site.[3] Four different designs / proponents are engaged in the

[3] https://www.cnl.ca/clean-energy/small-modular-reactors/siting-canadas-first-smr/

"invitation process" currently, and the process remains open to additional potential proponents. While the four vendors to date have not identified reprocessing or pyro-processing as part of their design, designs / proponents associated with other sites in Canada have done so.

Of particular note: CNL's largest new planned capital expenditure at Chalk River is a new hot cell facility, which CNL is referring to as an "Advanced Nuclear Materials Research Centre.". According to Atomic Energy of Canada Limited "*this new facility will allow further advancements in the nuclear science and technology program including in support of small modular reactor development and nuclear safety and security. It will also enable ongoing work in support of utilities as they look at reactor life extension and reliability*.[4] The 28,000 square facility will include the installation of 16 new nuclear hot cells, 36 radioisotope laboratories, and office space to accommodate 176 staff. Construction, according to the MERX listing, is anticipated to be complete in 2022.[5]

Kebaowek First Nation has not been given notice and has certainly not been engaged or consulted with regard to many of the developments underway at the Chalk River site. Namely, KFN has not been consulted with respect to the purpose or operation of the "Advanced Nuclear Materials Research Centre". Through CNL's promotional materials, KFN is aware that CNL is pursuing "recycling" and reprocessing of irradiated nuclear fuel at the Chalk River site.[6]

Kebaowek First Nation does not support the siting of new reactors at the Chalk River site, or anywhere in our territory. With equal vigour we **oppose reprocessing of nuclear fuel waste** and the extraction of plutonium.

Free Release
As the discussion paper notes, decommissioning generates large quantities of radioactive waste in various forms such as solids, liquids and gases. This is among the concerns of Kebaowek First Nation, given the decommissioning work underway and planned for the Chalk River laboratory site. The paper overlooks the practice of applying "clearance levels" to materials with low levels of radioactivity and then releasing them into water systems or waste disposal sites (such as solid waste landfills), overlooking that these materials are still radioactively contaminated.

As caretakers and rights holders who are exercising our rights in proximity to the Chalk River Laboratory site, Kebaowek First Nation is seeking a policy direction that would **protect against the release of even low levels of radioactively contaminated materials** – liquid or solid – within our territory. Waste minimization should be achieved by avoiding the creation of the waste, not by relabeling the waste as if non-radioactive. As the maxim goes, "dilution is not the solution to pollution".

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[4] https://www.aecl.ca/science-technology/chalk-river-revitalization/

[5] https://www.merx.com/cnl/solicitations/Advanced-Nuclear-Materials-Research-Centre-Call-for-Expression-of-Interest/0000130641

[6] https://www.youtube.com/watch?v=cpXdTEl4JpY

Protection of the Kitchi-sibi is fundamental to our Algonquin identity and wellbeing as the waterway has supported Algonquin Peoples for millennia via our ability to harvest traditional foods, tell stories and pass on stewardship knowledge that strengthen and affirm our connections to customary laws, identity and our continued place in the watershed.

Waste Tracking and Inventories

It is not clear from available information whether the variability in reported inventories of radioactive wastes at the Chalk River laboratory site is due to a practice of waste clearance / free release, but there is enough variability in the data to raise questions, including questions around the cause for the considerable differences in waste volumes moving from inventory to another, and a question as to whether a reclassification of some waste volumes to make them eligible for "free release" might be at least partial cause.

Every three years Canada produces a national report under the *Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management* which includes an inventory of radioactive wastes in Canada. There are important discrepancies or differences between waste volumes at the Chalk River site, as reported in the Sixth and Seventh National Reports. For example, one major change in the 7th report relative to the 6th report is the 59% decrease in the reported volume of LLW in the form of "Contaminated soils" at Chalk River - from 382,842 m3 in 2017 to 156,276 m3 in 2020 (Table D.8). No explanation is given for this decrease of 226,566 m3 in the reported volume of contaminated soils. While there may be other – and potentially even more problematic – explanations, in the context of the general permissiveness and regulatory acceptance of applying clearance levels to free release radioactively contaminated materials, this very large discrepancy creates a concern that these materials are being reclassified and future management will be in facilities or systems not designed for radioactive wastes.[7]

The starting point for responsible management of radioactive waste is knowing fully and in detail the volume and characteristics of the wastes that must be managed. The radioactive waste policy must require **detailed inventories and tracking of all radioactive wastes**. Algonquin Rights and Tilte holders – and the public more generally – should have full access to this information, via waste inventories that are available and accessible as part of an overall radioactive waste management regime that **is open and transparent**.

2. Waste Storage Facilities

The Chalk River laboratory site has more than 70 per cent of all the radioactive waste ever produced by Atomic Energy of Canada Ltd. (AECL) and its predecessor, the National Research Council of Canada in some form of storage on the 37-square-kilometre site. An estimated half of these federal nuclear legacy liabilities are the product of Cold War activities in the 1940s, '50s and '60s, with the remainder generated through research and development activities and other programs at the Chalk River Laboratory. [8]

[7] Personal communication, Concerned Citizens of Renfrew County and Area

[8] "Chalk Rivers toxic legacy", Ian MacLeod, The Ottawa Citizen, Friday, December 16, 2011

Documents produced by the Canadian Nuclear Safety Commission and Canadian Nuclear Laboratories during the 2018 licence renewal process provide some examples of waste storage challenges on site including:

- tile holes (below-grade vertical cylindrical concrete pipes sitting on a poured concrete base and backfilled with sand) located in the Waste Management Area B hold spent fuel rods used in research reactors and as prototypes, with approximately 100 tile holes having shown signs of degradation (e.g., fuel corrosion, production of hydrogen gas); CNSC reported at the time of relicensing that CNL intended to retrieve the spent fuel from specific tile holes and store them in a better controlled and monitored facility and designed to current standards, but provided no information on progress made in retrieving / transferring the wastes or the timeline going forward, or whether conditions were as anticipated; no update was included in the most recent regulatory oversight report
- The Fissile Solution Storage Tank (FISST) was one of a number of aging tanks storing liquid radioactive waste and which have been identified as areas for priority action in addressing the CRL's nuclear legacies; CNSC identified it as an area of risk, and an "area of focus for CNSC staff". However, the CMD purports that "based on ongoing CNSC staff inspections and review, there is no safety concern on a near term basis and CNL is engaged in a long term solution of emptying the FISST via repatriation to the United States".
- There are several groundwater and surface water contaminant plumes on the Chalk River site extending from Area B (Area B is also a "special burials" for two reactor vessels, one from NRX in 1970 and the other from the National Research Universal reactor in 1973, and other highly radioactive equipment). One is dominated by strontium-90 that has leached from the unlined sand trenches. Another plume contains tritium; the staff CMD noted some gradually increasing concentration of tritium at some locations in the southern and southeastern region of WMA-B and a plume of tritium and Sr-90 which discharges

The 2019 Annual Compliance Monitoring Report for CRL describes in considerable detail the radioactive groundwater contaminant plumes at CRL and their monitoring and treatment systems. To summarize briefly, in the Perch Lake basin, strontium-90 plumes from the Liquid Dispersal Area and Waste Management Areas A and B require continuing operation of three groundwater treatment systems. In the Maskinonge Lake basin, a "Wall and Curtain" passive groundwater treatment facility intercepts and treats the strontium-90 plume arising from the Nitrate Plant. Contaminant plumes from the NRX and NRU reactor facilities (the fuel bays) were for years leaking tritium and strontium-90. The resulting contaminant plumes now discharge directly into the Ottawa River untreated.

In contrast to the examples cited above, Natural Resources Canada states in the waste storage discussion paper that "In Canada, all radioactive wastes are currently managed in interim storage facilities that are safe, secure and environmentally sound."

Clearly, at least in the case of the Chalk River site, Canada's radioactive waste policies to date have failed. Policies and practices have failed to effectively isolate the radioactive wastes from the environment, and in that failure have encroached upon the rights of the Algonquin Anishnabeg to exercise their rights without fear or concern of harm from the nuclear contamination in the Ottawa River watershed.

The radioactive policies emerging from the current review must remedy this by directing that radioactive waste storage **minimizes risk and maximizes protection of human health and the environment**, and ensuring that there is **full and effective monitoring** of the radioactive wastes in storage, with monitoring results being maintained in an open and transparent information system.

Algonquin Anishnabeg Peoples should be **fully engaged in the design and licensing** of radioactive waste facilities and in **monitoring the performance of these facilities** in our territory.

3. Decommissioning

Decommissioning planning and decommissioning strategies – planned and employed – illustrate very well the need for **transparency and traceability** as cornerstones in radioactive waste policy.

To illustrate, consider four key documents prepared for or related to decommissioning at the Chalk River Laboratory:

- Preliminary Decommissioning Plan - COMPREHENSIVE PRELIMINARY DECOMMISSIONING PLAN CPDP-508300-PDP-001 Revision 2, prepared by Atomic Energy of Canada Limited in 2014
- Canadian Nuclear Laboratories 2016- 2026 10-Year Integrated Plan Summary[9]
- Commission Member Document 18-H2, dated 10 NOVEMBER 2017 and prepared by CNSC staff for the Chalk River site licence review and hearing which took place in January 2018
- Regulatory Oversight Report for Canadian Nuclear Laboratories Sites: 2019, prepared by CNSC staff for presentation at a Commission meeting in December 2020

Each of these documents discusses decommissioning, the first in considerable detail. However, while there are many indications that the decommissioning plan is "evolving" over time, there is no direct reporting in any of the documents on how the decommissioning plan or strategy may have shifted, and the documents lack detailed reporting on implementation to date.

CNL's 10-Year Integrated Plan Summary presents as if a stand-alone document, without reference to the comprehensive preliminary decommissioning plan that was put into effect just a few years prior. The Commission Member Document 18-H2 does provide a one or two word status update on various decommissioning activities that had been mapped out in the 2014 comprehensive strategy, but makes no effort to reconcile significant differences between AECL's 2014 decommissioning plan and CNL's 2016 "integrated" plan, such as the emergence of a proposed "Near Surface Disposal Facility" with a key function in the dispositioning of decommissioning wastes at the Chalk River site.

Problematically, the 2019 Regulatory Oversight report provides only minimal information about decommissioning progress or plans at the Chalk River site, either as stand-alone information or in reference to the activities set out in the license issued in 2018, the CNL strategy of 2016, or decommissioning plan of 2014.

As rights holders in the territory that has been so heavily imprinted by the Chalk River Nuclear Laboratory property and activities, Kebaowek First Nation would expect that a fundamental obligation of the licensee would be to make **information accessible and available** and decision-making and implementation related to decommissioning would **be transparent and traceable**. Kebaowek has not found this to be the case.

[9] https://www.cnl.ca/wp-content/uploads/2020/08/Long_Term_Strategy_2017April18.pdf

End state

In the 2014 comprehensive preliminary decommissioning plan a "*final end-state vision is that most areas of the site will qualify for industrial use as a minimum. Some areas of the site may be able to go one step further and qualify for unrestricted use*". There are multiple references to end-state criteria, but no end-state criteria are put forward.

CNL's 2016 strategy indicates that a goal for 2016 is that the National Research Experimental reactor is "decommissioned to an agreed end state" and highlights that it will be "decommissioned to an end state agreed with the Canadian Nuclear Safety Commission" and further indicates that a "Cleanup Plan is expected to be approved in 2020" and that one step in the Cleanup Plan will be to "identify existing end-state objectives". The strategy goes on to state:

> *"Stakeholder engagement throughout the planning process is critical to ensure that the path to liability closure for each site is acceptable to property owners, regulators and other directly impacted parties. The uncertainty of stakeholder acceptance may result in significant delays to the retirement of these liabilities, and can significantly increase the cost to achieve the desired end state."*

Kebaowek First Nation has not been "engaged" in any discussion with respect to the determination of end-state objectives for the Chalk River laboratory of the Rolphton NPD sites.

Similar to AECL's 2014 decommissioning plan and CNL's 2016 integrated plan, Commission Member Document 18-H2 and the Regulatory Oversight Report for Canadian Nuclear Laboratories Sites: 2019 both reference end-states or end-state criteria, but neither set out the end-state criteria or the method or process through which end-state criteria will be developed.

As set out earlier in this submission, the operation of these nuclear facilities in and around Algonquin Anishinabeg Nation lands and waterways have had adverse impacts on the unceded, inherent rights of the Algonquin Anishinabeg Nation as well as exercising Section 35 rights, through restricting the ability of Algonquin Anishinabeg Nation to exercise our rights in those parts of our territories that have been occupied and contaminated by nuclear facilities.

AECL, CNL and CNSC create an impression through the above noted documents that the definition of "end-state" objectives is for them strictly a matter of designation, i.e. whether the area remains under regulatory control or is transitioned to unrestricted use.

For Kebaowek First Nation while we would welcome "unrestricted use" in the sense that we would again be able to exercise our rights throughout our territory, the acceptable "end state" must be determined wholly in the context of the decommissioning work and environmental remediation that must be undertaken. The outcomes of the remediation, and

the achievement of an "end state", must be measured in terms of the restored health of the land and water, and its ability to sustain life without harm, or even fear of harm.

The policies resulting from this current review must clearly set out that decommissioning **end-state objectives and criteria are to be based on ecological and human health** and that the **rights-holders will be engaged in developing these criteria** and in **monitoring decommissioning progress and determining if those end state objectives have been met.**

In situ

Kebaoewek has been concerned by Natural Resources Canada presentation of "in situ decommissioning" as if it is an acceptable practice in either Canada or internationally throughout this consultation process, both in the discussion paper on decommissioning and in the introduction to the roundtable discussion which KFN was an observer.

The operating practices at the Nuclear Power Demonstration Project at Rolphton are a concern for the Algonquin Anishinabeg Nation. Experts advising the Algonquin Anishinabeg Nation have found disturbing evidence of a decades-long practice of dumping untreated water which is heavily contaminated with radionuclides as well as potentially hazardous non-radiological contaminants into the Ottawa River. This was not previously disclosed to the Algonquin Anishinabeg Nation, and was learned only in the course of the beginning stages of the environmental assessment review of the Nuclear Power Demonstration Closure Project.

CNL is now proposing that the decommissioning of the Nuclear Power Demonstration Closure Project by leaving the radioactive structures in place, filling it with concrete, and calling the approach "in situ decommissioning".

Internationally, the practice of "in situ" decommissioning is only permitted in the case of an emergency or an accident, and this reason does not apply in the case of the Nuclear Power Demonstration Closure Project.

Canada's radioactive waste policy must be at least as **protective of our lands and waters** as the international standards. The policy should require that decommissioning be carried out to achieve **the highest standard of care, enabling the Algonquin Anishinabeg to fully exercise both inherent and Section 35 rights.**

4. Waste Disposal

The discussion paper prepared by Natural Resources Canada on waste disposal seems to be divorced from reality, and certainly from the reality of the waste "disposal" projects currently being promoted by Canadian Nuclear Laboratories for delivery on Algonquin Anishinabeg Nation territory in Chalk River and Rolphton, Ontario.
For example, the paper describes a multi-step process that for the development of a "disposal facility", beginning with site selection. There was no site selection process for the proposed "in situ" decommissioning of the Nuclear Power Demonstration Project at Rolphton, and there was no broader site selection process beyond the 37 square kilometres of the Chalk River laboratories site for CNL's proposed "Near Surface Disposal Facility".
The discussion paper states that disposal "refers to the placement of radioactive waste without intention of retrieval. Its aim is to safely contain and isolate the waste by means of natural and engineered barriers for adequate protection of people and the environment."
The Canadian Nuclear Safety Commission definition speaks only to the intention to not retrieve the waste:

> disposal (evacuation or elimination) The placement of radioactive waste without the intention of retrieval.

Both termed "disposal" projects, the proposed "in situ" decommissioning of the Nuclear Power Demonstration Project at Rolphton and CNL's proposed "Near Surface Disposal Facility" are both could be presumed to be consistent with the CNSC's very limited definition of "no intention to retrieve" but are inconsistent with the discussion paper's claim that a disposal project would "safely contain and isolate the waste by means of natural and engineered barriers for adequate protection of people and the environment."
The Draft Environmental Impact Statement for the Nuclear Power Demonstration Closure Project documented that CNL does not expect the project to isolate the wastes. For example, under the "Normal Evolution Scenario" the document describes how the facility would operate with the facility being closed as planned, with no unforeseen events, i.e. according to plan. The document includes the following three statements, all of which indicated that the wastes would not be isolated, and the radionuclides would not be safely contained, even in the relatively short term:

- Parts of the NPDWF that lie below the water table will gradually resaturate. It is expected that re-saturation may take several decades to complete. Once saturated, the soluble contaminants in the facility will begin to be released into the groundwater… The primary point of potential contaminant release into the biosphere is taken to be the riverbed close to the shore of the Ottawa River (pages 9-6 and 9-7)
- It is assumed that the grout will gradually degrade as the cement constituents are slowly leached out upon contact with groundwater… (page 2-24)
- It is assumed that the cap starts to degrade 100 years after its emplacement and is assumed to have fully degraded (in terms of hydraulic performance) by 1,000 years after decommissioning is complete…. (page 2-24)

The radioactive releases from the "decommissioned" facility will be into the Kitchi sibi, upon whom our Algonquin Anishnabeg Peoples have depended upon since time immemorial for the plentiful watershed resources and our multi-generational socio-cultural

connection to the places and customs associated with the Kitchi sibi.
The Draft Environmental Impact Statement for the Near Surface Disposal Facility project documented that CNL does not expect the project to isolate the wastes. The document includes multiple indications, including the following three statements, all of which indicated that the wastes would not be isolated, and the radionuclides would not be safely contained, even in the relatively short term:

- Radioactive wastes being added to the mound would be exposed to rain and snow which will leach radioactive contents down through the mound; radioactively contaminated leachate will be collected in a system of pipes and pumped uphill to a water treatment plant but not all radioactive contaminants will be removed prior to releasing the treated leachate into wetlands that drain into the Ottawa River.
- Tritium as radioactive water would leach in very large amounts from the mound; the draft EIS estimates that tritium in leachate could emit as much as 9 million beta particles per liter per second
- Untreated tritium would be discharged to wetlands, move freely towards the Ottawa River, be incorporated in fish and other aquatic life, and enter drinking water supplies; large quantities of tritium would also be released from the dump as water vapour.
- The capacity of storm-water ponds would be exceeded during extreme rainfall events or snowmelts; for example he draft EIS (page 9-2) states that pond overflow "would be conveyed by inlet and emergency outlet structures adjacent to the surface water management ponds,"
- Table 5.2.3-8 on page 5-155 of the draft EIS estimates that plutonium (Pu) isotopes (Pu-239 and Pu-240) would exit the dump at 21.4 million and 32.4 million Becquerels per year, respectively.

Once again, the radioactive releases from the proposed Near Surface Disposal Facility will be into the Kitchi sibi, upon whom the Algonquin Anishnabeg Peoples have depended upon since time immemorial for the plentiful watershed resources and our multi-generational socio-cultural connection to the places and customs associated with the Kitchi sibi.
These two projects are "state of the art" proposals for waste "disposal" and they are both proposed to be carried out in the heart of the Algonquin Anishnabeg Nation, where Kebaoewek First Nation exercises our rights and carries out our traditional and contemporary activities, many of which rely on a the health and well-being of Kitchi sibi to maintain the health of the Anishnabeg people and all non-native settlements along its shores. By design these "disposal" projects will harm the *Kitchi sibi* and both humans and non-humans in the watershed.
Kebaoewek First Nation appreciates that this is policy review, and not a forum for the debate of specific proposals and projects. However, it is inarguable that the two "disposal" projects currently being promoted for within our territory illustrate the disconnect between the concept of "disposal" put forward in the NRCan discussion paper and the reality of these projects should they be implemented. Not even in the environmental impact assessment documents does the proponent claim that these projects will "safely contain and isolate the waste".
While the concept of "disposal" may have political appeal in that it suggests the terrible problem of radioactive waste can be – and has been – solved, policy and strategies for

radioactive waste and its management should deal in reality.
The experience of Kebaoewek First Nation in learning about and responding to the two "disposal" projects currently being put forward by Canadian Nuclear Laboratories had demonstrated the **need for Indigenous peoples to be engaged in policy and project development and review** and that policy and regulation must have **protection of people and the environment** as the first priority.
We are unconvinced that the concept of waste disposal is anything more than a sleight of hand, intended to make the slow release of radionuclides into the environment sound reasonable. These wastes require **long term care** to be kept separate from the environment, and from the water and land that sustains us all.

PART 4 – Additional Comments
To put the importance of all these related nuclear topics in perspective; Algonquin Anishinaabeg Peoples have both rights and responsibilities to protect our unceded lands and waterways for future generations. For Kebaowek First Nation (KFN) this raises serious questions concerning unsound nuclear industry practices and environmental reviews and policy related to the dumping of nuclear waste next to the Ottawa River.
We understand from NRCAN's public consultation sessions on a modernized nuclear waste policy that a guiding principle in this conversation is "Indigenous Reconciliation" We are unclear on how nuclear waste policy relates to Indigenous reconciliation? Certainly, we do not view our lands particularly next to the Ottawa River waterway as a marketplace for domestic and international nuclear waste disposal. This issue in our view should be for national political debate whether or not to go forward.

PART 5 – Concluding Remarks
We are committed to continuing this important conversation as it relates to the Algonquin Nation's connection to lands and waterways and Canada's modernized Nuclear Waste Policy. We look forward to reviewing the NRCan "What we Heard" report document when it becomes available.

DRAFT RESOLUTION #37/2023

AFN Annual General Assembly, July 11-13, 2023, Halifax, Nova Scotia

TITLE:	Securing accountability of Nuclear Technology, Waste, Transport and Storage
SUBJECT:	Water, Environment, Emergency Management
MOVED BY:	Chief Lance Haymond, Kebaowek First Nation, QC
SECONDED BY:	Chief Jeffery Copenace, Ojibways of Onigaming First Nation, ON

WHEREAS:

A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:

- **i.** Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
- **ii.** Article 29 (2): 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.
- **iii.** Article 32 (2): States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

B. First Nations have been stewards of the land, waters and their environment since time immemorial, have an unbreakable and sacred connection to Mother Earth that considers the health, wellbeing and sustainability of all living things for seven generations into the future.

C. First Nations disproportionately endure environmental inequality despite that, under the Canadian Charter of Rights and Freedoms, every individual is equal before and under the law, and has the right to the equal protection and equal benefit of the law without discrimination, in particular, without discrimination based on race, national, or ethnic origin, colour, religion, sex, age or mental or physical disability,

D. Studies have shown that the SMR nuclear fuel cycle may produce more chemically/physically reactive waste which could impact options for management and disposal of waste and could remain radioactive for up to hundreds of thousands of years.

E. The technical and social challenges associated with the operation of nuclear technology, managing the radioactive waste they generate, and the inherent proliferation and environmental safety risks could impact First Nations rights and interests in perpetuity.

F. The Canadian Nuclear Safety Commission (CNSC) is the administrative body responsible for regulating nuclear energy in Canada. While CNSC policy reflects a number of established principles in Canadian law regarding the duty to consult and accommodate Indigenous Peoples, it does not fully account for recent developments in the law.

G. Nuclear technology, including SMRs that operate in one province could have impacts on out-of-province First Nations as:

   i. There are current proposals in place to research, develop and manufacture fuels at the Canadian Nuclear Laboratories' site in Chalk River for a proposed SMR that will be located in New Brunswick.

   ii. This will lead to radioactive material being transported throughout regions to support these activities.

   iii. Spent nuclear fuel will need to be transported and eventually stored of, as all nuclear material eventually degrades into radioactive waste. According to data from Transport Canada, this could potentially impact 435 First Nations with grade level crossings and multiple provincial highways that go through First Nations territories.

   iv. Spent nuclear fuel may be stored at a proposed deep geological repository (DGR) in Ontario, whereas, other radioactive waste, including research and decommissioned material, could be destined for the proposed Near Surface Disposal Facility at Chalk River (NSDF).

   v. All of these proposed modes of transport for the movement or disposal of nuclear material presents a disproportionate increased risk of loss from accidents that may have generational negative impacts for First Nations.

H. In order to accommodate one million cubic metres of legacy and imported spent nuclear fuel from Canadian Nuclear Laboratories, the CNSC is considering licensing a surface storage mound at Chalk River, Ontario. Algonquin Anishinaabeg Nation communities were not consulted on the site selection.

I. The proposed Near Surface Waste Facility (NSDF) poses serious and irreversible impacts to Indigenous rights and the environment. The site is within 1 kilometer of the Kichi Zibi, on unceded and unsurrendered Algonquin Anishinaabeg Nation lands. The site is home to 37 hectares of old growth forest and abundant wildlife resources including Federal Species at Risk. Also within 2 kilometres are two sacred Indigenous sites, Pointe au Baptheme and Oiseau Rock, which have been associated with naming ceremonies, rock pictographs, and tobacco offerings for centuries.

J. In light of the proximity of the proposed spent nuclear fuel landfill site to the watershed, Algonquin peoples and Canadian municipalities downstream have strongly objected to the development. If successful, the project may create disproportionate additional environmental impacts from existing and future nuclear waste operations at the site.

K. The Kichi Zibi and surrounding lands and waterways have experienced cumulative toxic harm from nuclear accidents at the Chalk River site since 1952.

L. In March 2023, Natural Resources Canada released its final radioactive waste and decommissioning policy. The document ignores input provided from Indigenous nations and civil society over the course of the previous two years.

M. Current federal laws remove many SMRs, their eventual decommissioning and waste products from mandatory federal impact assessment legislation, a process which serves to test a proponent's claims regarding safety, level of harm or impacts to the environment.

N. The only institutional check for SMRs in Canada is the Canadian Nuclear Safety Commission. The Commission, whose oversight is provided by Natural Resources Canada, has lobbied for the removal of SMRs from impact assessment.

THEREFORE BE IT RESOLVED that the First Nations-in-Assembly:

1. Call on the Government of Canada to fully adhere to the standards of the United Nations Declaration on the Rights of Indigenous Peoples, and the protections under the *Constitution Act*, 1982, where information on the nature, size, pace, reversibility and scope of any proposed nuclear project or expansion are transparently disclosed and where an assessment of likely economic, social, cultural and environmental impacts is provided to First Nations, sufficiently in advance of any commencement or authorization of a nuclear project or an expansion.
2. Call on federal, provincial, and territorial governments to ensure that no testing, development, expansion or deployment of nuclear activities, including SMRs, occur on or near First Nations territories or infringes on First Nations inherent jurisdiction without the free, prior, and informed consent of all First Nations whose lands, territories, and/or other resources may be affected, including via transportation of any spent nuclear fuel.
3. Call for an urgent meeting between the Assembly of First Nations (AFN) and the Government of Canada to address concerns regarding the consultation policy of the Canadian Nuclear Safety Commission as it relates to nuclear waste transport and disposal decision making including, but not limited to the Near Surface Disposal Facility at Chalk River (NSDF).
4. Direct the AFN to continue working with the Regions and Natural Resources Canada to develop a coordinated response to the new radioactive waste and decommissioning policy to include First Nations strategies and mitigation measures to fully conform with, and promote, the implementation of international human rights laws and standards.
5. Direct the AFN to explore avenues for "Eliminating Environmental Inequality" under Section 15 of the Canadian Charter of Rights and Freedoms with respect to consultation and policies related to the nuclear industry.