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Deep Geological Repository for Canada's Used Nuclear Fuel Project
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May 8, 2026

RE: Peskotomuhkati Nation Response to Draft Integrated Tailored Impact Statement Guidelines – Deep Geological Repository (IAAC Reference No. 88774)

The Passamaquoddy Recognition Group Inc. (“PRGI”), on behalf of the Peskotomuhkati Nation in Canada, provide these comments in response to the Impact Assessment Agency of Canada’s (“Agency”) call for feedback on Draft Integrated Tailored Impact Statement Guidelines (“Guidelines”) for the Deep Geological Repository (“DGR” or the “project”). We represent the interests of Rights holders and the Peskotomuhkatik ecosystem. Our duty is to protect our lands, waters, and environment for all present and future generations.

We welcomed the decision of the Agency to proceed with a federal impact assessment (“IA”) for the DGR. However, we are concerned that, as yet, the level of engagement with impacted Nations like ourselves is severely deficient and not nearly proportionate to the magnitude and severity of the threat this first-of-its-kind project poses, despite it involving the most long-lived and toxic form of pollution known on the planet.

As PRGI previously submitted in our comments on the Initial Project Description, the project’s adverse effects within federal jurisdiction and impact on the inherent, Indigenous, Treaty and constitutionally protected rights of Indigenous Peoples, including the Peskotomuhkati Nation, are highly unlikely to be confined to the project site. Instead, the project's impacts will extend across provincial boundaries through the full lifecycle of nuclear fuel, including its generation, handling, transportation, and long-term disposal—raising serious concerns for fish and fish habitat, species at risk, migratory birds, and the

integrity of ecosystems that sustain Peskotomuhkati laws, culture, and governance. As such, we have a direct and compelling interest in the proposed DGR project, as the handling and movement of the fuel waste from the Point Lepreau nuclear site intersects with Passamaquoddy territory, rights, and long-term environmental stewardship.

This project engages our inherent, Treaty and constitutionally protected rights as the Honour of the Crown and the duty to consult are triggered whenever the Crown contemplates action that may adversely impact established or asserted Aboriginal or Treaty rights. The Crown and proponent have an obligation to collaborate with us, and cooperate in good faith - as required by the United Nations Declaration on the Rights of Indigenous Peoples ("the UN Declaration") and the *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c 14 ("UNDA").

We again reiterate:

- PRGI has a direct and compelling interest in this project: used nuclear fuel from Point Lepreau, located in Peskotomuhkati territory, will be transported for disposal, making this an inherently interprovincial and rights-impacting project;
- The Honour of the Crown and reconciliation must guide this process, with this IA being a test of whether Canada will uphold Treaty obligations in practice and work towards restoring nation-to-nation dialogue;
- This IA must take into account the cumulative impacts of radiological harm, including impacts to the Bay of Fundy, in assessing the impacts resulting from activities that will occur at the Point Lepreau site.

PRGI brings lived and intergenerational knowledge essential to this process. As an Indigenous Nation that has been, and will continue to be, affected by the activities inherent to this project, we remind the Agency that the IA must move ahead in an honourable way. No decision about us can be made without us.

Please ensure to copy Kim.Reeder@gonaskamkuk.com on any related correspondence.

All My Relations,



Hugh M. Akagi

Chief of the Passamaquoddy Peoples

cc.

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1 - About Peskotomuhatikuk and its people

The Passamaquoddy People (Peskotomuhkati Nation) are an Indigenous Nation whose territory includes lands and waters of the mouth of the Bay of Fundy, including the coastal and marine environment surrounding the Point Lepreau Nuclear Generating Station in present-day New Brunswick. The Nation has lived in and governed this coastal homeland since time immemorial, relying on the Bay of Fundy for food, travel, cultural practices, and intergenerational continuity. These lands were never surrendered; rather, the relationship between the Passamaquoddy and the Crown is grounded in the Peace and Friendship Treaties, which affirmed coexistence without extinguishing inherent, Indigenous and Treaty rights or jurisdiction.

Point Lepreau began operating in the early 1980s, introducing nuclear generation—and the long-lived radioactive waste it produces—into the heart of the Passamaquoddy homeland. As set out repeatedly in Passamaquoddy submissions to the Canadian Nuclear Safety Commission (“CNSC”),¹ the Point Lepreau nuclear facility was sited and brought into operation without consultation or consent from the Passamaquoddy Nation, despite the profound and enduring implications for their lands and waters. The Passamaquoddy are the people indigenous to the territory on which the Lepreau Nuclear Power Station resides.

PRGI has consistently maintained that continued operation, refurbishment, relicensing, and the ongoing generation and storage of radioactive waste constitute present-day decisions that perpetuate and deepen the original infringement. We have asserted that each day the plant operates, without the Nation’s consent, compounds the intergenerational burden borne by the Nation.

The Bay of Fundy is a living marine system, a valued relation, that sustains cultural practices and relationships that extend across generations and species. Nuclear operations at Lepreau—including routine emissions, waste storage, and the potential movement of radioactive materials—directly intersect with these responsibilities. Anything that touches the activities at the site, therefore, triggers the Nation’s Constitutional right to know, to be informed, and provide consent.

2 - Specific Comments & Recommendations on the Guidelines and Indigenous Engagement and Partnership Plan

In response to the Guidelines² and the Indigenous Engagement and Partnership Plan (“IEPP”)³, the PRGI, on behalf of the Peskotomuhkati Nation, provides the following comments and recommendations. These

¹ Hugh M Akagi, Chief of the Passamaquoddy People, “[Written Submission to the Canadian Nuclear Safety Commission](#)” Point Lepreau Nuclear Generating Station Relicensing, Nov 14 2010; Hugh M Akagi, Chief of the Passamaquoddy People, Letter to CNSC Re: “[Clarification of Consultation and Position on the Refurbishment of the Point Lepreau Reactor](#)” Dec 17, 2010

² Impact Assessment Agency of Canada, [Draft Tailored Impact Statement Guidelines: Deep Geological Repository \(DGR\) for Canada’s Used Nuclear Fuel Project \(10 April 2026\) \[Guidelines\]](#).

³ Impact Assessment Agency of Canada, [Draft Indigenous Engagement and Partnership Plan: Deep Geological Repository \(DGR\) for Canada’s Used Nuclear Fuel Project \(10 April 2026\) \[IEPP\]](#).

are intended to ensure the Impact Statement requirements reflect the constitutional, Treaty, and international human rights obligations owed to the Nation, and that the assessment meaningfully addresses the full scope of adverse effects associated with this project, including those occurring outside Ontario.

For ease of reference, our comments below have been organized to match the naming and order in which they appear in the Guidelines. However, as our comments discuss, our concerns are crosscutting in nature, and we recommend that reordering and framing be undertaken for the proposed project and for the study of its impacts.

A. Introduction (Section 1 and Appendix A)

i. Role of the CNSC and future licensing

Section 1 of the Guidelines states that designated projects that include physical activities regulated by the CNSC must be assessed by an integrated review panel, and the review panel will conduct an integrated assessment that addresses the requirements of an IA under the IAA and the applicable requirements for a license to prepare site under the *Nuclear Safety and Control Act* (NSCA).⁴

In this context, the integrated review structure creates a risk that the limitations of the CNSC's mandate and practice may influence the scope and conduct of the IA process. PRGI emphasizes that the IA must not be constrained—explicitly or implicitly—by the narrower scope of nuclear licensing. Rather, it must operate as an independent, rights-based process capable of fully assessing the project's effects across its entire lifecycle.

As PRGI has previously submitted and again reminds the Agency:

- The CNSC has adopted a licensing process that considers a much narrower range of factors – to the detriment of a full understanding of cumulative impacts and impacts on rights – and is therefore not conducive to Indigenous-led or rights-based assessments.
- Relative to an IA, relying on the CNSC's review process to inform understandings of adverse effects and impacts is a major step backwards, as the IA process reviews all activities within the lifespan of the project prior to any decision being made regarding its development, whereas CNSC licensing is narrowly defined by the stage of activity being licensed.
- The CNSC's piecemeal licensing approach is not effective in assessing a project's actual adverse effects because it provides no upfront review of all stages of the project's life, and means consideration of impacts occurs in licensing hearings spaced years, if not decades apart.⁵

RECOMMENDATION NO. 1: Clarify within the Guidelines at Sections 1 and in Appendix A that the CNSC licensing processes do not substitute nor satisfy the requirements of an IA; and the Impact Statement

⁴ Guidelines, p 1.

⁵ M.V. Ramana, Kerrie Blaise, *Regulation vs promotion: Small modular nuclear reactors in Canada*, Energy Policy, Volume 192, 2024, 114228, ISSN 0301-4215, <https://doi.org/10.1016/j.enpol.2024.114228>

must address the full lifecycle and cumulative effects of the project, including activities that may be subject to future licensing under the regulatory framework of the NSCA.

RECOMMENDATION NO. 2: Require transparency regarding the respective roles, responsibilities, and decision-making authority of the Agency and the CNSC within the integrated review; how scoping decisions, evidentiary standards, and assessment methodologies will be determined; and how inherent, Indigenous and Treaty rights, including the requirement of free, prior, and informed consent, will be applied and upheld throughout the process.

RECOMMENDATION NO. 3: Appendix A should expressly state that the IA and all future licensing decisions incorporated through reference are conducted in a manner that is consistent with Canada's commitments under the UN Declaration, and that no aspect of the assessment will be deferred to, or constrained by, future CNSC licensing processes.

B. Project Description (Section 2)

i. Clarifying the project scope

Section 2.1 (Project Overview) of the Guidelines describes the project that is subject to the impact assessment:

The project subject to the impact assessment is the designated physical activity (i.e., the construction and operation of a new facility for the long-term management or disposal of irradiated nuclear fuel or nuclear waste) and any incidental physical activities.⁶

However, this description fails to explicitly include project-related transportation, despite the Agency's determination that project-related transportation has the potential to result in adverse effects within areas of federal jurisdiction, and is incidental to the project."⁷

This lack of conclusive language in the Guidelines leaves room for interpretation as to whether, and what aspects of transportation are included in the project scope. By specifying in Section 2.1 that the project subject to the IA includes project-related transportation as a direct and incidental physical activity, the scope of the IA will be confirmed, providing clarity on the roles and responsibilities of the Nuclear Waste Management Organization ("NWMO") and the Agency.

RECOMMENDATION NO. 4: Section 2.1 should specify that the project subject to the impact assessment is the designated physical activity (i.e., the construction, operation and decommissioning of a new facility for the long-term management or disposal of used nuclear fuel or nuclear waste) and all directly linked and necessarily incidental physical activities. Project-related transportation is a physical activity that is directly linked and incidental to the designated project, has the potential to result in non-negligible

⁶ Guidelines, p 7.

⁷ Guidelines, p 65.

adverse effects within areas of federal jurisdiction, and includes the packaging, handling, loading, and transportation of used nuclear fuel along transportation routes from interim storage facilities to the Project site.

C. Assessment Methodology (Section 4)

i. Inclusion of the full nuclear waste management process

This project contemplates the long-term management of hundreds of thousands of bundles of used nuclear fuel, transported over vast distances across multiple provinces, with potential implications for millions of people and ecosystems along the way. It will require engagement not only with directly affected communities, but with Indigenous Nations across the country whose territories, rights, and responsibilities are implicated in the nuclear fuel cycle.

The scale, complexity, and intergenerational nature of this undertaking cannot be overstated. However, this magnitude does not justify narrowing the scope or streamlining the process. To the contrary, it demands a more robust, transparent, and inclusive assessment—one that provides sufficient time, resources, and capacity for Indigenous Nations to participate meaningfully, bring forward their knowledge systems, and exercise their rights. Anything less risks undermining the integrity of the process and the legitimacy of its outcomes.

A critical gap PRGI identified in its comment on the DGR Initial Project Description (“IPD”) has been unfortunately brought forward in the Guidelines: ambiguity regarding transport, handling, and packaging activities that are necessarily and incidental to the project, and will be occurring in our territory at the Point Lepreau nuclear site.⁸ We again urge the Agency to recognize that the DGR is not a standalone facility and the proponent must not be permitted to treat it as such. Instead, the DGR is simply a proposed endpoint of a nuclear waste system, and its impacts—including those at each nuclear site where fuel waste is currently located (referenced as ‘interim storage facilities’ in the Guidelines⁹)—must be equally scrutinized, studied and assessed.

RECOMMENDATION NO. 5: The Agency must reject any characterization of the DGR as a standalone facility and require the Impact Statement to assess the full lifecycle of the nuclear fuel waste that is inherent to this project. This means amending the Guidelines to explicitly require an assessment of the impacts of activities at each nuclear site where the high-level radioactive waste is located, including the following activities that are necessary and incidental to the project:

- All handling, repackaging, and transportation of used nuclear fuel;
- All infrastructure and corridor developments associated with transport, whether on existing nuclear sites or along the proposed routes; and
- Upstream and interprovincial activities that are causally connected to the project.

⁸ Peskotomuhkati Nation [Response](#) to NWMO’s Initial Project Description – Deep Geological Repository (IAAC Reference No. 88774), p 14-23 [PRGI Comments on the IPD].

⁹ Guidelines, p 7.

ii. Interprovincial effects

The current framing of the Guidelines underrepresents impacts occurring outside the project area, including in Peskotomuhkati territory. The onus should not be on PRGI—or any other community—to seek out information about the potential for releases of radioactivity and other contaminants during transportation, handling, and emplacement of used nuclear fuel in the DGR. Instead, the interprovincial effects which will be borne by New Brunswick, Quebec, Ontario and Manitoba must undergo IA review.

Ensuring that interprovincial effects are fully included in the Impact Statement is essential to meeting the requirements and purpose of the *IAA*. The *IAA* requires consideration of adverse effects within federal jurisdiction, including impacts to fish and fish habitat, migratory species, and the rights of Indigenous Peoples, as well as the broader environmental, health, social, and economic effects of a project. In the context of the DGR, these effects are not confined to the repository site—they are transboundary by virtue of the sites where the fuel waste is presently located.

While the project’s endpoint is the DGR, this is a radioactive-waste project that inherently involves the handling, transport, and long-term management of radioactive waste generated across Canada, including Point Lepreau, located within the Peskotomuhkati territory.

RECOMMENDATION NO. 6: The Guidelines must require the Impact Statement to assess interprovincial effects, including potential impacts to the environment and health of communities and other Nations outside of Ontario caused by the transport of high-level radioactive waste.

iii. Shifting of environmental burdens and downstream impacts

The Guidelines are currently silent on environmental justice, including consideration of inequitable burdens that will be imposed on Indigenous nations across many territories as the high-level radioactive waste is transported from Peskotomuhkati lands.

The Integrated Review Team, as an agent of the Crown, has a legal obligation to prevent and address environmental racism and to advance environmental justice, including under the *National Strategy Respecting Environmental Racism and Environmental Justice Act*.¹⁰ As recognized in that Act, “a disproportionate number of people who live in environmentally hazardous areas are members of an Indigenous, racialized or other marginalized community,” and the failure to meaningfully involve those communities in environmental decision-making constitutes environmental racism.¹¹

¹⁰ *National Strategy Respecting Environmental Racism and Environmental Justice Act*, SC 2024, c 11 [Environmental Justice Act].

¹¹ *Environmental Justice Act*, [preamble](#).

Environmental racism is a form of racial discrimination and engages the protections of section 15(1) of the *Charter of Rights and Freedoms*.¹² Limiting the scope of the assessment or excluding critical components of the project—such as handling and transportation activities—risks perpetuating inequitable burdens on Indigenous communities while denying them meaningful participation in decision-making.

As PRGI has consistently raised, environmental racism must be understood through the lenses of distributional, procedural, and recognitional justice.¹³ The IA represents a critical opportunity to advance environmental justice; however, without explicit requirements in the Guidelines to assess environmental racism and injustice, there is a real risk that these issues will remain unexamined, and no analysis undertaken of the effects of the proposed development on Canada’s responsibility to advance environmental justice and to assess, prevent and address environmental racism.

RECOMMENDATION NO. 7: The Guidelines must require the Impact Statement to demonstrate compliance with the *National Strategy Respecting Environmental Racism and Environmental Justice Act*, which requires meaningful involvement of communities impacted by environmental racism. This requires analysis of the effects of the proposed development on Canada’s responsibility to advance environmental justice, and to assess, prevent, and address environmental racism across all project activities, including handling, packaging, interim storage and transportation of the high-level radioactive waste.

RECOMMENDATION NO. 8: Ensure that Indigenous Nations who stand to be impacted by the transportation and burial of this waste, its downstream effects and its continued interim storage are meaningfully involved in the design and conduct of the assessment, including defining the scope, methodologies, and criteria for assessing environmental justice impacts. This engagement must include PRGI who—as a nuclearized Nation—is uniquely placed to lend its experience and knowledge.

iv. Cumulative Effects

Among the core purposes of the *IAA* is to consider the “cumulative effects of physical activities.”¹⁴ Cumulative effects are also among the factors that *must* be taken into account as part of an IA process.¹⁵

Cumulative effects assessments are fundamentally at the core of IA, and this brings in a number of baseline expectations, including that there be an assessment of synergetic, compensatory, and additive effects, across spatial and temporal boundaries (e.g., at the ecosystem and watershed level), of all relevant past, present, and reasonably foreseeable future anthropogenic activities and natural

¹² Canadian Charter of Rights and Freedoms, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

¹³ PRGI Comments on the IPD, p 18-20.

¹⁴ *IAA*, s 6(2).

¹⁵ *IAA*, s 22(1)(a)(ii).

processes.¹⁶ Cumulative effects are generally understood as resulting from “different combinations of actions or pathways that consist of both additive and interactive processes.”¹⁷ Insights gathered from a cumulative effects assessment are necessary to shape a fuller understanding of a project’s likely impacts, including the nature, intensity, spatial and temporal distribution of the project’s effects.

PRGI submits that it is critical that any cumulative effects assessment, as referenced in the Guidelines, does not narrow spatial boundaries and instead ensures the broadest inclusion of knowledge and data inputs (from Western and Indigenous science) so that the resulting cumulative effects assessment can be well characterized, inclusive of Indigenous knowledge, and supportable.

Given the existing radiological and non-radiological contaminants to the Bay of Fundy from the existing activities at the Point Lepreau site, it is critical that this project, its cumulative and interrelated effects caused by actively handling high-level radioactive waste, which will be necessary to package and ready it for transport, be assessed as part of the IA process. The Bay of Fundy ecosystem is already subject to existing radiological contamination from Point Lepreau, and any further impact or potential risk must be viewed holistically.

RECOMMENDATION NO. 9: The Guidelines must ensure cumulative effects are assessed in light of existing and historical impacts, including at sites where the high-level radioactive waste is presently housed, given the increased risk of radiological releases and contamination stemming from its handling and movement.

D. Radiological Conditions (Section 5.4)

i. Nature and scope of radiological risk

Nuclear activities at Point Lepreau have proceeded without consent and have contributed to ongoing impacts to the Bay of Fundy, including long-lived radiological and ecological effects. As PRGI has consistently raised, the continued operation of the facility—and the resulting accumulation of high-level radioactive waste poses an ongoing and compounding burden on Peskotomuhkati territory and waters. The proposed DGR project introduces an additional and significant layer of risk: the necessity to handle, repackaging, and load used nuclear fuel at the Point Lepreau site prior to transport.

These activities are not low-risk in nature. They involve direct interaction with highly radioactive materials and introduce the potential for radiological exposure through accidents, malfunctions, and routine operations. Risks include, but are not limited to, worker exposure, accidental releases during handling or repackaging, equipment failure, and contamination of surrounding air and water systems. Given the proximity of Point Lepreau to the Bay of Fundy, any such release—however

¹⁶ Noble, 199 and 207; Canadian Council of Ministers of the Environment, [Canada-wide Definitions and Principles for Cumulative Effects](#), PN 1541 (2014).

¹⁷ B. Noble, “Introduction to Environmental Impact Assessment – A Guide to Principles and Practice,” Oxford: Don Mills (2010), p 201.

characterized—must be understood as posing a direct and non-negligible risk to marine ecosystems, species at risk, and our rights, which include those to protect and conserve the land and water.¹⁸

RECOMMENDATION NO. 10: The Guidelines must require the Impact Statement to include a detailed assessment of radiological risks associated with all source-site activities, including handling, repackaging, and loading of used nuclear fuel at facilities such as Point Lepreau, including:

- Characterization of radiological hazards and exposure pathways;
- Assessment of accident and malfunction scenarios;
- Evaluation of routine and cumulative emissions;
- Impacts to marine and coastal ecosystems; and
- Clear, accessible disclosure of mitigation measures and monitoring plans.

ii. *International obligations and principles of radiation protection*

Radiation protection is fundamentally concerned with safeguarding individuals, communities, lands and waters from the harmful effects of radiation exposure.¹⁹ In the context of this project, this is not an abstract or technical consideration—it is core to upholding our rights and teachings, including responsibilities to future generations. We know that high-level radioactive waste is inherently dangerous and even limited or accidental exposure can result in gene mutations, cancer, irreversible health impacts, and long-lasting harm to biodiversity and ecosystem integrity. The risk of radiation is not in dispute; it is well understood and internationally accepted that for activities posing radiological risk, an assessment of those risks is inherent to decision-making.²⁰

Despite this, the Guidelines take a permissive and incomplete approach. They state only that the proponent “should” have regard to *Health Canada’s Guidance for Evaluating Human Health Impacts in Impact Assessments: Radiological Impacts*, and limit the assessment to describing ambient radiological conditions within the project site and study areas. This is wholly insufficient. It fails to require a rigorous, justified and publicly documented analysis of radiation risks extending to the full scope of activities that are necessary and incidental to the project—namely, the handling, packaging, interim storage, and transportation of radioactive waste across thousands of kilometres, from Point Lepreau, New Brunswick, to Ignace, Ontario.

This narrow framing is inconsistent with well-established international principles governing radiation protection. The international regime, reflected in the standards of the International Commission on Radiological Protection (ICRP) and the International Atomic Energy Agency (IAEA),²¹ is grounded in three

¹⁸ UN Declaration, Article 29.2.

¹⁹ International Commission on Radiological Protection, “Recommendations of the ICRP: ICRP Publication 26” (1977).

²⁰ *Ibid.*

²¹ International Atomic Energy Agency, “Fundamental Safety Principles”, Safety Fundamentals No. SF-1, IAEA, Vienna (2006), s 1.6 and Principle 4.

core principles: justification, optimization (including keeping exposures As Low As Reasonably Achievable, or ALARA), and dose limitation.²²

The principle of justification requires that any decision that alters radiation exposure must do more good than harm,²³ taking into account all exposures, including those to the public. This necessarily includes consideration of social, ethical, and intergenerational impacts.²⁴ The principle of ALARA requires that all exposures be minimized to the greatest extent reasonably achievable, taking into account social and economic factors, public trust, and the protection of vulnerable populations, including children and future generations. These are not discretionary considerations—they are foundational obligations that must inform any credible assessment of a project of this nature.

The Guidelines, as drafted, do not require the proponent to demonstrate that the project is justified in light of the full scope of radiological risks, nor do they require an assessment of whether exposures across the lifecycle of the project—particularly during transportation and handling—are, in fact, as low as reasonably achievable. By limiting the assessment to the project site and using permissive language (“should”), the Guidelines fail to ensure that these core principles are meaningfully applied.

Given the scale, duration, and risk inherent to this project, these omissions and lack of rigour are unacceptable. The assessment must extend across all locations and activities where exposure may occur and must be grounded in a rigorous application of justification and ALARA principles.

RECOMMENDATION NO. 11: Section 5.4 of the Guidelines must require the proponent to comply with *Health Canada’s Guidance for Evaluating Human Health Impacts in Impact Assessments: Radiological Impacts* and additionally, conduct a comprehensive health impact assessment.

RECOMMENDATION NO. 12: The Guidelines must require the Impact Statement to include a comprehensive justification and ALARA analysis that applies across the full lifecycle of the project, including all sites where radioactive waste is currently stored and along the entirety of transportation routes, including from Point Lepreau, New Brunswick to Ignace, Ontario, and must demonstrate that all radiological exposures to the public and the environment are justified and kept as low as reasonably achievable.

E. Biological Environment (Section 6)

i. Fish and fish habitat (Section 6.2)

Among the directly related activities that are incidental to the DGR is the handling, repackaging and loading of the approximate 250,000+ bundles of used fuel waste currently disposed of at Point Lepreau.²⁵

²² International Commission on Radiological Protection, “Recommendations of the ICRP: ICRP Publication 26” (1977).

²³ International Commission on Radiological Protection, “The 2007 Recommendations of the ICRP: ICRP Publication 103” (2007), p 14.

²⁴ International Atomic Energy Agency, “Radiation Protection of the Public Environment” (2018), s 3.85.

²⁵ NWMO, “[Nuclear Fuel Waste Projections in Canada – 2024 Update](#),” November 2024, p 7 [**Waste Inventory**].

Each of these activities poses the risk of radiological release into the environment, and by virtue of the Point Lepreau nuclear generating station being located on the shores of the Bay of Fundy, into the aquatic environment as well.

The existing radiological contaminants at the Lepreau nuclear site include emissions of tritium, carbon-14, iodine-131, noble gases, and gross beta. In samples from ponds, lakes, streams and puddles on the Point Lepreau site, tritium appears in surface freshwater and sediments as the most abundant radionuclide at 15,200 Bequerels per Litre (Bq/L).²⁶ This is more than twice the drinking water limit of 7,000 Bq/L. Heavy metals such as cadmium and chromium, and the toxin arsenic, were similarly measurable in surface freshwater and sediments.²⁷

The Bay of Fundy is also experiencing ongoing impacts, including pollution, habitat loss, overfishing, and fishing gear entanglements. These are augmented by warming waters, ocean acidification, sea-level rise, and increasing frequency and severity of storms, all caused by climate disruption.

RECOMMENDATION NO. 13: Clarify the Guidelines to expressly study impacts on the fish, fish habitat and aquatic species in freshwater and marine ecosystems at and near Point Lepreau. The Bay of Fundy is a living marine system that sustains cultural practices and relationships that extend across generations and species.

RECOMMENDATION NO. 14: Given the existing radiological and non-radiological contaminants to fish and fish habitat from the existing activities at the Point Lepreau site, an assessment of cumulative and interrelated effects must take into account historic, existing and potential pressures on the marine environment.

ii. Species at risk and their habitat (Section 6.5)

In recognition of the Bay of Fundy's unique geological formations and ecological significance, a section of the Bay further along the coast from Point Lepreau was designated a UNESCO Biosphere Reserve in 2007.²⁸ The Bay of Fundy is home to several federally protected aquatic species under the *Species at Risk Act*, including the North Atlantic right whale, the blue whale, and the fin whale.²⁹

Adjacent to the Point Lepreau site, is the Bay of Fundy's only Marine Protected Area, at Musquash Estuary, known as the largest, ecologically-intact estuary in the Bay of Fundy.

²⁶ New Brunswick Power. (2021). [Point Lepreau Nuclear Generating Station Environmental Risk Assessment Update](#). ENA-07005-7005 Rev. 2. Table 4.9 On-Site Surface Water Concentrations for Radiological COPCs, p 158-159.

²⁷ *Ibid.*

²⁸ United Nations Educational, Scientific and Cultural Organization, "[Biosphere Reserves – Fundy](#)" (2022).

²⁹ Species at Risk Public Registry, "North Atlantic Right Whale" (2022); Species at Risk Public Registry, "Blue Whale Pacific" (2022); Species at Risk Public Registry, "Blue Whale Pacific" (2022).

RECOMMENDATION NO. 15: The Guidelines must assess impacts to species beyond the project area and assess any change or impact to aquatic species such as the North Atlantic right whale, the blue whale, and the fin whale protected under the *Species at Risk Act*, precipitated by the handling or movement of high-level radioactive materials at the Point Lepreau site.³⁰

iii. Birds and their habitat (Section 6.3)

In addition to the marine mammals like whales, porpoises, dolphins and seals that frequent the Bay of Fundy, thousands of shore and colonial waterbirds also use the area during seasonal migrations, for foraging and nesting.³¹

RECOMMENDATION NO. 16: The Guidelines must identify priority migratory species and comprehensively review seasonal migratory bird data, both on land and at sea. Migratory pathways should be charted in relation to plume exposure in the event of an accident, and the capacity for marine response and for migratory bird monitoring must be assessed.

RECOMMENDATION NO. 17: The Guidelines must require an assessment of effects on migratory birds,³² and that the proponent be required to demonstrate concrete, measurable steps to minimize and offset effects to migratory birds caused by light, radiological and non-radiological emissions, and accidents resulting from the handling, packaging and movement of high-level radioactive waste at the Point Lepreau site.

F. Assessing the project's impacts on climate change

i. Compliance with the federal Strategic Assessment of Climate Change

Among the factors the Agency must take into account per the *IAA* in deciding when conducting an IA are:

22(1)(i) the extent to which the effects of the designated project hinder or contribute to the Government of Canada's ability to meet its environmental obligations and its commitments in respect of climate change;

22(1)(p) any relevant assessment referred to in section 92, 93 or 95

Consideration of project-related effects on Canada's ability to meet its commitments in respect of climate change is also assessed during the public interest analysis:

³⁰ *IAA*, s 16(2)(b) and 2(a)(ii).

³¹ Saint John Naturalists' Club Inc. "Point Lepreau / Maces Bay Important Bird Area, New Brunswick" (Oct 2020), online: <https://www.ibacanada.org/documents/conservationplans/nbpointlepreau.pdf>; P. Hicklin, "The Migration of Shorebirds in the Bay of Fundy," 1987, *Wilson Bulletin* 99(4), p 540 – 570.

³² *IAA*, s 16(2)(b) and 2(a)(iii).

63(b) the extent to which the effects of the designated project hinder or contribute to the Government of Canada’s ability to meet its environmental obligations and its commitments in respect of climate change;

To facilitate this assessment, the project proponent, Agency, and CNSC (as a lifecycle regulator) must comply with the requirements set out in the Strategic Assessment of Climate Change (“SACC”).³³ The SACC “describes the climate change-related information requirements throughout the federal impact assessment process” and has specific requirements for each phase of the IA process. There are various requirements from the SACC that must be met during the Impact Statement Phase, and the scope and information related to climate change to be included in the Impact Statement are intended to be outlined in the Guidelines.³⁴

As drafted, the Guidelines currently require only the assessment of the project’s climate change-related impacts when determining if the project is in the public interest. Key requirements set out in the *IAA* that require the proponent to study the extent to which the project will help or hinder meeting climate targets, and comply with the SACC throughout the IA phases, are altogether lacking. Given the significant emissions that will be generated by virtue of the decades-long transport of radioactive waste spanning thousands of kilometres, this is a very significant omission that must be remedied.

RECOMMENDATION NO. 18: The Guidelines must require the proponent to comply with the requirements set out in the SACC for all phases of the IA. For the purposes of the Impact Statement Phase, the Guidelines must outline the scope and information related to climate change that must be included in the Impact Statement, as set out in Section 5 of the SACC (Climate change information in the Impact Statement Phase).

ii. Greenhouse gas emissions from project-related transportation must be assessed

Under Section 5.1 of the SACC (Information to be provided for all projects), the NWMO must provide information on greenhouse gas (“GHG”) emissions, impact of the project on carbon sinks, impact of the project on federal emissions reduction efforts and on global GHG emissions, mitigation measures and climate change resilience. For GHG emissions, the NWMO must provide a description of the project’s main sources of GHG emissions and calculate the project’s net GHG emissions by year for each phase of the project. Additionally, because the DGR has a lifetime beyond 2050, the NWMO is required to provide a credible plan that describes how the project will achieve net-zero emissions by 2050.³⁵

However, as highlighted in [section B](#) of this submission, there is a lack of conclusive language in the Guidelines regarding the project scope, which leaves room for interpretation as to whether, and what

³³ Environment and Climate Change Canada, “[Strategic Assessment of Climate Change](#)” (Revised October 2020), Executive Summary [SACC].

³⁴ SACC, Section 4: Climate Change in the Planning Phase.

³⁵ SACC, Section 5.3: Plan to achieve net-zero emissions by 2050.

aspects of transportation are to be assessed during the IA. If this uncertainty is not remedied by explicitly stating in the Guidelines that project-related transportation is within the project scope:

- The proponent would not be legally required to account for GHG emissions from project-related transportation in their calculation of annual net GHG emissions and in their plan for how the project will achieve net-zero emissions by 2050;
- A comprehensive assessment of the DGR's impacts on Canada's ability to meet its commitments in respect of climate change, as per sections 22(1)(i), 22(1)(p) and 63(b) of the *IAA*, cannot be completed;
- The NWMO's claims that the DGR will "contribute directly to Canada's commitments on climate change and achieving net-zero emissions"³⁶ cannot be verified and therefore greenwash the actual impact of their project and perpetuate nuclear colonialism; and
- Environmental justice concerns (i.e. social, health and environmental impacts that disproportionately fall on Indigenous peoples and their land) will not be meaningfully considered or addressed through the IA process.

Given the Agency's determination that "project-related transportation has the potential to result in adverse effects within areas of federal jurisdiction, and is incidental to the project",³⁷ assessing the designated project's effects on Canada's ability to meet its commitments in respect of climate change implicitly includes the assessment of the effects of project-related transportation (and specifically, the GHG emissions associated with the transportation of used nuclear fuel from interim storage facilities to the DGR). Therefore, when calculating the project's net GHG emissions and creating a plan to achieve net-zero emissions by 2050, the GHG emissions from project-related transportation must be explicitly required and accounted for.

RECOMMENDATION NO. 19: The Guidelines must add, under Section 6 (Biological Environment), a new subsection focused on climate change, to ensure that the requirements of Section 5 of the SACC are met and environmental justice concerns are considered and addressed. By providing the required information, the Agency and CNSC will be able to assess the project's climate change-related impacts as per sections 22(1)(i), 22(1)(p) and 63(b) of the *IAA*.

iii. *Baseline conditions for greenhouse gas emissions must be established*

Currently, the Guidelines require the NWMO to "describe the effects of the project on the atmospheric environment" and "provide a detailed description of emissions sources of air pollution from the project listed under Section 5.5.1 Baseline conditions for all phases of the project".³⁸ The rationale for including

³⁶ NWMO, "[Initial Project Description: Deep Geological Repository \(DGR\) for Canada's Used Nuclear Fuel Project](#)" (December 2025), p xiii [IPD].

³⁷ Guidelines, p 65.

³⁸ Guidelines, p 19.

the atmospheric environment as a VC is that “[project]-related activities may result in changes to air quality from fugitive dust, GHGs and the release of chemical and radiological contaminants.”

As part of Canada’s climate change commitments, Canada reports emissions of seven greenhouse gases (“GHG”), namely: carbon dioxide, methane, nitrous oxide, sulphur hexafluoride, perfluorocarbons, hydrofluorocarbons and nitrogen trifluoride. The increase in concentrations of these GHGs, primarily due to emissions resulting from human activities such as the use of fossil fuels, causes climate change.³⁹

Currently, the Guidelines list the contaminants for which the Impact Statement must provide baseline ambient air concentrations and quantify emission sources, and this list does not explicitly include any of the seven aforementioned GHGs. By failing to require that the NWMO provide baseline concentrations of these GHGs, the project’s true impacts on Canada’s ability to meet their commitments in respect of climate change cannot be meaningfully assessed, as required by sections 22(i), 22(p) and 63(b) of the IAA.

We are living in a climate crisis, and the Bay of Fundy ecosystem faces significant challenges due to climate change, with rising sea temperatures and levels affecting ecosystem health, biodiversity, and frequency and severity of storms and other weather events.⁴⁰ As coastal communities, the Peskotomuhkati Nation stands to be directly and disproportionately impacted by climate change, and this environmental injustice will not be addressed or mitigated in the IA process unless the project’s climate change-related impacts are measured, reported, and mitigated. As stated by the Supreme Court of Canada:

Canada’s coastline, the longest in the world, is also being affected disproportionately by climate change, as it experiences changes in relative sea level and rising water temperatures, as well as increased ocean acidity and loss of sea ice and permafrost. Climate change has also had a particularly serious effect on Indigenous peoples, threatening the ability of Indigenous communities in Canada to sustain themselves and maintain their traditional ways of life.⁴¹

Therefore, it is imperative that the project’s potential effects on climate change, including those from project-related transportation, be measured and reported on.

RECOMMENDATION NO. 20: The Guidelines must include the following seven greenhouse gases in the list of potential air pollutants for which baseline concentrations must be provided:

- Carbon dioxide (CO₂);
- Methane (CH₄);
- Nitrous oxide (N₂O);
- Sulphur hexafluoride (SF₆);
- Perfluorocarbons (PFCs);

³⁹ Government of Canada, “[Greenhouse Gas Emissions](#)” (last modified April 15 2026).

⁴⁰ David Lawrence, “[Bay of Fundy ecosystem](#)” (2024), online: EBSCO Information Services.

⁴¹ *References re Greenhouse Gas Pollution Pricing Act*, 2021 SCC 11 at [para 11](#).

- Hydrofluorocarbons (HFCs);
- Nitrogen trifluoride (NF3);

G. Indigenous Nations and communities (section 8) and the ‘Indigenous Engagement and Partnership Plan’

i. Approach to engagement is deeply flawed and must be remedied

Among the factors the Agency must take into account per the *IAA* in deciding when conducting an IA is:

22(1)(c) the impact that the designated project may have on any Indigenous group and any adverse impact that the designated project may have on the rights of the Indigenous peoples of Canada a recognized and affirmed by section 35 of the *Constitution Act, 1982* (emphasis added)

While the Guidelines at first glance appear to set out broad considerations to study impacts on the rights of Indigenous peoples, the term “Indigenous Nations” appears to be limited to six Nations as set out in the Indigenous Engagement Plan (“IEP”), namely:

- Eagle Lake First Nation (Migisi Sahgaigan)
- Lac Des Mille Lacs First Nation (Nizaatikoong)
- Lac Seul First Nation (Obishikokaang)
- Northwestern Ontario Métis Community (MNO Region 1)
- Seine River First Nation (Jiima’aaganing)
- Wabigoon Lake Ojibway Nation (Waabigonii Zaaga’igan)⁴²

As such, conditions, requirements in the Guidelines to conduct health studies (section 8.2.4), gather baseline information (section 8.4.1) and conduct rights-assessment, including impacts to the practice of rights or quality of resources for exercise these rights (section 8.4.2) are limited to these listed Indigenous Nations.

PRGI views this as being the most egregious gap in the Guidelines. There should be no ambiguity as to whom Crown consultation obligations apply, as the law is clear: the Honour of the Crown and duty to consult is triggered whenever the Crown contemplates action that may adversely impact established or asserted Aboriginal or Treaty rights.⁴³ This trigger is not dependent on the Crown, and whether *it* believes activities will cause harm. The unilateral determination by the proponent to exclude all impacted Nations from the Impact Statement - and an approach that appears to have been supported by the Agency - is not determinative of the duty owed by the Crown.

⁴² IEPP, p 7.

⁴³ *Haida Nation v British Columbia (Minister of Forests)*, [2004 SCC 73](#) at para 35.

Furthermore, this narrow approach is fundamentally at odds with the *Choosing the Way Forward* report which identifies us as among the ‘communities of interest.’ As it sets out, communities of interest for engagement on the DGR include:

Cities, towns, villages, municipalities and dispersed population in the vicinity of the site; the Aboriginal community within the affected traditional territory, transportation corridor communities, reactor site communities until all used nuclear fuel is re-located.⁴⁴

RECOMMENDATION NO. 21: The Agency and NWMO must remedy their erroneous assessment of the scope of consultation throughout the Guidelines and accompanying Indigenous Engagement and Partnership Plan (“IEPP”), acknowledging that the threshold of consent must be met if Peskotomuhkati inherent rights, including rights to self-determination, are to be upheld in light of nuclear projects proposed and occurring in Peskotomuhkati territory.

ii. *Impacts to our rights, interests and territory engage the UN Declaration and the deepest level of consultation*

The proposed project has direct implications in the territory of the Peskotomuhkati Nation, with the potential to negatively impact our inherent, Indigenous and Treaty rights, as well as section 35 *Constitutional* rights⁴⁵ by virtue of the used fuel rod inventory currently located at Point Lepreau⁴⁶ and its necessary handling and transport to get to the DGR in Ontario. This project engages our inherent, Treaty and constitutionally protected rights, and the Crown must collaborate and cooperate with us in good faith, as the UN Declaration and UNDA require. This includes:

- **Article 18** of the UN Declaration draws attention to Indigenous peoples’ right to participate in decision-making matters that affect their rights. UNDA Action Plan Commitment #34 further affirms the federal government’s obligation to support Indigenous participation in decision-making and to enable Indigenous Peoples to exercise federal regulatory authority.⁴⁷
- **Article 19** of the Declaration requires the Crown to consult and cooperate in good faith with Indigenous people to obtain their free, prior, and informed consent before adopting and implementing legislative or administrative measures that may affect them.
- **Article 29** of the UN Declaration requires States to take effective measures to ensure that no storage or disposal of hazardous materials takes place in the lands or territories of Indigenous peoples without their free, prior, and informed consent.

The Peskotomuhkati territory extends eastward as far as the Lepreau watershed and includes Point Lepreau. The Peskotomuhkati were never consulted on nuclear developments at New Brunswick Power’s

⁴⁴ NWMO, “[Choosing a Way Forward: The Future Management of Canada’s Used Nuclear Fuel \(Final Study\)](#)” (November 2005), p 227.

⁴⁵ IAA, s 16(2)(c).

⁴⁶ Waste Inventory, p 7.

⁴⁷ Department of Justice Canada, [United Nations Declaration on the Rights of Indigenous Peoples Act Action Plan](#) (2023), p 33 [UNDA Action Plan].

Point Lepreau Generating Station, and since the 1980s, such operations have proceeded within Peskotomuhkati without their consent. The Nation has, on several occasions, let our concerns be known about the storage of nuclear wastes on the territory, yet neither New Brunswick Power, nor the CNSC, nor the government of Canada has sought consent from us to store hazardous wastes on our land, nor to negotiate an agreement concerning the storage of hazardous wastes on our land.

Peskotomuhkati inherent, Indigenous and Treaty rights and interests are constitutionally protected under section 35 of the *Constitution Act*, rooted in the Peace and Friendship Treaties. The Peskotomuhkati did not surrender land or rights by way of the Peace and Friendship Treaties nor by any other means since. None of the Peskotomuhkati's rights has been extinguished. The Treaties require a sharing of territory and resources, respect access to the land and its resources, and recognize and respect the pre-existing and continuing reality of Indigenous existence in this part of the world and its inherent connection with the land.

The power of the Treaties was supposed to mean 'no impact' to Indigenous peoples—this is explained traditionally in the Two-Row wampum belt. The Supreme Court of Canada has also reiterated that Canada must honour the Treaties.⁴⁸ Current and proposed nuclear projects create potential infringements to our inherent, Indigenous and Treaty rights and underscore the critical need for consultation that meaningfully considers the cumulative environmental, socio-economic and health effects of these nuclear projects.

Members of the Peskotomuhkati Nation continue to honour and respect the Peace and Friendship Treaties, and work to ensure future generations can access their traditional territories and practice their teachings. The Agency, CNSC Staff and the Integrated Review Panel members are also responsible for upholding Treaty commitments throughout the IA process.

Plans to now remove and move the waste that has been stockpiled must be subject to our full, fair and equitable involvement if Canada, as a Treaty partner, is to begin to remedy the Nation's exclusion from project decision-making directly impacting the Nation's rights and interests.

As we have communicated with all levels of government on numerous occasions, nuclear projects and related decision-making must be done with our Nation's free, prior, and informed consent.⁴⁹ This project is no exception, and it triggers a duty to consult PRGI directly at the deepest end of the consultation spectrum. The historic and systemic denial of respect for our free, prior and informed consent must end.

RECOMMENDATION NO. 22: The Guidelines must address how the Impact Statement and decision-making will be based on Treaty responsibilities and how these responsibilities will be applied.

⁴⁸ *R v Badger*, [1996] [1 SCR 771](#) at para 41-42; *Mikisew Cree First Nation v Canada (Minister of Canadian Heritage)*, 2005 SCC 69, [2005] [3 SCR 388](#) at paras 4, 51 - 58.

⁴⁹ Letter from PRGI, Comments on the "Draft Cooperation Agreement Between New Brunswick and Canada" the "One Project, One Review" Discussion Paper, 7 Nov 2025.

RECOMMENDATION NO. 23: The Guidelines must be revised to remove any limitation on consultation and engagement to be among the six listed Nations. Instead, the Guidelines must require that the Impact Statement:

- Uphold and advance section 35 rights and Treaty obligations, the UN Declaration (including FPIC), and Indigenous laws, governance systems, and decision-making authority;
- Address both potential and actual impacts of the project on PRGI's communities, lands, waters, and environment in a manner consistent with the Declaration's standards; and
- Require the proponent to demonstrate how Indigenous Nations, including PRGI, will co-develop assessment criteria, methodologies, and conclusions, rather than being limited to consultation inputs.

RECOMMENDATION NO. 24: The Guidelines must explicitly require the IA to be conducted as a comprehensive, rights-based process that respects and upholds Peskotomuhkati laws, traditions, and governance, and ensures our full and equal participation in decision-making, including its process and outcomes.

RECOMMENDATION NO. 25: The Guidelines must recognize and give effect to the requirement of free, prior, and informed consent, consistent with the *United Nations Declaration on the Rights of Indigenous Peoples* and the *United Nations Declaration on the Rights of Indigenous Peoples Act*.

RECOMMENDATION NO. 26: The Guidelines must expressly commit to upholding the UN Declaration, which establishes the minimum standards for the survival, dignity, and well-being of Indigenous Peoples. Through UNDA, Canada has affirmed the UN Declaration as a universal international human rights instrument with application in Canadian law and committed to its implementation without delay.

RECOMMENDATION NO. 27: The Guidelines must expressly commit to implement UNDA Action Plan Commitment #34, which affirms the federal government's obligation to support Indigenous participation in decision-making and to enable Indigenous Peoples to exercise federal regulatory authority.⁵⁰ The Crown must therefore ensure concrete opportunities for this commitment to be realized by working collaboratively with PRGI, in accordance with Peskotomuhkati laws, governance structures, and protocols.

RECOMMENDATION NO. 28: The Guidelines ensure the IA moves ahead in an honourable way, setting out meaningful roles for impacted Nations, like the Peskotomuhkati, and rights holders to shape outcomes and project-specific decisions. We hold lived and intergenerational knowledge—particularly related to environmental justice, and long-term stewardship—that must not be overlooked or minimized.

⁵⁰ UNDA Action Plan, p 33.

ii. Reconciliation and Indigenous sovereignty must be promoted and facilitated

The Guidelines make no mention of reconciliation, despite the process of reconciliation being mandated by section 35 of the *Constitution*, as the Honour of the Crown's ultimate purpose.⁵¹ The Truth and Reconciliation Commission's ("TRC") Calls to Action, and the National Inquiry into Missing and Murdered Indigenous Women and Girls' Calls for Justice ("National Inquiry") both recognize the UN Declaration as the appropriate framework for reconciliation, and call for the full participation of Indigenous people in a way that respects and makes space for their free, prior, and informed consent.⁵²

According to the TRC, the "reconciliation vision that lies behind Section 35 should not be seen as a means to subjugate Aboriginal peoples to an absolute sovereign Crown."⁵³ This means the *Peskotomuhkati* do not have to prove their rights, in respect of their Indigenous laws and traditions, despite the reticence by Crown governments to recognize these traditions as the basis for law.

RECOMMENDATION NO. 29: The Guidelines must require consideration of the doctrine of reconciliation, which seeks to reconcile the pre-existence of Indigenous societies with the imposition of Crown sovereignty.⁵⁴ This IA is a test as to whether Canada will uphold Treaty obligations in practice and work towards restoring Nation-to-Nation dialogue.

RECOMMENDATION NO. 30: The Guidelines must require the proponent to assess how the project will promote and facilitate reconciliation with Indigenous peoples.

iii. Indigenous Engagement and Partnership Plan

Building on our earlier comments, noting that the limitation of consultation to six listed Nations is among the most egregious gaps in the Guidelines, we also note that the Indigenous Engagement and Partnership Plan misconstrues and promises something that it's not: a partnership. At the outset, the IEPP fails to address fundamental procedural deficiencies already expressed by PRGI in the early planning phase, including:

- Despite the Crown's repeated emphasis on the importance of "early engagement," PRGI was not provided advance notice of key milestones, including the posting of the IPD, nor the timing of associated comment periods.
- PRGI was required to respond to the IPD within a compressed timeline to complex materials, without the foundational conditions necessary for informed engagement.

⁵¹ *Manitoba Metis Federation Inc v Canada (Attorney General)*, [2013 SCC 14](#) at para 66.

⁵² Truth and Reconciliation Commission of Canada, [Truth and Reconciliation Commission of Canada: Calls to Action](#) (Winnipeg: TRC, 2015) at 4, Call to Action 43; National Inquiry into Missing and Murdered Indigenous Women and Girls, [Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls](#), vol 1a (Vancouver: Privy Council Office, 2019) at 72.

⁵³ Truth and Reconciliation Commission of Canada, [Canada's residential schools: Reconciliation - The Final Report of the Truth and Reconciliation Commission of Canada](#), vol 6 (Montreal-Kingston: TRC, 2015) at 49.

⁵⁴ *Kebaowek v CNL*, [2025 FC 319](#) at para 10.

- Early engagement cannot be satisfied by inviting participation only after formal timelines have commenced. Meaningful engagement requires proactive, direct, and advanced outreach to Indigenous Nations whose rights may be adversely affected, well before Registry postings trigger deadlines.

The IEPP fails to make any headway on this earlier feedback from PRGI, and what's more, it risks excluding those whose rights are directly engaged by the broader project impacts by narrowing engagement to a list of six Nations. As PRGI has repeatedly raised, the continued reliance on proximity or geographic screening to determine who is "impacted" is inappropriate and risks excluding Nations with direct and substantial interests in the project. A rights-based approach is required, one that takes seriously Indigenous assertions of impact, including those arising from ongoing nuclear activities within our territory.

The IEPP also fails to establish transparency and clarity with respect to the roles and responsibilities of the Agency and the CNSC within the integrated process. Given the significant concerns regarding the CNSC's approach to consultation in nuclear licensing contexts, it is essential that Indigenous Nations understand, at the outset, who is responsible for notice, engagement, Registry postings, scoping decisions, and participant funding communications. The absence of this clarity undermines trust in the process and limits the ability of Indigenous Nations to effectively participate.

Beyond these procedural deficiencies, the IEPP fails to require Indigenous participation in the substantive areas of the assessment that carry the greatest risk. For instance, there is no requirement—simply a suggestion—that Indigenous Nations "may" be involved in shaping the assessment of cumulative effects.⁵⁵ This is further narrowed because PRGI isn't among the six listed Indigenous Nations. That means there would be no space or inclusion of our views and knowledge, nor consideration of cumulative impacts to our territory and the Bay of Fundy, by virtue of waste activities, their handling and movement, at Point Lepreau.

The inadequacy of the IEPP is further underscored by the fact that more robust provisions already exist within comparable federal processes. For example, the IEPP for the Wesleyville New Nuclear Project ("Wesleyville") impact assessment explicitly contemplates the co-development of key assessment documents, opportunities to collaboratively draft sections of impact assessments, and early engagement activities undertaken prior to formal timelines.⁵⁶ These are not aspirational concepts—they are established practices. The failure to incorporate and expand upon these elements in the context of the DGR represents a clear lowering of the standard applied to a project of equal, if not greater, scale, risk, and complexity.

RECOMMENDATION NO. 31: The IEPP must be fundamentally revised to establish a Nation-to-Nation approach wherein Indigenous participation is co-developed; engagement is sustained with capacity

⁵⁵ IEPP, p 6.

⁵⁶ [New Nuclear at Wesleyville Project](#), Ref. No 89802 [Wesleyville].

supports; a rights-based approach to engagement is adopted; and a clear, consent-based approach to engagement and decision-making is established and implemented.

H. Effects of Potential Accidents or Malfunctions (section 9)

The Guidelines are fundamentally deficient in their treatment of accidents, malfunctions, and emergency planning and when compared to the Wesleyville Draft Guidelines,⁵⁷ which establish a far more rigorous, transparent, and community-informed framework for assessing and responding to nuclear risk. PRGI is deeply concerned that these nuclear projects—which both have significant implications for rights and the protection of land waters *in perpetuity* by virtue of their forever dangerous radiological risk,⁵⁸ would attract different degrees of rigour.

The DGR project Guidelines impose a markedly lower standard than those suggested for Wesleyville. There is no justification for this double standard.

As currently drafted, we note the following, non-exhaustive list of differences and gaps:

- No requirement to engage with Indigenous Nations to identify community-specific risks or thresholds for unacceptable harm;
- No obligation to incorporate Indigenous knowledge and governance into emergency planning;
- No requirement to demonstrate how evacuation modelling, sheltering strategies, communication approaches, or recovery planning have been informed by the realities of affected communities, including their locations, seasonal access constraints, and infrastructure limitations;
- No expectation that contamination or exclusion scenarios consider effects on access to lands, waters, relatives, and the exercise of inherent, Indigenous and Treaty rights;
- No expectation that emergency information be provided in Indigenous languages or in culturally appropriate formats;
- No requirement to ensure that communities understand the risks associated with the project, no obligation to provide accessible and non-technical information, and no commitment to ongoing education or outreach.

Taken together, these omissions represent a fundamental failure in the design of the Guidelines. Where the Wesleyville Guidelines recognize that nuclear risk is complex, far-reaching, and requires meaningful engagement with affected communities, the DGR Guidelines adopt a narrow and technically constrained approach that does not reflect the complexity, scale, duration, and irreversibility of the risks involved.

RECOMMENDATION NO. 32: We request that the Guidelines be updated to, at a minimum, include the following requirements as derived from the Wesleyville New Nuclear Project:

⁵⁷ Impact Assessment Agency of Canada, [Draft Integrated Tailored Impact Statement Guidelines: New Nuclear at Wesleyville Project](#) (07 April 2026).

⁵⁸ See our film: Askomiw Ksanaqak ([Forever Dangerous](#)) – Indigenous Nations Resist Nuclear Colonialism.

- Provisions to add to Risk Assessment (section 9.1)
 - Describe the potential consequences of accidents and malfunctions in terms of environmental, health, social and economic effects, and effects to Indigenous Peoples from their perspective;
 - Engage with First Nations and other Indigenous communities to understand community-identified risks and thresholds for unacceptable harm and describe how these perspectives informed the assessment;
 - Describe long-term consequences of accidental releases (i.e., as shown from studies of major nuclear accidents); the notional range of 1–10 Gy to describe the effects of acute exposure should be used; provide environmental sensitivity mapping that identifies site-specific conditions and sensitive receptors adjacent to project activities, including shores, streams and wetlands frequented by fish and/or birds, and likely routes to them. Shoreline classification surveys and mapping must be conducted along major waterways where large spills or other accidents and malfunctions may occur, and must identify the route of the effects to the sensitive receptors. The characterization criteria established by Environment and Climate Change Canada (ECCC), contained in the Field Guide for Intervention in the Event of an Oil Spill on Maritime Shores, constitute a useful guide in this regard; and
 - Identify and justify temporal boundaries appropriate to the nature of the potential accident and malfunction event, including consideration of long-term and intergenerational effects. Temporal boundaries must extend beyond the operational life of the facility, where necessary, to assess postclosure, decommissioning, and reasonably foreseeable long-term contamination or exclusion scenarios that may affect access to lands, waters, relatives, and the exercise of inherent, Indigenous and Treaty rights.

- Provisions to expand or amend in Risk Assessment (section 9.1)
 - Expand the requirement to “describe the worst-case scenarios and the lower-consequence scenarios” to read “describe the plausible worst-case scenarios, representative severe accident sequences, and the more likely but lower-consequence alternative scenarios;
 - Expand the requirement to “identify and justify the spatial and temporal boundaries for the effects assessment associated with accidents and malfunctions. The spatial boundaries identified for effects from potential accidents and malfunctions will generally be larger than the boundaries for the project effects alone, and may extend beyond Canada’s jurisdiction” to read “Spatial boundaries must be defined through a process that incorporates feedback from First Nations and other Indigenous communities and must consider First Nations defined territories and areas of use, including seasonal and mobile use patterns. Where the spatial boundaries adopted for the assessment differ from those identified by First Nations or other Indigenous communities, the Impact

Statement must clearly describe and justify the rationale for that divergence.”

- Provisions to add to Emergency Management (section 9.3)
 - Describe emergency response training and exercise programs, including a description of the participation and training agreements with First Nations and other Indigenous communities that could be impacted by accidents or malfunctions; describe any plans for delivering training and exercise programs in local Indigenous languages for potentially affected First Nations and other Indigenous communities; consider the locations of First Nations and other Indigenous communities, seasonal access conditions, transportation routes, and community-identified safety priorities in emergency planning and evacuation modelling;
 - Describe how engagement with First Nations and other Indigenous communities informed modelling assumptions and response measures, including evacuation, sheltering, and KI-pill distribution strategies; engage with affected First Nations and other Indigenous communities and consider their governance structures, community locations, seasonal access realities, and safety priorities. The Impact Statement must describe how Indigenous input informed evacuation modelling, sheltering strategies, communication approaches, and recovery planning;
 - Describe liaison, training and continuous education plans linked to emergency preparedness for surrounding communities that may be affected by the consequences of a significant incident, including for First Nations and other Indigenous communities;
 - Describe measures to ensure engagement is carried out with First Nations and other Indigenous communities to meet requirements as co-determined with respective First Nations and other Indigenous communities; and
 - Describe past, ongoing and planned outreach efforts to ensure the public and First Nations and other Indigenous communities’ understanding of the risks associated with this type of project (e.g., providing non-technical information, providing information in local languages if requested).

APPENDIX A – SUMMARY OF RECOMMENDATIONS

RECOMMENDATION NO. 1: Clarify within the Guidelines at Sections 1 and in Appendix A that the CNSC licensing processes do not substitute nor satisfy the requirements of an IA; and the Impact Statement must address the full lifecycle and cumulative effects of the project, including activities that may be subject to future licensing under the regulatory framework of the *NSCA*.

RECOMMENDATION NO. 2: Require transparency regarding the respective roles, responsibilities, and decision-making authority of the Agency and the CNSC within the integrated review; how scoping decisions, evidentiary standards, and assessment methodologies will be determined; and how inherent, Indigenous and Treaty rights, including the requirement of free, prior, and informed consent, will be applied and upheld throughout the process.

RECOMMENDATION NO. 3: Appendix A should expressly state that the IA and all future licensing decisions incorporated through reference are conducted in a manner that is consistent with Canada's commitments under the UN Declaration, and that no aspect of the assessment will be deferred to, or constrained by, future CNSC licensing processes.

RECOMMENDATION NO. 4: Section 2.1 should specify that the project subject to the impact assessment is the designated physical activity (i.e., the construction, operation and decommissioning of a new facility for the long-term management or disposal of used nuclear fuel or nuclear waste) and all directly linked and necessarily incidental physical activities. Project-related transportation is a physical activity that is directly linked and incidental to the designated project, has the potential to result in non-negligible adverse effects within areas of federal jurisdiction, and includes the packaging, handling, loading, and transportation of used nuclear fuel along transportation routes from interim storage facilities to the Project site.

RECOMMENDATION NO. 5: The Agency must reject any characterization of the DGR as a standalone facility and require the Impact Statement to assess the full lifecycle of the nuclear fuel waste that is inherent to this project. This means amending the Guidelines to explicitly require an assessment of the impacts of activities at each nuclear site where the high-level radioactive waste is located, including the following activities that are necessary and incidental to the project:

- All handling, repackaging, and transportation of used nuclear fuel;
- All infrastructure and corridor developments associated with transport, whether on existing nuclear sites or along the proposed routes; and
- Upstream and interprovincial activities that are causally connected to the project.

RECOMMENDATION NO. 6: The Guidelines must require the Impact Statement to assess interprovincial effects, including potential impacts to the environment and health of communities outside of Ontario caused by the transport of high-level radioactive waste.

RECOMMENDATION NO. 7: The Guidelines must require the Impact Statement to demonstrate compliance with the *National Strategy Respecting Environmental Racism and Environmental Justice Act*, which requires meaningful involvement of communities impacted by environmental racism. This requires analysis of the effects of the proposed development on Canada’s responsibility to advance environmental justice, and to assess, prevent, and address environmental racism across all project activities, including handling, packaging, interim storage and transportation of the high-level radioactive waste.

RECOMMENDATION NO. 8: Ensure that Indigenous Nations who stand to be impacted by the transportation and burial of this waste, its downstream effects and its continued interim storage are meaningfully involved in the design and conduct of the assessment, including defining the scope, methodologies, and criteria for assessing environmental justice impacts. This engagement must include PRGI who—as a nuclearized Nation—is uniquely placed to lend its experience and knowledge.

RECOMMENDATION NO. 9: The Guidelines must ensure cumulative effects are assessed in light of existing and historical impacts, including at sites where the high-level radioactive waste is presently housed, given the increased risk of radiological releases and contamination stemming from its handling and movement.

RECOMMENDATION NO. 10: The Guidelines must require the Impact Statement to include a detailed assessment of radiological risks associated with all source-site activities, including handling, repackaging, and loading of used nuclear fuel at facilities such as Point Lepreau, including:

- Characterization of radiological hazards and exposure pathways;
- Assessment of accident and malfunction scenarios;
- Evaluation of routine and cumulative emissions;
- Impacts to marine and coastal ecosystems; and
- Clear, accessible disclosure of mitigation measures and monitoring plans.

RECOMMENDATION NO. 11: Section 5.4 of the Guidelines must require the proponent to comply with *Health Canada’s Guidance for Evaluating Human Health Impacts in Impact Assessments: Radiological Impacts* and additionally, conduct a comprehensive health impact assessment.

RECOMMENDATION NO. 12: The Guidelines must require the Impact Statement to include a comprehensive justification and ALARA analysis that applies across the full lifecycle of the project, including all sites where radioactive waste is currently stored and along the entirety of transportation routes, including from Point Lepreau, New Brunswick to Ignace, Ontario, and must demonstrate that all radiological exposures to the public and the environment are justified and kept as low as reasonably achievable.

RECOMMENDATION NO. 13: Clarify the Guidelines to expressly study impacts on the fish, fish habitat and aquatic species in freshwater and marine ecosystems at and near Point Lepreau. The Bay of Fundy is

a living marine system that sustains cultural practices and relationships that extend across generations and species.

RECOMMENDATION NO. 14: Given the existing radiological and non-radiological contaminants to fish and fish habitat from the existing activities at the Point Lepreau site, an assessment of cumulative and interrelated effects must take into account historic, existing and potential pressures on the marine environment.

RECOMMENDATION NO. 15: The Guidelines must assess impacts to species beyond the project area and assess any change or impact to aquatic species such as the North Atlantic right whale, the blue whale, and the fin whale protected under the *Species at Risk Act*, precipitated by the handling or movement of high-level radioactive materials at the Point Lepreau site.⁵⁹

RECOMMENDATION NO. 16: The Guidelines must identify priority migratory species and comprehensively review seasonal migratory bird data, both on land and at sea. Migratory pathways should be charted in relation to plume exposure in the event of an accident, and the capacity for marine response and for migratory bird monitoring must be assessed.

RECOMMENDATION NO. 17: The Guidelines must require an assessment of effects on migratory birds,⁶⁰ and that the proponent be required to demonstrate concrete, measurable steps to minimize and offset effects to migratory birds caused by light, radiological and non-radiological emissions, and accidents resulting from the handling, packaging and movement of high-level radioactive waste at the Point Lepreau site.

RECOMMENDATION NO. 18: The Guidelines must require the proponent to comply with the requirements set out in the SACC for all phases of the IA. For the purposes of the Impact Statement Phase, the Guidelines must outline the scope and information related to climate change that must be included in the Impact Statement, as set out in Section 5 of the SACC (Climate change information in the Impact Statement Phase).

RECOMMENDATION NO. 19: The Guidelines must add, under Section 6 (Biological Environment), a new subsection focused on climate change, to ensure that the requirements of Section 5 of the SACC are met and environmental justice concerns are considered and addressed. By providing the required information, the Agency and CNSC will be able to assess the project's climate change-related impacts as per sections 22(1)(i), 22(1)(p) and 63(b) of the *IAA*.

RECOMMENDATION NO. 20: The Guidelines must include the following seven greenhouse gases in the list of potential air pollutants for which baseline concentrations must be provided:

- Carbon dioxide (CO₂);
- Methane (CH₄);

⁵⁹ *IAA*, s 16(2)(b) and 2(a)(ii).

⁶⁰ *IAA*, s 16(2)(b) and 2(a)(iii).

- Nitrous oxide (N₂O);
- Sulphur hexafluoride (SF₆);
- Perfluorocarbons (PFCs);
- Hydrofluorocarbons (HFCs);
- Nitrogen trifluoride (NF₃);

RECOMMENDATION NO. 21: The Agency and NWMO must remedy their erroneous assessment of the scope of consultation throughout the Guidelines and accompanying Indigenous Engagement and Partnership Plan (“IEPP”), acknowledging that the threshold of consent must be met if Peskotomuhkati inherent rights, including rights to self-determination, are to be upheld in light of nuclear projects proposed and occurring in Peskotomuhkati territory.

RECOMMENDATION NO. 22: The Guidelines must address how the Impact Statement and decision-making will be based on Treaty responsibilities and how these responsibilities will be applied.

RECOMMENDATION NO. 23: The Guidelines must be revised to remove any limitation on consultation and engagement to be among the six listed Nations. Instead, the Guidelines must require that the Impact Statement:

- Uphold and advance section 35 rights and Treaty obligations, the UN Declaration (including FPIC), and Indigenous laws, governance systems, and decision-making authority;
- Address both potential and actual impacts of the project on PRGI’s communities, lands, waters, and environment in a manner consistent with the UN Declaration’s standards; and
- Require the proponent to demonstrate how Indigenous Nations, including PRGI, will co-develop assessment criteria, methodologies, and conclusions, rather than being limited to consultation inputs.

RECOMMENDATION NO. 24: The Guidelines must explicitly require the IA to be conducted as a comprehensive, rights-based process that respects and upholds Peskotomuhkati laws, traditions, and governance, and ensures our full and equal participation in decision-making, including its process and outcomes.

RECOMMENDATION NO. 25: The Guidelines must recognize and give effect to the requirement of free, prior, and informed consent, consistent with the United Nations Declaration on the Rights of Indigenous Peoples and the *United Nations Declaration on the Rights of Indigenous Peoples Act*.

RECOMMENDATION NO. 26: The Guidelines must expressly commit to upholding the UN Declaration, which establishes the minimum standards for the survival, dignity, and well-being of Indigenous Peoples. Through UNDA, Canada has affirmed the UN Declaration as a universal international human rights instrument with application in Canadian law and committed to its implementation without delay.

RECOMMENDATION NO. 27: The Guidelines must expressly commit to implement UNDA Action Plan Commitment #34, which affirms the federal government’s obligation to support Indigenous participation in decision-making and to enable Indigenous Peoples to exercise federal regulatory authority.⁶¹ The Crown must therefore ensure concrete opportunities for this commitment to be realized by working collaboratively with PRGI, in accordance with Peskotomuhkati laws, governance structures, and protocols.

RECOMMENDATION NO. 28: The Guidelines ensure the IA moves ahead in an honourable way, setting out meaningful roles for impacted Nations, like the Peskotomuhkati, and rights holders to shape outcomes and project-specific decisions. We hold lived and intergenerational knowledge—particularly related to environmental justice, and long-term stewardship—that must not be overlooked or minimized.

RECOMMENDATION NO. 29: The Guidelines must require consideration of the doctrine of reconciliation, which seeks to reconcile the pre-existence of Indigenous societies with the imposition of Crown sovereignty.⁶² This IA is a test as to whether Canada will uphold Treaty obligations in practice and work towards restoring Nation-to-Nation dialogue.

RECOMMENDATION NO. 30: The Guidelines must require the proponent to assess how the project will promote and facilitate reconciliation with Indigenous peoples.

RECOMMENDATION NO. 31: The IEPP must be fundamentally revised to establish a Nation-to-Nation approach wherein Indigenous participation is co-developed; engagement is sustained with capacity supports; a rights-based approach to engagement is adopted; and a clear, consent-based approach to engagement and decision-making is established and implemented.

RECOMMENDATION NO. 32: We request that the Guidelines be updated to, at a minimum, include the following requirements as derived from the Wesleyville New Nuclear Project:

- Provisions to add to Risk Assessment (section 9.1)
 - Describe the potential consequences of accidents and malfunctions in terms of environmental, health, social and economic effects, and effects to Indigenous Peoples from their perspective;
 - Engage with First Nations and other Indigenous communities to understand community-identified risks and thresholds for unacceptable harm and describe how these perspectives informed the assessment;
 - Describe long-term consequences of accidental releases (i.e., as shown from studies of major nuclear accidents); the notional range of 1–10 Gy to describe the effects of acute exposure should be used; provide environmental sensitivity mapping that identifies

⁶¹ UNDA Action Plan, p 33.

⁶² *Kebaowek v CNL*, [2025 FC 319](#) at para 10.

site-specific conditions and sensitive receptors adjacent to project activities, including shores, streams and wetlands frequented by fish and/or birds, and likely routes to them. Shoreline classification surveys and mapping must be conducted along major waterways where large spills or other accidents and malfunctions may occur, and must identify the route of the effects to the sensitive receptors. The characterization criteria established by Environment and Climate Change Canada (ECCC), contained in the Field Guide for Intervention in the Event of an Oil Spill on Maritime Shores, constitute a useful guide in this regard; and

- Identify and justify temporal boundaries appropriate to the nature of the potential accident and malfunction event, including consideration of long-term and intergenerational effects. Temporal boundaries must extend beyond the operational life of the facility, where necessary, to assess postclosure, decommissioning, and reasonably foreseeable long-term contamination or exclusion scenarios that may affect access to lands, waters, relatives, and the exercise of inherent, Indigenous and Treaty rights.
- Provisions to expand or amend in Risk Assessment (section 9.1)
 - Expand the requirement to “describe the worst-case scenarios and the lower-consequence scenarios” to read “describe the plausible worst-case scenarios, representative severe accident sequences, and the more likely but lower-consequence alternative scenarios;
 - Expand the requirement to “identify and justify the spatial and temporal boundaries for the effects assessment associated with accidents and malfunctions. The spatial boundaries identified for effects from potential accidents and malfunctions will generally be larger than the boundaries for the project effects alone, and may extend beyond Canada’s jurisdiction” to read “Spatial boundaries must be defined through a process that incorporates feedback from First Nations and other Indigenous communities and must consider First Nations defined territories and areas of use, including seasonal and mobile use patterns. Where the spatial boundaries adopted for the assessment differ from those identified by First Nations or other Indigenous communities, the Impact Statement must clearly describe and justify the rationale for that divergence.”
 - Provisions to add to Emergency Management (section 9.3)
 - Describe emergency response training and exercise programs, including a description of the participation and training agreements with First Nations and other Indigenous communities that could be impacted by accidents or malfunctions; describe any plans for delivering training and exercise programs in local Indigenous languages for potentially affected First Nations and other Indigenous communities; consider the locations of First Nations and other Indigenous communities, seasonal access conditions,

transportation routes, and community-identified safety priorities in emergency planning and evacuation modelling;

- Describe how engagement with First Nations and other Indigenous communities informed modelling assumptions and response measures, including evacuation, sheltering, and KI-pill distribution strategies; engage with affected First Nations and other Indigenous communities and consider their governance structures, community locations, seasonal access realities, and safety priorities. The Impact Statement must describe how Indigenous input informed evacuation modelling, sheltering strategies, communication approaches, and recovery planning;
- Describe liaison, training and continuous education plans linked to emergency preparedness for surrounding communities that may be affected by the consequences of a significant incident, including for First Nations and other Indigenous communities;
- Describe measures to ensure engagement is carried out with First Nations and other Indigenous communities to meet requirements as co-determined with respective First Nations and other Indigenous communities; and
- Describe past, ongoing and planned outreach efforts to ensure the public and First Nations and other Indigenous communities' understanding of the risks associated with this type of project (e.g., providing non-technical information, providing information in local languages if requested).