



legal teachings linked to lands and conservation focus efforts on ensuring that the lands and waters within our traditional territory remain safe, healthy, and life-sustaining for current and future generations. They shape our people's responsibility with respect to the environment.

This Project runs contrary to our understanding of our roles as stewards of the land. For decades, NAN has consistently and publicly stated its firm opposition to the Project.<sup>1</sup> We maintain that nuclear waste should be stored as near to its place of origin as possible, subject to the free, prior, and informed consent of the host Indigenous Peoples, and that the storage of nuclear waste be maintained above ground in order to be able to monitor and control these dangerous substances.

We strongly disagree with the assertions that burying nuclear waste benefits future generations and relieves them of this burden. Burying the issue deep underground and abandoning this poison in our sacred lands for hundreds of thousands of years to come is a betrayal to our descendants and to this land.

## **OVERARCHING CONCERNS ABOUT THE IMPACT ASSESSMENT PROCESS**

Before providing specific comments on the TISG and IEPP, we provide comments notifying the Impact Assessment Agency of Canada ("**IAAC**") of our overarching concerns about significant flaws in the impact assessment process to date. Specifically, we are concerned about critical shortcomings in the Initial Project Description ("**IPD**"), the Summary of Issues, and the site selection process. We also have concerns about what appears to be a clear attempt at Project splitting through an intentional narrowing of the Project description. The issues with these foundational planning documents set the stage for a deeply flawed impact assessment process. Until these issues are remedied, the process at large will continue to be undermined.

### **I. Inadequate Initial Project Description**

As we have previously raised with IAAC in our comments on the IPD, and as we detail further below in this submission, IAAC has failed to require that the Nuclear Waste Management Organization ("**NWMO**" or "**Proponent**") provide a proper description of the Project. NWMO has submitted an IPD that excludes key aspects of the Project including site characterization, decommissioning, closure, post-closure, and the entire transportation network upon which this Project depends. These omissions unreasonably narrow the scope of the Project such that its full, cumulative, geographical, and temporal impacts cannot possibly be assessed based on the current project description. This improperly contributes to project splitting. Not only is this inconsistent with our laws and legal teachings, but it will also prevent Canada from fulfilling its obligations under the *Impact Assessment Act* ("**IAA**"), the duty to consult and accommodate, and the *United Nations Declaration on the Rights of Indigenous Peoples Act* ("**UNDA**").

The IPD also includes an inadequate alternatives assessment which, contrary to s. 22(1)(f) of the IAA, does not analyze, for example:

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<sup>1</sup> See, for example, *High Level Nuclear Waste Concept*, NAN Chiefs-in-Assembly, (August 1995) Res 95/36; *Nuclear Waste Free Zone*, NAN Chiefs-in-Assembly, (July 2005) Res 05/57; *Nuclear Waste Free Zone and the Nuclear Waste Management Organization's Nine-Step Site Selection Process*, NAN Chiefs-in-Assembly, (November 2009) Res 09/88; *Nuclear Waste Public Education*, NAN Chiefs-in-Assembly, (August 2013) Res 13/37; *Opposition to Nuclear Waste Management Organization's Proposed Deep Geological Repository*, NAN Chiefs-in-Assembly, (August 2022) Res 22/13.

- the alternative of not proceeding with the Project,
- alternatives for permanent underground emplacement of high-level nuclear waste,
- alternative sites,
- alternative transportation options (for example, transport in used fuel containers versus transportation packages),
- alternative mining methods,
- alternatives for accessing the Project (i.e. ramps versus shafts), and
- alternative fuel container designs.<sup>2</sup>

IAAC’s response to comments on the IPD in its Summary of Issues fails to make clear and explicit NWMO’s obligations in respect of the alternatives assessment.

## II. IAAC Unreasonably Divides its Summary of Issues

IAAC has arbitrarily divided its Summary of Issues document into a core document and appendices (Annex A and B). Annex A “provides additional comments, guidance and recommendations by IAAC for information purposes only”. Such “information purposes only” topics include the following topics that are of critical importance to NAN, and which are legally required considerations:

Annex A Topic	Legal Requirement
Project Purpose	IAA s. 22(1)(d)
Project Need	IAA s. 22(1)(d)
Project Description	IAA s. 22(1)(d)
Indigenous Engagement and the United Nations Declaration on the Rights of Indigenous Peoples	s. 35 duty to consult, <i>United Nations Declaration on the Rights of Indigenous Peoples Act</i> , IAA (Preamble).
Monitoring Health Impacts	IAA s. 6(1)
Radiation Exposure Limits	IAA s. 6(1)
Monitoring of Effects During Construction and Operation	IAA s. 6(1)

Annex B is split into five categories which span both topic themes and category of group providing the submissions:

- Section 1: “Submissions identifying issues and concerns in the immediate vicinity of the DGR project site”

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<sup>2</sup> Northwatch, “Comments on the Nuclear Waste Management Organization’s Initial project Description”, dated February 4, 2026, at <[https://northwatch.org/wp-content/uploads/2026/02/northwatch\\_nwmo-dgr-ipd-88774\\_4feb2026\\_final.pdf](https://northwatch.org/wp-content/uploads/2026/02/northwatch_nwmo-dgr-ipd-88774_4feb2026_final.pdf)> at pp. 5, 12-19, 30-32, 51; Township of Ignace, “Deep Geological Repository (DGR) for Canada’s Used Nuclear Fuel Project” dated February 3, 2026, at <<https://registrydocumentsprd.blob.core.windows.net/commentsblob/project-88774/comment-64706/20260203%20Ignace%20submission%20on%20IPD%20to%20IAAC.pdf>> at p. 11.

- Section 2: “Submissions identifying DGR project issues and concerns across the broader region”
- Section 3: “Submissions identifying issues and concerns regarding the transportation of used nuclear fuel”
- Section 4: “Submissions identifying the issues and concerns of National, Provincial and Territorial Indigenous organizations and governments”
- Section 5: “Submissions from self-identifying Indigenous individuals”

IAAC expects NWMO to respond only to sections 1 and 2. The structure of Annex B is confusing at best or intentionally misleading at worst. While Annex B is titled “*Submissions from Indigenous Nations and communities*”, it clearly includes submissions from Indigenous groups that are not listed in the list of six “Indigenous Nations and communities” as defined by IAAC (which we will refer to as “**Listed Indigenous Groups**” for clarity in these submissions). It is perhaps for this reason that NAN’s comments regarding sections 1, 2, and 3 are excluded from the summary. IAAC must clarify how it intends to address and incorporate the submissions from all potentially impacted Indigenous Peoples, not just the Listed Indigenous Groups. NAN and its member Nations expect—and the law requires—that IAAC will ensure all of the issues raised in the Summary of Issues (including both appendices) are addressed meaningfully in the TISG and IEPP.

### **III. Project Splitting**

For years, Indigenous Peoples and the public have been putting Natural Resources Canada (“**NRCan**”), the Canadian Nuclear Safety Commission (“**CNSC**”), IAAC, and NWMO on notice that transportation is a critical component of radioactive waste storage and disposal that must be considered when reviewing projects. These messages have gone unheeded. The Project has been narrowed to the extent that it represents only a fraction of the actual impacts. IAAC must require that NWMO withdraw, revise, and re-submit the IPD to ensure the Project is properly described and scoped. The Project, as described in the IPD, does not meet the IAA requirements and should not have been accepted by IAAC.

### **IV. Site Selection Process**

NWMO makes much of its long site selection process and commitment to finding host communities. The approach taken, however, has been flawed throughout and ultimately the decision was made in an accelerated manner that undermined the process. The seeking of agreement by the Proponent from a single First Nation to host the Project does not meet the Crown’s obligations regarding the right of free, prior, and informed consent. Further, NWMO’s approach was divisive as it failed to recognize the true impacts to other proximate First Nations.

The exclusion of transportation from the Project description and this impact assessment process has been a key strategy for the exclusion of consideration of the rights of potentially impacted Indigenous Peoples. The selection of a site in northern Ontario exacerbates the problematic nature of this decision as transportation will play an enhanced role in the execution of this Project.

### **V. Defective Process Undermines Decision-Making**

The Federal Cabinet’s eventual determination of whether the Project is in the public interest will be defective given the following topics have been scoped out of the impact assessment process:

- transportation,
- a meaningful alternative means assessment,
- the exclusion of critical questions of temporal importance, including decommissioning, closure, and post-closure,
- an accurate listing of Indigenous Peoples owed a duty to consult and accommodate in respect of the Project, and
- other key issues including watersheds.

For many years, NAN has made clear that its members oppose the construction of a deep geological repository in northern Ontario and the transportation of spent fuel through NAN First Nations' territory. These concerns were ignored and the scoping of the Project is designed to exclude NAN member Nation voices. As we detail further below, this is inconsistent with the Crown's duty to consult and accommodate, its commitment to implement the *United Nations Declaration on the Rights of Indigenous Peoples* ("**UNDRIP**") without qualification, and its statutory obligations under the IAA. In order for impacted NAN member Nations to be able to exercise their right to free, prior, and informed consent, and for the federal Cabinet to be in a position to determine whether this Project is in the public interest, these failings must be rectified promptly.

## **OVERARCHING COMMENTS ON THE DRAFT IEPP and TISG**

In this section, NAN provides comments about three main issues we have identified in the IEPP and TISG that, unless addressed, will lead to an inadequate assessment of adverse effects on Aboriginal and Treaty rights and prevent the Crown from fulfilling its constitutional obligations. We group these issues as follows:

1. Exclusion of Potentially Impacted Indigenous Peoples
2. Exclusion of Transportation from the IPD and Impact Assessment Process
3. Perpetuation of a Narrow and Conservative View of Project Risks

### **I. Exclusion of Potential Impacted Indigenous Peoples**

The TISG and IEPP unreasonably narrow the scope of meaningful engagement with Indigenous Peoples. The documents limit critical information gathering and exclude Indigenous groups from among those recognized as potentially impacted. This approach will undermine the Crown's ability to meet its constitutional and statutory obligations to section 35 rights-holders. For instance, the TISG must set out requirements regarding all information necessary for the ultimate decision-maker to make its decision in accordance with the IAA and the *Nuclear Safety and Control Act* ("**NSCA**")<sup>3</sup>. This necessarily means a full assessment is required for *all* potentially impacted Indigenous Peoples from *all* Project components. As currently framed in the planning documents, this will not be accomplished under the proposed impact assessment process.

The IEPP acknowledges, among other things, that:

- the IAA creates a scheme that creates opportunities for Indigenous Peoples who may be affected by a project to share perspectives and voice concerns to strengthen the assessment process, inform project design, lead to better outcomes, and assist with follow up and monitoring;

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<sup>3</sup> *Nuclear Safety and Control Act*, SC 1997, c 9.

- factors including the seriousness of potential impacts on the community and their rights play a role in an Indigenous group’s participation; and
- IAAC and CNSC are committed to a robust process guided by an openness to Indigenous perspectives, a commitment to reconciliation, and an aim to maximize Indigenous leadership in integrated assessments.

All but one of our impacted member Nations have been arbitrarily and unreasonably excluded from this assessment before it even begins. This undermines principles described above and the fulfillment of Canada’s obligations towards First Nations. It also dismisses NAN member Nation’s laws and stewardship responsibilities.

The implications of this exclusion are significant. The following is a list of activities that are available to the Listed Indigenous Groups according to the IEPP that are not available under the draft Public Participation Plan.

➤ Development of a community-specific consultation plan in collaboration with IAAC and the CNSC;
➤ Invitation to collaborate with IAAC and CNSC on potential Project impacts on Indigenous rights and interests;
➤ Invitation to discuss how input during the Planning phase documents were considered;
➤ Engagement in respect of Indigenous Knowledge and information including its use in the impact assessment process;
➤ Collaboration with IAAC and CNSC to implement the IEPP;
➤ Collaboration with IAAC and CNSC to implement consultation plans;
➤ Invitation to discuss the assessment of potential impacts on rights and interests;
➤ Invitation to develop partnership approaches for reviewing the impact statement;
➤ Invitation to provide views on the potential impacts of the Project on rights and whether the proponent has adequately identified mitigation and/or accommodation measures;
➤ Invitation to participate in discussions on technical issues;
➤ Collaboration with IAAC and CNSC on preliminary analyses, recommendations, and conclusions related to potential project impacts on Indigenous rights and interests for the review panel;
➤ Invitation to deliver cultural training and orientation activities for the review panel;

➤ Invitation to provide information on the potential impacts of the Project on Indigenous rights and interests, and potential conditions and mitigation measures to address those impacts at the review panel stage;
➤ Consultation on proposed complementary measures or other accommodation measures related to potential adverse impacts on the exercise of rights and interests;
➤ Collaboration with IAAC and CNSC on the analysis and conclusions in the consultation and accommodation report;
➤ Collaboration with IAAC and CNSC on the resolution of outstanding issues;
➤ Inclusion in an ongoing dialogue with IAAC and CNSC; and
➤ Inclusion in compliance and enforcement activities post-decision.

While some topics, such as participant funding and comment periods, are available both to the Listed Indigenous Groups and to the public, it is clear that the Public Participation plan offers an impoverished version of the comparatively more robust supports and participatory rights available to the Listed Indigenous Groups.

The determination of which Indigenous Nations and groups are impacted by this Project has serious implications not just during the impact assessment process, but also during the nuclear licensing phases. As described in the IEPP, future consultation processes undertaken by the CNSC during the nuclear licensing phases would also be guided by the IEPP. This will influence participant funding, notification and engagement levels, monitoring and oversight, and the promotion of reconciliation.

Each of these critical components of a consultation and engagement strategy are part of the Crown's constitutional obligations to s. 35 rights-holders and its statutory obligations under the IAA and UNDA. These obligations do not end simply because the Crown and Proponent have scoped out core aspects of a project and certain First Nations out of the process. For instance, s. 22 of the IAA requires IAAC to assess the effects on Indigenous groups and their rights under s. 35 of the *Constitution Act, 1982*, and mitigation measures that would mitigate adverse effects of the proposed Project. This certainly includes Indigenous Nations that are not listed in the IEPP, including impacted NAN member Nations.

Excluding NAN member Nations from the assessment process means that IAAC will not be able to collect appropriate baseline information and respond with meaningful, tailored mitigation measures. And, given that IAAC is acting as the Crown Consultation Coordinator in respect of the Project, it is unclear how Canada will fulfill its obligations pursuant to the IAA and UNDA, and its duty to consult and accommodate Indigenous Nations that are not listed in the IEPP. Correctly identifying, rigorously evaluating, and carefully planning for effective monitoring of long-term effects, should the Project receive all required approvals, is necessary to ensure the long-term prevention and mitigation of adverse effects.

## II. Transportation

In the TISG, IAAC confirms that “project-related transportation” has the potential to result in adverse effects within areas of federal jurisdiction and is incidental to the project.<sup>4</sup> It goes on to define “project-related transportation” in a confusing and opaque manner. Specifically, IAAC describes the “project-related transportation” as that occurring “within a geographic extent that includes, at a minimum, to the geographical bounding encompassing the railway spur for rail transport and Highway 17 turn-offs for road transport”.<sup>5</sup> This represents an artificially small radius of the actual transportation involved in making this Project possible.

IAAC goes on to state in the TISG that provincial and municipal highways and roads fall outside of IAAC’s mandate.<sup>6</sup> This position mischaracterizes the issue in order to justify the relinquishment of responsibilities. It also runs contrary to the Government of Canada’s alleged “one project, one review” policy. Further, astonishingly, only the province of Ontario is mentioned in the planning documents. That spent fuel would need to be transported through Manitoba, Quebec, and New Brunswick is not addressed at all.

Nuclear waste and the transportation of nuclear waste fall unequivocally under federal jurisdiction and are jointly regulated by the CNSC and Transport Canada under the NSCA and the *Transportation of Dangerous Goods Act, 1992*<sup>7</sup>. The Project would provide for the permanent disposal of approximately 5.9 million bundles of used nuclear fuel—all of which are to be shipped in from elsewhere.<sup>8</sup> Canada’s used nuclear fuel is currently being stored at facilities located in Manitoba, southern and southeastern Ontario, Quebec, and New Brunswick. The routes for transporting this waste would cover over 3000 kilometers of land. The proposition that the waste be transported for roughly 50 years, six days per week, for nine to 11 months of the year is a significant cumulative impact that will impact many communities.<sup>9</sup>

Contrary to what appears to be contemplated in the TISG, federal jurisdiction over the transportation of nuclear waste does not begin at the Project site’s highway turnoffs and railway spurs. The reality is that this dimension of the Project represents a significant and complex multi-jurisdictional approach that will require federal oversight at every stage of the transportation network. IAAC’s acceptance of the IPD, which excludes transportation, completely obfuscates the reality of the Project. The effect is to prevent Canada from carrying out its statutory obligations under the IAA, given both the direct and indirect impacts on areas of federal jurisdiction including, for example, navigable waters, inland fisheries, Indigenous Peoples, species at risk, and migratory birds.

A major concern for NAN with the TISG is that it will necessarily lead to an Impact Statement that does not comprehensively engage with and address potential adverse effects on

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<sup>4</sup> Impact Assessment Agency of Canada, “Draft Integrated Tailored Impact Statement Guidelines” (10 Apr 2026) at 65, online: <<https://iaac-aeic.gc.ca/050/documents/p88774/166000E.pdf>> [TISG] at 65.

<sup>5</sup> TISG at 67.

<sup>6</sup> TISG at 67.

<sup>7</sup> *Transportation of Dangerous Goods Act, 1992*, SC 1992, c 34.

<sup>8</sup> Nuclear Waste Management Organization, “Initial Project Description: Deep Geological Repository (DGR) for Canada’s Used Nuclear Fuel Project” (December 2025), s 10 online: <[iaac-aeic.gc.ca/050/documents/p88774/164317E.pdf](https://iaac-aeic.gc.ca/050/documents/p88774/164317E.pdf)> [IPD].

<sup>9</sup> Nuclear Waste Management Organization, “Preliminary transportation plan” (December 2021), s 1.4 online: <[nwmo.ca/-/media/Reports-MASTER/Corporate-reports/2021-Preliminary-transportation-plan.ashx](https://nwmo.ca/-/media/Reports-MASTER/Corporate-reports/2021-Preliminary-transportation-plan.ashx)> [Preliminary Transportation Plan].

Aboriginal and Treaty rights in respect of the transportation routes that the Project is predicated upon. While we do not yet have a clear understanding of the transportation plan, several of the potential rail and road routes pass through or are adjacent to our member Nations' Treaty and traditional territories. At least six NAN member Nations have Reserves situated along transportation routes that will inevitably be used,<sup>10</sup> and many more of our member Nations exercise Aboriginal and Treaty rights along the transportation corridors and the watersheds within which the transportation corridors sit.

The absurd determination regarding impacted Indigenous groups is made possible by the extremely narrow and arbitrary approach to scoping transportation routes related to the Project. Failing to assess the Project's adverse impacts along these transportation routes because IAAC claims that the routes fall outside of its jurisdiction is a deficient and flawed reason to not expand the list of impacted Indigenous groups. Many of the potential routes to the Project site are knowable and obvious, given that there are only so many routes to the Project site from where nuclear waste is currently being stored. One of those routes that will necessarily be used is along Highway 11. If it is dangerous to make these transportation routes public, it is dangerous not to consider adverse effects from this Project along these transportation routes.

We outline our major concerns with the narrow scoping of the transportation network below.

*(a) IAAC Has Failed to Require NWMO to Produce a Clear and Complete Initial Project Description*

As we set out in our comments on the IPD, the Proponent has failed to properly describe the scope of the Project by excluding transportation. There are numerous consequences resulting from this exclusion, including:

1. it is contrary to s. 22 of the IAA because it will preclude the assessment of:
  - a. impacts to Indigenous Peoples and rights;
  - b. changes to the environment or to health, social or economic conditions and the consequences of these changes from the Project;
  - c. the effects of malfunctions or accidents;
  - d. cumulative effects in conjunction with other physical activities;
  - e. interactions between these various effects;
  - f. measures that mitigate adverse effects from the Project; and
  - g. the extent to which the effects hinder or contribute to Canada's ability to meet its environmental obligations and climate change commitments;
2. it is contrary to the duty to consult and accommodate in respect of potentially serious adverse effects on constitutionally protected rights; and
3. it is contrary to the federal government's commitment to implement UNDRIP.

It is incumbent upon IAAC to request that the IPD be withdrawn, revised, and re-submitted to ensure that the Project is properly scoped. Proceeding with this narrow scoping of the Project in this impact assessment process will fail to uphold the federal government's constitutional and statutory obligations.

*(b) IAAC has Improperly Allowed for the Exclusion of Transportation-Related Risks*

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<sup>10</sup> Ginoogaming First Nation, Long Lake No. 58 First Nation, Constance Lake 92 First Nation, Taykwa Tagamou First Nation, Matachewan First Nation have reserves situated along Trans-Canada Highway 11.

In the TISG, IAAC indicates only that the Impact Statement must include an update to the *2021 Transportation Plan* and an emergency management and response plan, without meaningfully engaging with and responding to the overwhelming concerns from Indigenous Peoples and the public<sup>11</sup> and without addressing whether the entire transportation network is subject to the impact assessment<sup>12</sup>.

The concern of Indigenous Peoples regarding transportation of radioactive waste is well-documented and well-understood by both the Proponent and the Crown. In developing the Integrated Strategy for Radioactive Waste pursuant to the Minister of Natural Resources Canada's direction, NWMO reported it heard the following key finding:

#### **Key Finding 5 – Transportation**

Transportation of hazardous waste through traditional territories with no consultation, engagement, or notification was an expressed concern of Indigenous Peoples. The safety of the transportation of waste through sensitive areas with no communication or inclusion of an emergency management plan is of the utmost concern. The potential impact on or through communities and traditional territories was a common theme in all Indigenous engagement sessions.<sup>13</sup>

Carrying out engagement with Indigenous Peoples is meaningless if key findings such as this are ignored. The public similarly expressed grave concerns about this issue, as outlined in NWMO's Community Engagement report in which it reported the following:

#### **Key Finding 5 – Transportation**

We heard from participants that transportation is a particularly important aspect of the long-term plan and that, when radioactive waste is transported, it must be done safely. We heard that people have many questions about the risks associated with transportation, and the consequences of transportation accidents on the safety of the radioactive waste being transported. We heard that people generally preferred to minimize the transportation of radioactive waste, to reduce any associated risks. Participant views on the relative risks of transportation influenced their views on having one central repository for low-level waste and for intermediate-level waste or having multiple disposal facilities closer to where the waste is produced.<sup>14</sup>

With respect to all levels of radioactive waste, but particularly with respect to high-level waste, the matter of transportation is critical. To fail to consider the impacts of transportation holistically and to anchor it geographically is to fail to capture the potential adverse effects meaningfully. The result of IAAC's approach is that there will be no assessment of the effects

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<sup>11</sup> NWMO, Integrated Strategy for Radioactive Waste: Indigenous Engagement What We Heard Report 1 of 2 (April 2021-March 2022), online: [wwhr indigenous 1 en final 5july2022.pdf](#) [**Indigenous Engagement Report**]

<sup>12</sup> TISG at 66.

<sup>13</sup> Indigenous Engagement Report at p. 9.

<sup>14</sup> NWMO, Integrated Strategy for Radioactive Waste: What We Heard Report (2): Community Engagement Sessions (Held Between May 19<sup>th</sup> 2021 & November 10<sup>th</sup>, 2021), online: [what we heard report isrw community engagement session en final 8feb2022.pdf](#).

on federal jurisdiction of this major Project component in relation to those impacted Indigenous groups with respect to issues such as:

➤ Changes to the environment or to health, social, or economic conditions
➤ The effects of malfunctions or accidents including (but not limited to):
<ul style="list-style-type: none"> <li>• the real or perceived impact of catastrophic accidents or spills on radiation exposure limits;</li> </ul>
<ul style="list-style-type: none"> <li>• the real or perceived impact of radiation exposure associated with relocation, repackaging and loading of nuclear waste into transport vehicles;</li> </ul>
<ul style="list-style-type: none"> <li>• the real or perceived impact of accidental nuclear waste release along all aspects of the transportation route; and</li> </ul>
<ul style="list-style-type: none"> <li>• the level of baseline emergency response personnel available throughout the transportation route.</li> </ul>
➤ Cumulative effects
➤ Impacts on Indigenous Peoples and rights protected by s. 35 of the <i>Constitution Act</i> including (but not limited to):
<ul style="list-style-type: none"> <li>• the alienation of Indigenous Peoples from their lands proximate to the transportation routes due to real or perceived health and safety concerns;</li> </ul>
<ul style="list-style-type: none"> <li>• the real or perceived impact of catastrophic accidents or spills on groundwater and surface water which are relied upon for First Nations' way of life;</li> </ul>
<ul style="list-style-type: none"> <li>• the real or perceived impact of catastrophic accidents or spills on wildlife and wildlife habitat;</li> </ul>
<ul style="list-style-type: none"> <li>• the real or perceived risk of increased highway closures as part of the transportation plan interfering with access to lands and resources for traditional purposes;</li> </ul>
<ul style="list-style-type: none"> <li>• the real or perceived risk of radioactive exposure should vehicles break down in or near communities along the transportation route;</li> </ul>
<ul style="list-style-type: none"> <li>• the real or perceived impact of radiation exposure associated with transport of nuclear waste on fishing, hunting, trapping, harvesting plants and medicines, conducting ceremonies, and sustaining community well-being; and</li> </ul>
<ul style="list-style-type: none"> <li>• the real or perceived impact of nuclear waste transport on self-determination.</li> </ul>

To the extent that any of the adverse effects do not fall within federal jurisdiction, transportation is still within the jurisdiction of the IAA because the adverse effects are direct or incidental adverse effects.<sup>15</sup> Transportation is tied to non-negligible adverse effects that are directly linked and necessarily incidental to the federal authority's performance of a duty or function that would permit the carrying out of a physical activity or designated project. Without transporting the nuclear waste across these transportation routes across Canada, there would be no Project.

Not only does IAAC's approach run contrary to s. 22 of the IAA but this approach also effectively narrows the scope of the impact assessment to the "direct impacts" of the Project site only. That improper narrowing is contrary to s. 6 of the IAA which requires that cumulative effects of physical activities be considered. Instead, IAAC's approach fails to acknowledge that these systems require one another. There is no storage facility without a transportation network; the impacts cannot be assessed in isolation. It is also insufficient for IAAC and CSNC to only require NWMO to update the *2021 Preliminary Transportation Plan* in the Impact Statement based on the information reasonably available at this stage of project planning. It would not be meaningful for NWMO to update it as part of its Impact Statement for two main reasons.

Firstly, a preliminary plan is by definition only preliminary. It suggests that the real implications of the transportation that would necessarily take place as a result of this Project will not be fully understood in advance of an assessment regarding impacts. Secondly, even if IAAC were to require a comprehensive and robust plan for the entire lifecycle of the Project, the required timing of its release in this impact assessment process is too late, therefore preventing NAN member Nations from considering its implications. Reliance on the current preliminary plan in the interim is unhelpful because it is so outdated it considers two potential site locations. As such, it provides limited utility as a starting point for the NWMO to provide information about its transportation plan.

It is important to understand that while Highway 11 is a lifeline for many of our member First Nations, it also sees frequent severe and fatal accidents involving commercial trucks and transports year-round.<sup>16</sup> Highway 17 and Highway 11 in northern Ontario are among the most dangerous winter roads in Canada and the risks associated with them are a major, ongoing concern for NAN member Nations.<sup>17</sup> The risk of severe accidents along these routes continues to grow. Given that it takes substantially longer to respond to accidents and emergencies in this area due to its remoteness, the implications of this reality are significant. The collaboration of Indigenous communities in these remote areas to respond to crises would be an important planning aspect of this Project, both for the safety of the impacted Indigenous Nations and those involved in the nuclear industry. Excluding consideration of these impacts is unreasonable and unsafe.

(c) *No Clear Understanding of Transportation Plan*

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<sup>15</sup> *Impact Assessment Act*, SC 2019, c 28, s 1, s 2.

<sup>16</sup> For example, see the Ontario NDP Party, "Northern Highway Safety Plan" online: <[https://www.ontariondp.ca/sites/default/files/northern\\_highway\\_safety\\_plan.pdf](https://www.ontariondp.ca/sites/default/files/northern_highway_safety_plan.pdf)>.

<sup>17</sup> See for example Kelly Soderlund, "Canada's most dangerous winter roads", December 2, 2025, online: <<https://www.samsara.com/ca/blog/most-dangerous-winter-roads>>; Kenora Miner and News, "Chiefs of Ontario call for safer highways following local fatalities", February 26, 2026 online: <[https://www.kenoraminerandnews.com/news/local-news/chiefs-of-ontario-call-for-safer-highways-following-local-fatalities/article\\_c817667f-37f6-47cb-bcb8-5b6b816e8279.html](https://www.kenoraminerandnews.com/news/local-news/chiefs-of-ontario-call-for-safer-highways-following-local-fatalities/article_c817667f-37f6-47cb-bcb8-5b6b816e8279.html)>.

The Proponent does not anticipate transportation to begin until the 2040s and it is in the early stages of planning.<sup>18</sup> This means that the Proponent does not have a clear understanding of its transportation plan and potential impacts yet as it claims the terrain may look different at that point. In these circumstances, it is not credible to suggest that route selection cannot be meaningfully described because the terrain may look different at that time. It is unlikely that a substantial new highway build-out or an entirely new or unknowable transportation system will emerge over the next 15 years. It is critical that the IPD, Summary of Issues, and Impact Statement assess these adverse effects, otherwise the assessment process is wholly inadequate.

Although the specifics of transportation *operations* remain partially classified for national security reasons, the various transportation routes themselves are well understood. Several of these inevitable rail and road routes pass through or adjacent to our member First Nations' Reserve, Treaty, and traditional territories within which our member First Nations live and exercise constitutionally protected Aboriginal and Treaty rights. The need to keep transportation operations partially classified for national security reasons indicates the risks and dangers of transporting spent fuel.

As currently framed, this impact assessment process will not allow for consideration of fundamental mitigation measures. For example, for this Project to be acceptable to Indigenous Nations and the public alike, it may be necessary to twin highways, such as Highway 11, to ensure greater safety. This may be a fundamental aspect that allows for Indigenous Nations to provide their free, prior, and informed consent. Consideration of and planning for such mitigation measures is significant and cannot wait until the operations phase of this Project.

Without including transportation routes in the Project description, and requiring its meaningful assessment, it will be impossible to understand:

- the likely serious, potentially irreversible adverse impacts on Indigenous Peoples living in northern Ontario and their s. 35 rights;
- the effects of malfunctions or accidents that may occur in respect of the Project's transportation operations;
- the context of highway safety in northern Ontario; and
- potential mitigation measures for the adverse effects of the Project.

Each of these are required considerations under the IAA and must be included in the TISG and IEPP.

### **III. IAAC Has Improperly Allowed NWMO to Perpetuate a Narrow and Conservative View of Project Risks**

As currently drafted, the TISG and IEPP allow NWMO to continue a narrow and conservative view of Project risks particularly in relation to waste retrievability, watersheds, and the risks of accidents and malfunctions. IAAC's acceptance of the characterization of the Project as described is unreasonable, unsound, and unacceptable. This proposed Project poses some of the greatest radiological, environmental, human health, and occupational safety risks, and should receive much more serious consideration and critical scrutiny in the impact assessment process. We highlight the significant gaps and flaws below.

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<sup>18</sup> TISG at 66.

*(a) Waste Retrievability*

The TISG does not adequately respond to comments regarding concerns about whether used fuel containers could be retrieved in the event of a critical component failure. Nor is IAAC requiring NWMO to submit a plan for retrieving waste in the event of an issue. This is not an issue that can be put off until some future date. It must be addressed at the impact assessment stage in order to understand the effects of potential accidents and malfunctions and meet the IAA requirements under s. 22.

There is a high degree of uncertainty regarding the proposed Project and its potential for accidents and malfunctions over the course of hundreds of thousands of years. It is also a permanent impact Project by definition: as such, there are significant concerns about the long and very long-term life cycle of the Project including security risks, accidents, seismic activity from evolving geological fault lines, natural events or disasters, structural and geological changes, long-term communication with future generations, and future population interference. Given the limited existing case studies, confirmation of long-term facility performance, the novel project design, and the astonishingly long timeline for this Project, the IAAC must apply the precautionary principle and ensure that a concrete plan for waste retrieval is meaningfully incorporated into the final TISG on the Project.

*(b) Alternative Means*

As NAN has previously set out (in our comments on the IPD), above ground rolling stewardship is the responsible and preferred alternative for this Project. Our long-standing position is that nuclear waste should be stored as near to its place of origin as possible, subject to the free, prior, and informed consent of the host Indigenous Nations, and that the storage of nuclear waste be maintained above ground such that it is possible to monitor and control the hazardous waste over a long period of time. We strongly disagree with the Proponent's assertion that burying nuclear waste benefits future generations and relieves them of this burden. To the contrary, burying and abandoning the issue deep underground to sit within and poison our lands for hundreds of thousands of years is a betrayal to our descendants and contrary to our governance and stewardship rights and obligations. This perspective was clearly captured in NWMO's Indigenous Engagement Report regarding the storage and disposal of radioactive waste. Specifically, NWMO reported that:

the majority of participants felt [rolling stewardship] was a better option because it reflects the care-taking approach, because they anticipated the potential for the waste to be reused in the future, and because the presence of Rolling Stewardship facilities would serve as a reminder for future generations to reduce waste... Rolling stewardship was perceived as more realistic in that it is not pretending that the waste will "go away." Participants expressed that the reality is the waste is on Mother Earth whether it is buried deep down or not, so it could be more of a reminder of the consequences of our choices as society and encouragement to reduce waste to not have to continue to deal with these problems at all.<sup>19</sup>

The TISG fails to require a meaningful alternative means assessment, contrary to s. 22 of the IAA. As such, the impact assessment process fundamentally excludes Indigenous Knowledge and perspectives from consideration. This is in part because the IPD does not include enough detail about alternative means and options, including the above-ground option mentioned above. It is also because certain Project components are entirely scoped

<sup>19</sup> Indigenous Engagement Report at p.13.

out of the IPD and as such, currently are not subject to an alternative means assessment.

The exclusion of meaningful alternative means assessments has broad-reaching implications, as well as very specific implications. For example, the IPD does not include sufficient information about the potential adverse effects of several of the proposed phases and facilities including the used fuel packaging plant proposed on-site. While IAAC has included “facility design (e.g., vertical shafts, used fuel processing plant)” in its alternative means section of the TISG, there is no requirement that specific alternative means for the used fuel processing plant be considered as this is folded into a larger bucket for “facility design”. Further, IAAC has included the assessment of “key project elements”, including “route or corridor and means options for transportation” and “facility design” in its alternative means analysis in the TISG. Again, however, given the extremely narrow scope of Project components including transportation, and the Project description in the IPD, it is clear that such assessments cannot be meaningful or responsive to comments from Indigenous Nations and others.

(c) Watersheds

As we have previously set out in our comments on the IPD, water and watercourses across our member Nations’ territories are central to our identity, livelihood, and wellbeing. Our people have used our waterways as travel routes and access corridors for travel across our territories, allowing access to seasonal camps and key harvesting areas. Harvesting and consumption of fish from these waterbodies has sustained our way of life and our year-round diet. Fishing is fundamental to our lives and culture, providing culturally valuable, nutritious food and a process for cultural transmission to younger generations. Sharing food with our communities and teaching harvesting knowledge and skills is a key aspect of our culture and way of life.

The TISG does not require sufficient assessment of potential impacts on watersheds and water systems and instead accepts a poorly characterized scope of such potential impacts. Again, the Proponent has taken an arbitrary and artificially narrow approach to defining affected watersheds. This has the follow-on effect of artificially narrowing the list of potentially impacted Indigenous Nations and will fail to meaningfully assess the impacts of the Project on rights as is required under the IAA and the Crown’s constitutional duty to consult and accommodate.

In general, people understand less about underground water movement over such an immense expanse of time than NWMO is willing to admit. Natural systems change over time, and human activity, including the drilling and excavation required for the Project, will alter and compromise the region’s geological formations in ways we cannot fully anticipate. The Long Lac, Ogoki, and Lake St. Joseph diversions on the Albany River demonstrate how human intervention has reshaped ecological systems in this region. Diverting water from the Hudson Bay watershed into the Lake Superior and Lake Winnipeg basins has fundamentally altered natural patterns that have existed for millennia.

Any storage of nuclear waste must be isolated completely from the hydrological function of the adjacent watersheds to avoid risks including groundwater seepage and contamination. The cumulative effects from regional seismic activity and evolving geological fault lines, fracking operations, and mining operations may further complicate predictions about long-term stability and containment. We expect that these operations will increase given the current mandates and fast-tracking industrial development plans of the Crown governments.

The Project's water-based activities further demonstrate the Project's potential to impact water systems beyond the Proponent's narrow characterization. The Project will require temporary and permanent sump and dewatering systems that will directly interact with and potentially alter groundwater flow patterns,<sup>20</sup> yet NWMO provides no explanation for how these systems will be maintained and monitored indefinitely. Pumps fail, infrastructure degrades, and institutional capacity wanes. The Proponent cannot credibly assert (nor can IAAC rely on the claim) that monitoring and maintenance will continue for the Project's entire lifespan when the systems required to prevent contamination will inevitably fail without ongoing active intervention. These activities, combined with the construction and long-term presence of the repository itself, introduce additional pathways for contamination that cannot be neatly contained within the Proponent's defined watershed boundaries, particularly once the infrastructure meant to manage water ceases to function.

This westernized approach to assessing the risk and impacts of this Project does not align with our way of knowing. Given this Project could impact our lands and our rights forever, the current characterization of impacts and the way they are assessed is made without a full understanding of the long-term environmental changes and evolution of interconnected water systems.

The Proponent appears to be using watershed boundaries as a tool to exclude potentially affected Indigenous Nations from the assessment process, rather than acknowledging the realistic risks of contamination spreading beyond these arbitrary lines. Our member First Nations are particularly affected and vulnerable given our reliance on these water systems for drinking water, fishing, and ceremonial purposes. Moreover, the transportation of used nuclear fuel will traverse multiple watersheds over the 50-year shipping period. In the event of a transportation disaster or eventual repository leakage, contamination could impact water systems across a vast geographic area. All potentially affected watersheds must be properly considered in this assessment, not artificially confined to serve the Proponent's narrow project description.

We urge IAAC to uphold the mandate articulated in s.6(2) of the *Impact Assessment Act* which notes that federal authorities must exercise their powers in a manner that respects the s. 35 rights of Indigenous Peoples and applies the precautionary principle. The precautionary principle provides that where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation. The application of the precautionary principle is particularly important in this situation.

Our NAN member Nations have suffered from and have watched our Indigenous brothers and sisters suffer from, the failure to apply the precautionary principle. The threats of serious or irreversible damage posed by this Project parallel the environmental racism experienced by Indigenous Nations such as Grassy Narrows First Nation that has had to deal with severe and irreversible mercury poisoning to this day. Failing to acknowledge that watershed boundaries are not static and unexpected changes will occur in the coming hundreds and thousands of years is unacceptable. To do so results in the exclusion of potentially impacted Indigenous groups, which will interfere with the Crown's ability to fulfill its constitutional obligations.

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<sup>20</sup> IPD at s. 9.5.2.

#### **IV. Need for Robust Oversight of Nuclear Industry**

Fundamentally, concerns regarding how the Project is being assessed can be tied to the regulatory structure of the nuclear industry in Canada. The Proponent is awarded far too much leniency in setting federal policy at large, and the terms of this impact assessment process in particular. Nuclear regulation should not fall under the responsibility of NRCAN, which is a pro-development and pro-industry ministry. The potential for significant and irreversible harms to the environment justifies oversight by Environment and Climate Change Canada ("ECCC"). Further, the nuclear industry should be accountable to the federal parliament given the significant public subsidies for the nuclear industry which is currently exempt from parliamentary oversight. The Proponent is treated as though it is a department of the federal government rather than a private corporation established by nuclear energy producers. However, because it is a private corporation, it has no accountability for its actions to taxpayers or ratepayers.

This perspective is not new. In 1998, the Seaborn Panel recommended the need to have an arm's-length structure not controlled by the nuclear industry in place to address the problem of radioactive waste in accordance with the public interest.<sup>21</sup> This has not occurred. Recently, a group of 73 organizations wrote to the Prime Minister and the Ministers of ECCC and NRCAN to urge proper oversight of the NWMO's proposed Project which has been lacking since the early 2000's. This issue pervades all aspects of this Project planning and assessment.

#### **CONCLUSION**

It is clear to us that the Crown intends to rely on this impact assessment process to fulfill its duty with respect to consultation and accommodation, and the right of free, prior, and informed consent. Given the significant gaps and arbitrarily narrow scoping of the Project, NWMO must be required to withdraw and resubmit a properly scoped IPD. Thereafter, the other Planning Documents, including the Summary of Issues, the TISG, and the IEPP, must be redrafted and re-released for public consultation. A revised determination of potentially impacted Indigenous Nations and communities must flow from this exercise.

Impacted NAN member Nations must be fully included in the impact assessment process. Without a properly scoped impact assessment, their voices and concerns will not be properly heard or considered and the Crown will be unable to fulfill its constitutional and statutory obligations.

Sincerely,

<Original signed by>

Grand Chief Alvin Fiddler  
Nishnawbe Aski Nation

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<sup>21</sup> Minister of Public Works and Government Services Canada, *Panel Report*, 1998 at s.6.1.2 online: [https://iaac-aeic.gc.ca/archives/evaluations/431C8844-1/default\\_lang=En\\_n=0B83BD43-1\\_printfullpage=true.html#ws7F0BC74C](https://iaac-aeic.gc.ca/archives/evaluations/431C8844-1/default_lang=En_n=0B83BD43-1_printfullpage=true.html#ws7F0BC74C)