



Head Office - Reserves 22A1/22A2

Mailing Address

1100 Memorial Ave, Suite 328 Thunder Bay, ON P7B 4A3
Telephone: 807-622-9835 Fax: 807-622-9866
Toll Free: 1-888-573-0168 Email: ldmlfn@lacsdesmillelacs.ca

April 8, 2026

Mr. Terence Hubbard
President
Impact Assessment Agency of Canada

Dear Mr. Hubbard,

We are writing to formally object to NWMO's mischaracterization of the consultation record and to place the accurate factual record before the Agency. NWMO's Initial Project Description and its March 13, 2026 correspondence presents a selective and incomplete account of its engagement with us, implying that they have made repeated efforts to engage while LDMLFN has not responded in a timely manner. This characterization omits material facts demonstrating that LDMLFN actively sought dialogue and that NWMO did not meaningfully follow up.

On July 29, 2025, NWMO wrote to LDMLFN regarding the regulatory process, inviting dialogue and effectively setting a September 30, 2025 deadline for comments. In response, LDMLFN's Director of Strategic Initiatives wrote on August 26, 2025 requesting a meeting with NWMO leadership in Toronto on September 10 or 17 to discuss the project and LDMLFN's involvement. This request was followed by multiple emails confirming LDMLFN's availability and working through logistics.

A meeting was held on September 10, 2025 in Toronto between LDMLFN representatives and NWMO staff, during which LDMLFN raised concerns and requested a subsequent meeting with NWMO's executive leadership. The meeting with the executive leadership was requested, in part, due to the offensive comments that were made about LDMLFN at the September 10th meeting by the NWMO representative. It is important to note that even though the meeting of September 10th was scheduled in response to the July 29th letter about the IPD, the NWMO did not even discuss the topic at that time or suggest a consultation plan to engage our Nation on its review before it was submitted. Furthermore, the NWMO did not raise or discuss the bore hole permitting process that it had initiated, yet NWMO informs the provincial ministry who is overseeing that permitting that we, again, have not responded to such even though this was a perfect opportunity to discuss or develop a plan to consult on the same.

Subsequently, at the First Nations Infrastructure Forum in early December 2025 the LDMLFN's Director of Strategic Initiatives engaged with NWMO's Director of Indigenous Engagement and reiterated that the Chief sought a meeting with NWMO's senior executive. Despite the repeated requests for a meeting, NWMO did not take steps to confirm an executive-level meeting until late February 2026, after the release of the IPD, when LDMLFN again pressed for executive attendance. A meeting was finally held on March 4, 2026.

In these circumstances, it is more accurate to say that LDMLFN has repeatedly initiated and pursued dialogue, while NWMO's documentation and narrative minimize those efforts and instead rely on one-way notifications and unilateral "closure" of consultation in the absence of written

responses. As you can see, the NWMO's reporting of the consultation that has and has not occurred on this file with respect to LDMLFN is insufficient and misleading. Further, NWMO has not consulted on the important matters when it has had the opportunity to do as noted in the September 10th meeting concerns above.

The Crown's Duty to Consult

LDMLFN recognizes that, at law, the duty to consult and, where appropriate, accommodate rests with the Crown and cannot be delegated, even though procedural aspects of consultation may have been delegated to NWMO. In LDMLFN's view, the Crown cannot rely on the current NWMO record as evidence of meaningful consultation consistent with the honour of the Crown, given that it omits LDMLFN's August 26, 2025 request for a meeting, the September 10, 2025 Toronto meeting, LDMLFN's express requests for executive-level engagement, and NWMO's subsequent months-long failure to respond substantively until late February 2026.

The scope of consultation and accommodation to which LDMLFN is entitled is further elevated by Canada's obligations under the United Nations Declaration on the *Rights of Indigenous Peoples Act*, SC 2021, c 14 (UNDA). In *Kebaowek First Nation v. Canadian Nuclear Laboratories*, 2025 FC 319, which also involves a nuclear waste disposal project, the Federal Court confirmed that UNDRIP must inform the scope and content of the Crown's duty to consult and accommodate, imposing an obligation that is more demanding than the common law standard under s. 35 of the *Constitution Act*, 1982 alone. In particular, the Court held that the free, prior and informed consent (FPIC) standard requires a process that places a heightened emphasis on a deep level of consultation and negotiations geared toward a mutually accepted arrangement, tailored to consider the impacted Nation's laws, knowledge, and practices. The Court further confirmed that the Crown must be prepared to genuinely modify its processes and positions in response to accommodation requests, and that a failure to do so will render the consultation process inadequate. LDMLFN submits that this elevated standard applies to the present regulatory process and governs the adequacy of all consultation undertaken on this file.

This pattern of one-way notifications, short unilateral response deadlines, and incomplete consultation logs, falls short of the proactive, good-faith, responsive engagement required to discharge the Crown's duty to consult in relation to a project of this scale and potential impact on LDMLFN's rights and interests.

Request to the Agency

In light of the above, LDMLFN respectfully asks the Agency to:

- (a) treat NWMO's current description of consultation history as incomplete;
- (b) require NWMO to correct the public record by filing updated consultation materials that accurately reflect LDMLFN's August 26, 2025 request for a meeting, the September 10, 2025 Toronto meeting (including issues raised and LDMLFN's request for executive-level engagement), LDMLFN's December 2025 reiteration of that request, and the eventual March 4, 2026 executive-level meeting; and
- (c) confirm that the Crown's consultation obligations in relation to this project must be assessed against the elevated standard established by UNDA and articulated in *Kebaowek First Nation v. Canadian Nuclear Laboratories*, including the requirement for free, prior and informed consent processes that are geared toward a mutually accepted arrangement and are tailored to LDMLFN's laws, knowledge, and practices.

LDMLFN further asks that, in designing and implementing the impact assessment and associated engagement processes, the Agency direct NWMO to move beyond one-way notifications and short-unilateral response deadlines, misleading and deficient consultation logs, and instead to co-develop with LDMLFN a clear, mutually agreed engagement plan that reflects the honour of the Crown and supports meaningful, timely participation by LDMLFN in all regulatory decision-making stages.

In closing, we thank you for considering this important issue and trust you will assist in addressing our Nation's concerns as noted above. Given the misrepresentations that have been made about our Nation, and the suggestions that we do not engage, we would respectfully request that this letter be published on the public registry so that it is clear for the public what our position is on how consultation has or has not been occurring on this project.

Sincerely,
<Original signed by>

Chief Whitecloud
Lac des Mille Lacs First Nation

CC: Laurie Swami, President & Chief Executive Officer, NWMO
CC: Brent Parker – Director General, Operations and Indigenous consultation
CC: Virginia Crawford – Director, Indigenous consultation
CC: Kimberly-Anne Noble – Manager, Indigenous consultation
CC: Finn Macdonald – Senior Advisor, Indigenous consultation