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**PRIVATE & CONFIDENTIAL**

May 15, 2026

**TO: The Impact Assessment Agency of Canada**  
22<sup>nd</sup> Floor, Place Bell  
160 Elgin Street,  
Ottawa, ON  
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**Re: Public Comment on TISGs and EIPP**  
**Reference No. : 88774**

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The Ojibway Nation of Saugeen (ONS) have reviewed the draft Tailored Impact Statement Guidelines (TISGs) and the corresponding Indigenous Engagement and Partnership Plan (IEPP) in response to the call for feedback by the Impact Assessment Agency of Canada (IAAC). The ONS offers the following in response:

### **Historical Background**

The Ojibway Nation of Saugeen (ONS) was recognized in 1985 as an “Indian Band” under the *Indian Act*, R.S.C., 1985, c. I-5 as an Indigenous Governing Body. Prior to that date, its members were dispersed; some were pushed out of the Ignace area in the early twentieth century and settled near Savant Lake or transferred to other First Nations in the area including Lac Seul First Nation.

Despite ONS members having lived in various locations throughout the region, in 1997, the federal government set apart lands near Kashawagama Lake as a reserve for the ONS at the request of the Former Chief of the ONS, Edward Machimity.

Edward Machimity was registered as a member of the Ignace Band.

The Ignace Band, being the historic rights-bearing group of the contemporary ONS, traditionally occupied the territory from the Agimak Narrows, located just south of Ignace, Ontario, continuing 70 kilometres northwest along Highway 17 towards Dinorwic Lake, 75 kilometers north to the shores of Lac Seul, 140 kilometres northeast to Minchin Lake, 60 kilometres southeast to Wabakimi Lake, then continuing 210 kilometres southwest through Allanwater Bridge and Tannin, Ontario. The ONS's traditional territory and totals approximately 17,210 square kilometres of boreal forest and interconnected waterways which form part of the English River System. Not only is the DGR site within the traditional territory of the Ignace Band, but so too is the 50 kilometre stretch of Highway 17 between Ignace and the proposed site which will be used to transport approximately 5.9 million used nuclear fuel bundles over a period of up to 50 years.

In recognition of this fact, the ONS was first engaged by the Nuclear Waste Management Organization's (NWMO) on April 27, 2016, and signed a Learn More Agreement on September 12, 2018, which has since expired. The ONS has never provided its free, prior, and informed consent to this project nor is it considered one of the "Indigenous Nations and communities" with which the NWMO is required to engage.

### **Expected Adverse Impact of NWMO's Conduct on Aboriginal Rights**

#### ***Exploratory Activities***

Currently the NWMO has plans to undertake numerous exploratory activities in an effort to gather more real-world data and to observe how different elements are likely to interact during the Project's lifespan. However, these exploratory activities are framed individually as "temporary" and "low impact" and are severed from consideration as part of the Project itself. Regardless of whether the investigative activity itself is temporary in nature, the anticipated impacts of those activities *are not* temporary; as a result, the ONS requests that the NWMO undertake cumulative effects mapping to consider the combined effect of all proposed activities on local wildlife populations (i.e. the combined effect of the shallow groundwater well drilling, the borehole drilling, the seismic surveying, and any other investigative activities). By framing each investigative activity separately, the NWMO and the TISGs fail to properly account for prolonged disturbances and significantly understates the potential impacts of the completed and proposed activities.

For example, the proposed Seismic Surveying activities scheduled for November of this year has not been included in any cumulative effects mapping because it is considered “temporary” and “low impact” in nature. However, the decision to conduct seismic surveying during November, i.e. the fall harvest season, is fundamentally incompatible with the exercise of vital Aboriginal rights to hunt, trap and harvest. In recognition of this fact, the NWMO has stated that the seismic surveying in November is expected to result in “temporary reductions to in harvesting success” i.e. the NWMO is aware that the induced seismic activity is expected to negatively impact the harvest of wildlife during the fall hunting season, yet failed to include any data, information, or explanation for the decision to select November for the seismic surveying, despite anticipated impacts on moose and exclusion of white-tailed deer, partridge, and small fur-bearing animals such as beaver, muskrat, otter, mink, and marten. The ONS has proposed to the NWMO that the seismic surveying be conducted in the late winter months of February or March to both reduce the impact on moose, white-tailed deer, partridge, and small fur-bearing animals and to allow ONS members to meaningfully exercise their Aboriginal right to hunt and trap during the late fall season.

### *The Packaging and Storage of Nuclear Waste - Risk to Waterways*

If approved, the Project will also involve the transportation of 5.9 million bundles of used nuclear fuel on a daily basis for 50 years currently scheduled to begin in 2042.<sup>1</sup> While the ONS recognizes that the transportation routes must remain partially classified for natural security purposes, all of the potential rail and road routes would pass through the ONS’s Traditional Territory. As drafted, the TISGs fails to require the NWMO to produce a rigorous, justified, and publicly available analysis of radiation risks associated with activities that are necessary and incidental to the Project such as the handling, packaging, interim storage, transportation, and long-term storage of the radioactive waste. In part, this is due to the fact that there are currently no successful examples of operable DGRs for nuclear waste anywhere in the world.

If the Project is approved, the nuclear waste stored in the DGR must be isolated from the biosphere for up to a million years in order to protect residents and the natural environment. The Ignace Site is positioned within the Revell Batholith, a rock formation located at the head of two very significant watersheds: the English River Watershed and

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<sup>1</sup> Impact Assessment Agency of Canada, Initial Project Description [IPD] at p. 73

the Winnipeg River Watershed; both of which are in the Hudson Bay drainage basin.<sup>2</sup> The DGR is expected to be penetrated by deep groundwater, which can and does meet with surface water in both watersheds.<sup>3</sup> Nuclear waste consists of over 200 radioactive chemical compounds known as radionuclides, some of which are water soluble. When such compounds come into contact with deep groundwater, radioactive waste will inevitably flow through to surface water and eventually filter throughout the entire watershed and onwards to Hudson Bay. Hypothetically, the flow of water through the waste and back to the surface should be slow enough for the radioactivity of the waste to decrease significantly before coming into contact with the living environment, however, events such as earthquakes or glaciation have the potential to expose the waste to deep groundwater prematurely, increasing the risk for surface contamination. Both the ONS's Reserve lands and Traditional Territory are located within the English River Watershed<sup>4</sup> and thus would be directly impacted should the surface become contaminated.

In addition to the actual storage of the nuclear waste, the Ignace Site will also operate its own "used fuel packaging plant" which will generate its own radioactive waste as a byproduct of the processing required to unload the fuel waste, extract it from the transportation containers, and process it for storage in the DGR.<sup>5</sup> The water used for cooling throughout this process will necessarily become contaminated with radionuclides. Currently, the NWMO estimates that 9,000 cubic metres of liquid radioactive waste will be produced each year of operation,<sup>6</sup> which is expected to continue for at least 50 years. While this liquid waste is "normally expected to have radioactivity concentrations well below limits that are acceptable for release to an off-site water body [i.e. a natural body of fresh water such as a nearby stream, lake, or river]" and in the "remote event that the monitoring of pond discharge water finds radioactivity levels to be above acceptable limits, the pond water would be routed to an active liquid waste treatment building"<sup>7</sup> i.e. the waste water will only be re-routed to treatment *after* the

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<sup>2</sup> *Watersheds of the Northern Ontario First Nations*, Nishnawbe Aski Nation, online:

<https://www.nan.ca/resources/watersheds-of-the-northern-ontario-first-nations/>

<sup>3</sup> *Rock Solid? A scientific review of geological disposal of high-level radioactive Waste*, 2010 – GeneWatch UK Consultancy Report by Helen Wallace online:

[https://wethenuclearfreenorth.files.wordpress.com/2021/03/rock-solid\\_a-scientific-review.pdf](https://wethenuclearfreenorth.files.wordpress.com/2021/03/rock-solid_a-scientific-review.pdf)

<sup>4</sup> Nishnawbe Aski Nation, *supra* note 2.

<sup>5</sup> *Surface Facilities*, Nuclear Waste Management Organization, online: <https://www.nwmo.ca/canadas-plan/surface-facilities>

<sup>6</sup> *Deep Geological Repository Conceptual Design Report*, May 2016 by J. Noronha online: <https://iaac-aeic.gc.ca/050/documents/p17520/117060E.pdf> at p. 19

<sup>7</sup> *Ibid*

surface-level ponds are found to have been contaminated with above-acceptable levels of radioactivity. This strategy has a significant potential to contaminate nearby water bodies with radioactive waste *before* the monitoring process flags the need for active treatment. As a result, the NWMO should be encouraged to adopt a more proactive approach to management of the liquid waste to mitigate the potential for adverse impacts on the ONS's exercise of Aboriginal rights in its Traditional Territory.

Given the extent and severity of the potential adverse impacts of the Project on the ONS's Aboriginal rights and title, the Minister and Governor in Council must be able to consider these effects when determining whether the Project's effects are justified in the public interest under section 60(1)(b) and 61(1)(b) of the IAA respectively. In order to be able to do so properly, the TISGs must be revised to require the NWMO to include in its Impact Statement an assessment of "the impact that the effects of the Project are likely to have on Indigenous groups [including the ONS] and any adverse impact that those effects may have on the rights of those Indigenous groups [including the ONS]." <sup>8</sup>

### **Corresponding Revisions to IEPP and TISG Required**

#### ***1. Expand the Definition of Indigenous Nations and Communities***

In consideration of the lengthy history of the Ignace Band provided above, the ONS falls on the high end of the spectrum requiring at least meaningful consultation and accommodation and potentially its free, prior, and informed consent before the NWMO proceeds with the DGR Project.

As written, the TISGs and IEPP narrowly defines the "Indigenous Nations and Communities" with which the NWMO is required to engage, to only six communities including Eagle Lake First Nation, Lac Des Mille Lacs First Nation, Lac Seul First Nation, Seine River First Nation, and Wabigoon Lake Ojibway Nation. Such a definition is intentionally misleading as the defined term "Indigenous Nations and Communities" does not accurately reflect the limitation that the defined term includes only the six identified Indigenous Nations and Communities. This definition clearly violates section 22(1)(c) of the *Impact Assessment Act*, which requires that the IAAC take into consideration "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 as recognized and affirmed by section 35 of the *Constitution Act, 1982*" [emphasis added]. Neither the NWMO nor the IACC have provided a reasonable explanation as to why engagement efforts have been limited to only the six identified

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<sup>8</sup> *Impact Assessment Act*, S.C., 2019, c. 28, s.1 [IAA] s. 63(a)

Indigenous Nations and Communities despite the fact that the ONS has asserted their right to be consulted with regard to the Project since approximately 2019.

As a result, the TISG and IEPP must be amended to explicitly list the ONS as one of the identified Indigenous Nations and Communities and to extend the definition of 'Indigenous Nations and Communities' to "Nations, communities, and specifically those which hold Aboriginal rights or title which may be impacted by any stage of the Project including the proposed investigation activities as well as the packaging, handling, transporting, and storage of the used nuclear fuel including but not limited to those who have expressed at any point that they may be impacted by the Project and/or whose traditional territory or Treaty lands intersect, abut, or overlap with the locations of the interim storage facilities, the proposed Project Site, and the proposed transportation routes."

## ***2. Limit the Discretion Afforded to the NWMO***

Given the ongoing litigation surrounding the NWMO's misrepresentation of previous engagement activities, the ONS is concerned by the level of discretion being afforded to the NWMO. In an attempt to fulfil the recommendation that a nuclear fuel waste and management project be subject to oversight by an arm's length, non-governmental and non-industry body as stated in the Panel Report submitted to the Minister of Public Works and Government Services Canada in 1998 by the Environmental Assessments Panel tasked with reviewing the nuclear fuel waste management and disposal concept originally proposed by Atomic Energy of Canada Limited, the NWMO was created in 2002 under the *Nuclear Fuel Waste Act* as a not-for-profit organization which is directly responsible for designing and implementing Canada's DGR Project. However, the NWMO fails to fulfil its duty of neutrality by possessing a mandate-driven interest in ensuring the successful implementation of a DGR for Canada's used nuclear fuel waste; the NWMO's institutional survival is wholly dependent on its ability to identify willing host-communities to allow the DGR Project to proceed. In order to do so, the NWMO has consistently and strategically omitted Indigenous opposition from the ONS and other Indigenous nations and communities and has financially incentivized Wabigoon Lake Ojibway Nation to illicit consent, which is a gross departure from the principles of free-prior and informed consent of *all* affected Indigenous nations and communities. Despite having been initially identified as one of the Indigenous communities located in close proximity to the Project site, the ONS was not engaged by the NWMO until on or about April 27, 2016, over two (2) years *after* the protocol agreement was signed between the NWMO and Wabigoon Lake Ojibway Nation (WLON). As a result, the ONS asserts that

the NWMO had already fulfilled its key objective of finding a willing host community *prior to* engaging with the ONS.

Consequently, the TISGs must be revised to limit the discretion afforded to the NWMO and to ensure that the NWMO's obligation to fulfil its mandate does not supersede the IAAC's ability to assess whether the duty to consult and accommodate *all* affected Indigenous nations has been adequately discharged. As drafted, the TISGs use permissive language rather than mandatory language (i.e. "may" and "should" instead of "must" and "shall") specifically in relation to Section 3: Description of Engagement with Indigenous Nations and Communities and Section 4: Assessment Methodology under section 4. For example:

"Where applicable, the Impact Statement *should*... include a description of how Indigenous-led studies or assessments were taken into account, with the Indigenous Nation or community's permission to have this information included in the Impact Statement... [and] include a description of any proponent plans and commitments to continue to work with, and seek the knowledge and expertise of, Indigenous Nations and communities throughout the lifecycle of the project, should the project proceed, including how the proponent will report to the CNSC on engagement efforts."<sup>9</sup>

"The proponent *should* also: define and apply criteria and relevant benchmarks with Indigenous Nations and communities, including but not limited to the description of effects on and mitigation for effects on Indigenous Peoples. Criteria may include those identified in Guidance: Assessment of Potential Impacts on the Rights of Indigenous Peoples and other relevant criteria proposed by an Indigenous Nation and community. These criteria *should* be applied to determine the extent to which adverse effects on Indigenous Peoples are significant." [emphasis added].<sup>10</sup>

"The proponent *should* work with Indigenous Nations and communities to determine which sections within the Impact Statement this assessment [of the project's likely cumulative effects in relation to the ability of Indigenous Nations and communities to exercise their rights] is best suited to be included in."<sup>11</sup>

As a result, the TISGs should be amended to *require* the NWMO to include the aforementioned information in its Impact Statement to safeguard against the potential

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<sup>9</sup> TISGs p. 12

<sup>10</sup> TISGs p. 13

<sup>11</sup> TISGs p. 13

for the NWMO to continue misrepresenting the nature of Indigenous engagement activities and to prevent the NWMO from otherwise omitting information which is not favorable to the continuation of the Project and its mandate.

For the same reasons, the ONS directly opposes the proposed amendments to the IAA and other regulatory legislation, which would shift the responsibility to conduct impact assessments for nuclear projects from the IAAC to the Canadian Nuclear Safety Commission (CNSC). Unlike the IAAC, the CNSC was primarily created to regulate nuclear energy in Canada, which necessarily involves close cooperation with nuclear proponents, and which creates a real apprehension of bias. While the proposed amendments allow *proponents* of projects already under the IAAC process to opt-in to continuing with the existing process, other involved parties including affected Indigenous nations and communities are not extended the same opportunity to choose their preferred process. Depriving Indigenous nations and communities of this decision-making authority grossly violates the principles outlined in the *United Nations Declaration on the Rights of Indigenous Peoples Act*.<sup>12</sup>

### ***3. Support Indigenous Participation in the Decision-Making Process***

The IEPP states that “the review panel and the Crown will invite Indigenous Nations and Communities to participate in the review panel and consultation process.”<sup>13</sup> Even with a definition of Indigenous Nations and Communities that is expanded to include the ONS and other excluded but affected groups, it is insufficient to simply allow for ‘participation’; Section 18 of UNDRIP, incorporated by reference in the UNDRIP Act, requires that “Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own Indigenous decision-making institutions.” On plain reading, this section of UNDRIP requires more than mere participation in the panel and consultation process – it requires that the process itself support the shared-decision making and meaningful involvement of affected Indigenous groups at all stages of the process. As a result, the IEPP must be revised to include and explicitly incorporate the principles of UNDRIP in accordance with the UNDRIP Act and to support Indigenous participation in the decision-making process including the selection of review panel members and the opportunity to recommend individuals to the roster accordingly.

### ***4. Stricter Cumulative Effects Mapping Requirements to Address Impacts on Wildlife***

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<sup>12</sup> S.C., 2021, c. 14 [UNDRIP ACT].

<sup>13</sup> IEPP, p. 3

As drafted, the TISGs lack benchmarks and assessment requirements for multi-generational rights over the 160-year project lifespan and does not define “serious” or “significant” cumulative impact on rights. The NWMO has been able to escape a cumulative effects assessment thus far by strategically severing individual project components and considering only the immediate impact of each component without overlap. For example, the NWMO framed the seismic surveying component of the project as a “temporary... investigative activity” and refrained from including any anticipated impacts to rights during the fieldwork activities into cumulative effects mapping, relying instead on individual mitigation strategies. The IPD confirms that “there are no regional studies or regional assessments for the area in proximity of the Project” despite the increasing potential for the Project itself and related exploratory activities to have an adverse impact on the Aboriginal right to hunt, harvest, and trap.

### **Concluding Remarks**

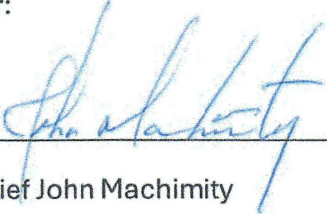
Given the short, 30-day comment period provided in which to review and respond to the lengthy TISGs and accompanying IEPP, the ONS retains the right to provide further and supplementary submissions to the IAAC regarding the TISGs, IEPP and the Project’s potential to adversely impact the ONS’s Traditional Territory and Aboriginal rights.

Thank you for your consideration.

Sincerely,

### **OJIBWAY NATION OF SAUGEEN**

Per:



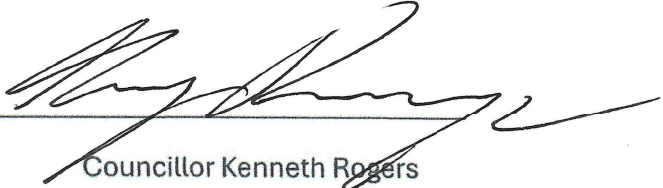
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Chief John Machimity



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Councillor Harley Machimity



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Councillor Kenneth Rogers

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Councillor Melony Necan