

DRAFT

Canadian Nuclear
Safety Commission

Public hearing

June 2nd, 2022

Best Western Pembroke Inn &
Conference Centre
1 International Drive
Pembroke, Ontario

also via videoconference

Commission Members present

Ms. Rumina Velshi
Dr. Marcel Lacroix
Ms. Indra Maharaj

Registrar:

Mr. Denis Saumure

Senior General Counsel:

Ms. Lisa Thiele

ÉBAUCHE

Commission canadienne de
sûreté nucléaire

Audience publique

Le 2 juin 2022

Best Western Pembroke Inn &
Conference Centre
1, rue International
Pembroke (Ontario)

aussi par vidéoconférence

Commissaires présents

M^{me} Rumina Velshi
D^r Marcel Lacroix
M^{me} Indra Maharaj

Greffier:

M^e Denis Saumure

Avocate-générale principale :

M^e Lisa Thiele

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Pembroke, Ontario / Pembroke (Ontario)

--- Upon resuming on Thursday, June 2, 2022

at 9:00 a.m. / L'audience reprend le jeudi

2 juin 2022 à 9 h 00

***Opening Remarks**

THE PRESIDENT: Good morning and welcome to the continuation of the public hearing of the Canadian Nuclear Safety Commission. Welcome also to those joining us remotely.

My name is Rumina Velshi, I am the President of the Canadian Nuclear Safety Commission.

I would like to begin by recognizing that participants in this hearing are located in many different parts of the country. I would like to acknowledge that we are conducting this hearing in the traditional unceded territory of the Algonquin Anishinabeg peoples.

I will pause for a few seconds in silence so that each of us can acknowledge the treaty and/or traditional territory for our respective locations. Please take this time to provide your gratitude and acknowledgement for the land.

--- Pause

THE PRESIDENT: For those who were not

here earlier this week, I will begin by introducing the Members of the Commission who are with us for this public hearing.

I will preside over the hearing, and I have with me on the Panel, to my left, Dr. Marcel Lacroix and Ms. Indra Maharaj.

To my extreme right are Ms. Lisa Thiele, Senior General Counsel to the Commission, and Mr. Denis Saumure, Commission Registrar.

I will turn the floor to Mr. Saumure for a few opening remarks.

Denis...?

M. SAUMURE : Merci, Présidente Velshi.

Bonjour, Mesdames et Messieurs. Welcome to Day 4 of CNSC's public hearing on the application by Canadian Nuclear Laboratories to amend its Chalk River Laboratories site licence to authorize the construction of a near surface disposal facility.

During today's proceeding we have simultaneous interpretation. The English version is on channel 1, et la version française est au poste 2. Please keep the pace of your speech relatively slow so that the interpreters have a chance to keep up.

L'audience est enregistrée et transcrite textuellement. Les transcriptions se font dans l'une ou

l'autre des langues officielles, compte tenu de la langue utilisée par le participant à l'audience publique.

The transcript of the hearing will be available on the CNSC website in a couple of days.

To make the transcripts as meaningful as possible, we would ask everyone to identify themselves before speaking.

I would also like to note that this hearing is being video webcast live and that the hearing is also archived on our website.

As usual, the President will be coordinating the questions. For the participants joining on Zoom, to avoid having two people talking at the same time during the question period, please use the "Raise Hand" function if you wish to provide an answer or add a comment.

As a courtesy to others in the room, please silence your cell phones and other electronic devices.

Please note that there are three emergency exits located to the left and one on the right.

We have in place for our hearing public health measures that align with federal public health and safety recommendations on COVID-19 requirements. We urge participants to practise physical distancing. Masks are

available at the entrance of the hearing room for those who prefer to wear one. Thank you for your cooperation.

For this hearing, the Commission has revised its procedural guidance, as indicated in the Revised Notice of Public Hearing including Procedural Guidance for Questions and Written Final Submissions.

Registered intervenors will have the opportunity to ask questions in two ways: as part of the oral presentation or in writing by submitting your question to the Registry.

The President will determine whether, how and the most appropriate time for questions to be addressed. Questions may be limited or excluded if they fall outside the scope of the hearing, are repetitive or have already been addressed to the Commission's satisfaction.

Intervenors who have registered for oral presentations have the opportunity to submit written final submissions following Part 2 of the public hearing. The provision of written final submissions is optional. New information may not be presented in final submissions and submissions are limited to a maximum of 5,000 words for registered intervenors and 30,000 words for CNL.

For further information on the public Commission hearing process for this proceeding, you can ask

our Tribunal Officers in the back of the room.

The break for lunch should be around 11:30 this morning.

CNL and CNSC staff will present on today's topic, Indigenous Consultation and Engagement, followed by six presentations as listed on the agenda. Thirty minutes are allocated for each presentation by the Indigenous Nations, followed by the Commission Members having the opportunity to ask questions after each presentation, for which there is no time limit.

As part of this proceeding the Commission has received a number of requests to adjourn the hearing on the basis of insufficient and/or inadequate consultation, concerns about the project's potential impacts to land, waterways, rights and ways of life, completeness of the EIS, inability to participate in a meaningful way, applicability of UNDRIP FPIC requirements.

In its decision the Commission made it clear that the decision not to adjourn constitutes no ruling with respect to the scope or fulfilment of the duty to consult and, where appropriate, accommodate.

The Commission acknowledged that granting such requests was premature and instead encouraged Indigenous Nations and communities to come to the hearing to present evidence directly to the Commission Members to

inform the Commission's consideration of these important matters. The Commission welcomes the opportunity to hear from Indigenous Nations and communities.

Madame Velshi, présidente et première dirigeante de la CCSN, présidera cette audience.

Madame Velshi...?

THE PRESIDENT: Thank you, Denis.

Today the focus of the Commission in the hearing will be on engagement with Indigenous peoples and on discussing the issues of engagement and consultation. The Commission welcomes the opportunity to hear from and get the perspectives of Indigenous Nations and communities on CNL's application to amend its Chalk River Laboratories licence to authorize the construction of a Near Surface Disposal Facility for low-level waste.

The Commission has an important role in upholding the honour of the Crown in discharging its statutory mandate and in advancing reconciliation with Canada's Indigenous peoples. The Commission's responsibilities include the duty to consult and, where appropriate, accommodate Indigenous interests where the Commission's regulatory decisions may adversely impact asserted or established Indigenous or treaty rights. We will listen to submissions about those rights, how they may be impacted and how they may be addressed.

The CNSC, as an agent of Her Majesty, has a vision to build trust and advance reconciliation by being a sensitive and respectful organization that actively listens to and learns from Indigenous peoples and groups.

We recognize the value of bringing Indigenous practices, culture and Indigenous knowledge into the Commission's processes and we are thankful to the Algonquins of Pikwàkanagàn First Nation who have offered to conduct a smudging ceremony at the beginning of this important day.

This afternoon, an Elder, accompanied by youth drummers, will conduct an opening prayer and drum ceremony.

I understand that Barb Sarazin will be offering an opening prayer and Don Bilodeau will be performing the smudging ceremony. I invite you all to stand.

Madam Sarazin, the floor is yours.

--- Smudging ceremony / Cérémonie de purification

--- Opening Prayer / Prière d'ouverture

ELDER SARAZIN: (Algonquin spoken / L'algonquin parlée) How awesome would that be if I could say it in French as well, but in English my name is Barbara Sarazin. I am a Member of Council with the Algonquins of Pikwàkanagàn. I am an Elder for Pikwàkanagàn for many

years, a young one by the way.

--- Laughter / Rires

ELDER SARAZIN: I heard that the drummers were to be here and I'm not sure if that was to take place or not, but I can ask the Creator -- oh, she gave me a different one.

Can you hear me? Oh, you can.

Good morning. I heard that the drummers were to be here this morning.

(Algonquin spoken / L'algonquin parlée) bonjour, my sisters in the background.

But I will sing for you. I am going to ask the Creator to come and join us today for this beautiful day for all those that have gathered here and how beautiful it is to see our traditions of the smudge going around.

When the smudge goes around like this we are asking for clarity, for all negativity to leave the room, it's not needed, for positivity to come forward for the Creator is here with us, and each breath that we take and each time we wake up I give thanks to the Creator for that.

Sometimes it doesn't let me go to sleep. Like many of us, we are wide awake waiting for that two o'clock in the morning, only to wake up at seven and say,

"Oh no, it's time for a shower, it's time to get to work."

But the Creator helps us do that. The Creator gives us so much knowledge. Every day we see each other, we learn something new. Every day we wake up, we stand on Mother Earth and we feel energized and ready for the world. And all of a sudden we're standing in a room listening to me. Just kidding.

But I will sing for the Creator, I will sing for you today. This is a Meegwetch song and it goes like this.

--- Meegwetch song / Chanson Meegwetch

ELDER SARAZIN: I will sing it in the language that I grew up with.

--- Meegwetch song / Chanson Meegwetch

ELDER SARAZIN: And in those words I said chi meegwetch Creator, chi meegwetch grandfather, chi meegwetch grandmother, chi meegwetch, (Algonquin spoken / L'algonquin parlée), merci.

And good morning.

--- Pause

THE PRESIDENT: A very special thank you, chi meegwetch to young Elder Sarazin and Mr. Bilodeau for starting today's hearing in such a very positive, strong, beautiful way and setting us for what I hope will be a truly engaging day where we can listen to each other, learn

from each other and I thank you for setting this right stage for us. Thank you.

We will now move to a presentation from CNL on Indigenous Consultation and Engagement, as outlined in Commission Member Document (or CMD) 22-H7.1D.

I will turn the floor to Mr. Quinn for this presentation. Please proceed.

***CMD 22-H7.1D**

Oral presentation by Canadian Nuclear Laboratories

MR. QUINN: Thank you.

Good morning, President Velshi and Members of the Commission.

For the record, my name is Pat Quinn. I am Director of Corporate Communications for CNL and I work out of the Chalk River Laboratories.

I want to thank you for the opportunity to be here today to discuss CNL's Indigenous Engagement Program.

I would like to also thank Elder Barbara Sarazin and Don Bilodeau for starting our meeting in a good way today. Thank you. Meegwetch.

Before I proceed, I would also like to take a moment to acknowledge that our operations at Chalk

River are situated on the unceded and unsurrendered traditional territories of the Algonquin Anishnaabe people. At CNL we recognize the important role that Indigenous people perform in Canada and appreciate the responsibilities that they have as stewards of the environment.

Joining our regular panel today is Ms. Patricia Stirbys, Director of Indigenous Relations for CNL, and Mr. Mitch MacKay, Manager, Environmental Remediation Management, Stakeholder Relations.

In my role at CNL I have had the unique privilege to help stand up and develop and grow this program alongside a number of dedicated employees and together with representatives from Indigenous communities.

In 2016, CNL began an Indigenous Engagement Program directly supporting the environment assessment process for the NSDF Project. The program has grown and has recently established Ms. Stirbys' role and now encompasses CNL's entire operations where CNL conducts business on behalf of AECL across Canada.

This work is guided by a commitment to developing strong relationships with First Nations, Métis and Indigenous organizations. This is cultivated through meaningful opportunities for dialogue and participation.

Our journey began by listening and

learning. Since 2016, CNL has worked to better understand the culture, needs and challenges of Indigenous First Nations and Métis. This includes the manner in which communities wish to be engaged. This is important so that we are able to tailor our engagement to a community's needs.

To date our discussions have focussed on the environment, value components and the protection of the Ottawa River. This is a commitment we all share.

Overall, the experience has been a significant journey of learning and we consider this program to be vital to the future of the NSDF Project but also to the future of the Chalk River Laboratories and our other operations.

One of the Calls to Action delivered in the Truth and Reconciliation Commission Report from 2015 calls upon corporate Canada to act and help advance the process of reconciliation. Guided by this Report and Call to Action, CNL is now developing a Reconciliation Action Plan to guide how we engage with Indigenous peoples and to ensure their perspectives are embedded in the work that we do.

This planning considers how we actively promote economic reconciliation and prosperity with Indigenous communities and businesses, how we help

communities build capacity and increase our spending on local Indigenous suppliers wherever possible, how we can ensure our staff gain a deeper appreciation and understanding about the history of Indigenous people in Canada, especially those Indigenous Nations in whose territory we operate, and how CNL encourages Indigenous participation and incorporates Indigenous knowledge into our work.

Through the development and implementation of this Action Plan, CNL is working to establish positive long-term relationships with Indigenous communities and First Nations that are based on mutual understanding and respect.

As Mr. McBrearty noted during his opening remarks, these efforts have resulted in both CNL and AECL signing Memorandums of Understanding with the Algonquins of Pikwàkanagàn First Nation, Algonquins of Ontario, and the Métis Nation of Ontario. We have also signed a Letter of Intent with Kebaowek First Nation. This establishes a commitment to work together. These agreements not only guide our dialogue on matters of mutual interest, they also represent a key step towards establishing longer-term relationship agreements.

While these discussions have largely focussed on the NSDF Project to date, our longer-term

planning focusses on broader areas of importance to each First Nation or community. Some of the topics that we have held discussions on include matters related to employment, economic development, training, capacity-building, and of course environment monitoring.

As a company, CNL acknowledges the United Nations Declaration of the Rights of Indigenous People and the clauses pertaining to free, prior and informed consent, also known as FPIC, as a framework that recognized the human rights and rights of self-determination of Indigenous people.

We are committed to meaningful engagement in the spirit of FPIC as well as the long-term provision of sustainable benefits from economic development, education and training of our staff, and management about the history of Indigenous people.

This commitment is fully aligned with the Government of Canada and we play an important role on behalf of the Crown in fulfilling this commitment, helping to advance Canada's policies and objectives.

We also directly support the CNSC's duty to consult and AECL's responsibilities related to Indigenous consultation.

For the NSDF, CNL's engagement activities have grown to encompass 19 Indigenous Nations and

organizations since the project was initiated. As part of this outreach, CNL is committed to provide funding through Contribution Agreements to support participation in the NSDF Environmental Assessment Process and help to build capacity within these communities and organizations.

Ongoing engagements have spanned the sharing of written documentation of a historical and cultural nature to deep discussions and opportunities to collaborate on areas of mutual interest.

Looking forward, CNL recognizes that the participation of Indigenous people in our work ensures that we properly consider traditional Indigenous knowledge and that is a key consideration in our future planning.

All of these engagements and activities are being carried out under a commitment to collaboration and mutual respect, and with the goal towards ongoing participation and relationship-building.

Overall, I want to assure you, President Velshi and Members of the Commission, that CNL is committed to meaningful engagement and to establishing mutually beneficial partnerships and opportunities for collaboration between CNL and the Indigenous Nations and organizations that we engage with. We are also committed to pursuing these engagements tailored to specific preferences of each individual community and organization in the future, as we

have done so far.

We believe that the inclusion of Indigenous knowledge into our project and across all our operations at CNL helps to improve the way we do our work and helps to build trust and understanding between CNL staff and Indigenous peoples on whose traditional territories we operate.

Finally, I want to remind the Commission and everyone here today that CNL's Indigenous engagement activities are also captured in a Supplemental CMD, 22-H7.1C, that was submitted to the CNSC, known as the Indigenous Engagement Report.

With that said, I would like to thank you once again for the opportunity to speak at the hearing today and that will conclude my remarks.

THE PRESIDENT: Thank you very much for that, Mr. Quinn.

I would now like to move to the presentation from CNSC staff, as outlined in CMD 22-H7.C.

Ms. Murthy, over to you, please.

***CMD 22-H7.C**

Oral presentation by CNSC staff

MS. MURTHY: Thank you.

Good morning, President Velshi and Members of the Commission.

For the record, my name is Kavita Murthy and I am the Director General of the Directorate of Nuclear Cycle and Facilities Regulation.

In the first few slides you will see some information we have already presented on previous days of this Part 2 Hearing. We have done this to help situate the context for those persons who may be joining the hearing only on specific theme days.

CNSC staff's presentation today will provide supplemental information to that which we presented at Part 1 of this hearing for Canadian Nuclear Laboratories' (or CNL) application to construct the Near Surface Disposal Facility (or NSDF).

With me today in person and remotely are many specialists who are available to answer any questions that the Commission may have.

CNL has applied for an amendment to its CRL Operating Licence to allow for the construction of a Near Surface Disposal Facility at the Chalk River Labs site.

This slide shows where we are in the Regulatory Review Process for the proposed NSDF Project and provides a brief context for today's presentation. A

detailed description of the NSDF and CNSC staff's regulatory review, including the Environment Assessment Report, can be found in CNSC staff's CMD 22-H7.

CNSC staff's conclusions and recommendations related to the proposed NSDF Project were presented to the Commission during Part 1 of this public hearing held in February 2022. We are currently in the Part 2 public hearing stage of the Regulatory Review Process, as shown by the box in bold on this slide.

CNSC staff carefully considered each of the 165 interventions submitted by intervenors. We have organized the topics identified in the interventions under the themes as set out for this hearing by the CNSC Registrar, which are shown on this slide. During the Part 1 hearings, the Commission directed CNSC staff to address concerns raised by intervenors related to inconsistency with international standards.

In addition, we were directed by the Commission during Part 1 of the hearing to address concerns raised by intervenors related to inconsistency with international standards. CNSC staff's supplemental CMD 22-H7.B provides a table that addresses this request in each of the themes. This part of the hearing deals with Indigenous Consultation and Engagement.

I will pass the presentation to Ms. Clare

Cattrysse, Director of Indigenous and Stakeholder Relations Division at the CNSC.

Over to you, Clare.

MS. CATTRYSSSE: Thank you.

Good morning, President Velshi and Members of the Commission.

For the record, my name is Clare Cattrysse and I'm the Director of the Indigenous and Stakeholder Relations Division.

The NSDF Project is located within and has the potential to impact the traditional and treaty territories and homelands of many Indigenous Nations and communities. Both the NSDF environmental assessment and licensing decisions require the Crown's duty to consult and, where appropriate, to accommodate Indigenous Nations and communities as potential or established Indigenous and/or treaty rights have the potential to be impacted by the proposed project.

CNSC staff ensured meaningful collaborative approaches to consultation and engagement supported the principles of reconciliation, including upholding the honour of the Crown and meeting the duty to consult and accommodate. At the CNSC we have a vision for building trust and advancing reconciliation by being a culturally sensitive and respectful organization that

actively listens to and learns from Indigenous Nations and communities.

CNSC staff identified the Indigenous Nations listed on this slide to be consulted and engaged with for the NSDF Project. Since 2016 and throughout the regulatory process, CNSC staff continued to make efforts to inform, consult and engage the identified Nations, communities and organizations. More details of our extensive efforts will be provided on the following slides.

Since 2016, CNSC staff strived to undertake a thorough and meaningful consultation and engagement process. As shown on this slide, CNSC staff provided many opportunities for dialogue and collaboration with all identified Nations and communities in order to understand and address their concerns and areas of focus. We offered many opportunities to meet, to engage and to actively listen and learn about issues and concerns, and to seek opportunities to understand what could be the potential impacts of the NSDF Project proposal on Indigenous and/or treaty rights.

The CNSC also offered many opportunities for participant funding. Out of a total of \$883,000 of participant funding awarded for the NSDF Project, over \$739,000 was awarded to Indigenous Nations and communities. This funding supported participation throughout the

regulatory process as well as consultation and engagement activities and the gathering of Indigenous knowledge.

The CNSC also funded and incorporated data and teachings from Indigenous knowledge studies into the Environmental Assessment Report and into the Rights Impact Assessments.

We undertook collaborative approaches to consultation with a number of Nations and communities, including the development of terms of reference for consultation with the Algonquins of Pikwàkanagàn First Nation and with the Métis Nation of Ontario. We also worked on a collaborative approach with the Algonquins of Ontario.

As part of our collaboration we sought to find innovative solutions with the Nations and communities to continually improve our processes. We appreciated the opportunity to learn from the Nations and the communities, and their input brought improvements to the process, which is in line with best practices. Examples of this include collaborative drafting of sections of the Environmental Assessment Report and drafting of Rights Impact Assessments.

CNSC found that this process allowed for meaningful two-way dialogue that ensured all perspectives, including differing views on topics, are documented and

clearly presented to the Commission.

Further, in accordance with REGDOC-3.2.2 Indigenous Engagement, CNSC staff ensured that CNL made efforts to actively engage all Nations and communities and work collaboratively to address any identified concerns related to their project proposal.

Part of the requirements of REGDOC-3.2.2 include reporting on these engagement activities, which is summarized in their final Indigenous Engagement Report that was submitted to the Commission.

Based on CNSC staff's oversight and monitoring of CNL's engagement activities, CNSC staff are satisfied that CNL has met the requirements of REGDOC-3.2.2.

Since the NSDF Part 1 hearing, CNSC staff and the Commission received feedback from Indigenous nations and communities related to CNSC staff's consultation and engagement process. We did hear appreciation from some Indigenous nations for our efforts for collaboration and engagement, and there was recognition of the importance of continuing to maintain relationships and collaboration moving forward.

Other feedback included concerns with respect to CNSC staff's approach to consultation in alignment with the United Nations Declaration on the Rights

of Indigenous Peoples. As highlighted previously, CNSC staff have worked toward achieving consensus by identifying and addressing concerns with regard to potential impacts on rights through a meaningful consultation process that is in line with best practices and is consistent with the UN Declaration of the Rights of Indigenous Peoples.

CNSC staff have provided additional detail with regard to the efforts that were made to offer and conduct a meaningful consultation process and a two-way dialogue to address concerns, to the greatest extent possible, including ongoing opportunities to access the Participant Funding Program.

In CNSC staff's Supplemental CMD 22-H7.B, you will find these details.

CNSC staff reaffirm our conclusions and recommendations expressed in the NSDF Part 1 Hearing of the Commission with regard to the Indigenous consultation in honour of the crown. CNSC staff encourage all Indigenous nations and communities who are participating in the process to bring forward any additional information or concerns with respect to the NSDF project during these proceedings.

CNSC staff would like to emphasize our sincere appreciation and gratitude for the efforts and time provided by the Indigenous nations and communities in the

consultation process for the proposed project. We continue to be committed to ongoing engagement and collaboration throughout the lifecycle of the project. We look forward to continuing to develop meaningful relationships.

This concludes CNSC staff's presentation on this theme. We are available to answer any questions that the Commission may have. Meegwetch.

THE PRESIDENT: Thank you, Ms. Murthy and Ms. Cattrysse.

We will move to the first presentation from Intervenors today, and that is by the Algonquins of Pikwàkanagàn First Nation, as outlined in CMDs 22-H7.109, 109A and 109B.

I understand we have Ms. Amanda Two-Axe Kohoko making the presentation.

Ms. Two-Axe Kohoko, over to you, please.

***CMD 22-H7.109/22-H7.109A/22-H7.109B**

Oral presentation by the

Algonquins of Pikwàkanagàn First Nation

MS. TWO-AXE KOHOKO: Good morning.

(Algonquin spoken / L'algonquin parlée)

Hi, my name is Amanda Two-Axe Kohoko and I am the Consultation Co-ordinator for the Algonquins of

Pikwàkanagàn First Nation.

Today with me we have Barb Sarazin, who is a member of Council. We have the Manager of Economic Development, Claudette Kenoyer(ph), and my colleague Don Bilodeau.

Today in regards to our presentation, I would first like to take a moment to thank our Elders, our Community Advisory Committee members and Chief and Council for all their work on this submission.

AOPFN is appreciative of the participant funding provided by CNSC to engage in the technical review and hearing stages of this proceeding and the work that has been done in partnership with CNSC staff on the Rights Impact Assessment.

I also want to flag that making such a presentation in a formal technical setting is not a good way to build relationships. It's just because it's uncomfortable for us. But we do appreciate the time, the adequate time being given to present our presentation.

In regards to our presentation, an overview is I'm going to speak about who we are, as the Algonquins of Pikwàkanagàn First Nation. I'm also going to speak in regards to Pikwàkanagàn's understanding of the NSDF project in the unceded Algonquin traditional territory. I'm also going to speak about the key

understanding issues and recommendations brought forward and close with a closing statement.

As you know, our 92-page written submission includes more detail on each of these subjects.

AOPFN has outlined ten key outstanding issues that we have flagged in our written submission.

I begin with sharing some information and some background on who we are as members of the Algonquins of Pikwàkanagàn First Nation.

Pikwàkanagàn is located 25 minutes from Pembroke where we are here today and an hour and a half west of Ottawa, the capital city of Canada. Pikwàkanagàn was established in 1873, almost over 140 years ago, and the Algonquin people have been practising their rights since time immemorial. In fact, there is evidence to prove that the Algonquin people have been in this traditional territory for over 10,000 years before the Europeans arrived in North America.

So, our members continue to practise and exercise our rights, which include the ability to hunt, trap, fish, gather and perform a lot of other activities that are important to our culture and our way of life throughout the Algonquin traditional territory, and we still continue to practise these rights.

Also to note, members of Pikwàkanagàn have

long exercised governance and stewardship activities in our traditional territory as well.

I also want to recognize the members who are also living off reserve. We have a registered population of just under 3,000 and roughly 450 members are living on reserve. There's a number of reasons why we have members living off reserve. Some have to do with some of the institutes that were put in place over the last 150 years that may have impacted those members living off reserve.

Next, this is a picture that shows the Algonquins of Pikwàkanagàn First Nation traditional territory, which we say unsurrendered and unceded, meaning that there is no treaty that is signed at this moment. We are in treaty negotiations, and we have been in treaty negotiations for over 30 years, and we don't know how long that's also going to be finalized.

So when we say unceded and unsurrendered, meaning that we did not give up our rights to this traditional territory, it also in our eyes that we consider this stolen lands.

As you can see, there is the picture of the NSDF project located alongside the Kichi-Sibi River.

In regards to AOPFN's understanding of the proposed NSDF project, we understand that it is a permanent

Near Surface Disposal Facility for solid low-level radioactive wastes which CNL proposes to locate within the Chalk River Laboratories. The physical footprint of the NSDF project site would be approximately 37 hectares of current forest area. CNL proposes to create a previously unplanned permanent hazardous waste disposal facility in the unceded Algonquin traditional territory close to the Kichi-Sibi River.

We agree that the radioactive legacy at Chalk River Laboratories needs to be cleaned up. That said, it has not been shown that the NSDF project as proposed is the right or even acceptable means to accomplish this overarching goal.

In regards to the ten key outstanding AOPFN issues with the NSDF project, for each of the issues and concerns, the First Nation has asked the proponent to revisit its assessment and engage further with the First Nation to find a proactive solution, or make the request to the Commission as well.

Our first request is that we require additional work from CNL prior to the Commission making its decision.

Number 2, take these issues into consideration when determining on behalf of Canada whether the NSDF project should be acceptable as proposed and issue

a licence.

Or 3, build conditions into the licence or the Licence Handbook or other mechanisms at the Commission's disposal that addresses these conditions, should the Commission recommend the project proceed.

As of this hearing, nine of the ten issues remain outstanding. Given the time constraints built into this proceeding by the Commission, the First Nation cannot speak to all of its 27 recommendations, but each of them are important to this process and should be carefully considered by CNSC.

In regards to the engagement with AOPFN and CNL on the NSDF EA assessment process, the following outstanding issues suggest there are gaps in the adequacy of CNL's engagement and CNL's consultation with the First Nation.

I do want to recognize that engagement has been improved over the last two years, which has been appreciated. There are still some gaps that we still need to address.

AECL and CNL did not substantively engage the First Nation prior to starting the ongoing revitalization of the Chalk River Laboratory site which the NSDF proposal is an integral part of.

CNL and AECL have indicated no willingness

or to reconsider the location of the NSDF farther away from the Kichi-Sipi River despite concerns raised by the community members.

CNL and AECL did not substantively engage AOPFN prior to making a determination of their preferred location.

CNL and AECL did not commit to respecting AOPFN's right to Free, Prior and Informed Consent in relation to the NSDF project.

AECL and CNL have not been willing to remove the imported waste stream from the NSDF project.

And, finally, CNL and AECL have not shown adequate evidence of offsetting benefits to the First Nation for the creation of this permanent hazardous waste disposal facility in the unceded traditional territory.

In regards to consultation with CNSC, the direct consultation initiated only in 2020 and has improved over time. AOPFN is concerned about the narrowness of the scoping of this assessment overall focusing on the outdated *CEAA 2012* requirements even though *IAA 2019* has a marked improvement in dealing with Indigenous issues.

AOPFN is concerned about the language in the CNSC in the Commission Members documents that suggest minimum impacts on AOPFN rights in the project case, which directly contradicts the findings and the rights impact

assessment.

CNSC staff has also accepted that no impacts findings of the Environmental Impact Statement on Traditional Land and Resource Use, Culture and Wellbeing, despite the First Nation's four studies of all findings that impacts some evaluated magnitude and long-term consequence are likely. No evidence of meaningful and complementary measures brought forward by CNSC staff.

In regard to No. 2, how close this project is being proposed to the Kichi-Sibi River and the lack of meaningful engagement with the First Nation in the project planning, the First Nation members continue to practise our rights and interests along the Kichi-Sibi River, but this has been declining over time, especially in and around the Chalk River Laboratories area.

In the Consultation, Engagement, and Accommodation Requirements for all Nuclear Sector Proposed Developments in the Algonquin Traditional Territory, Principle 9 states that water must be clean and accessible and trusted by AOPFN members. Such trust is unlikely to increase in the Kichi-Sibi River in a future with a permanent radioactive waste disposal facility close to its shores.

The NSDF would be located within 1,100 metres of the Kichi-Sibi River. Our members have

consistently raised concerns about how close this is with AECL and CNL, and about the lack of engagement of AOPFN in the consideration of the alternative locations for the permanent waste disposal. But no revisions have been made to this proposal as a result.

AOPFN have not been engaged by AECL or CNL in the site planning activities to date.

Therefore, we have put forward two recommendations to CNSC staff.

Recommendation 5 is for AECL and CNL to engage AOPFN in a planning process regarding the desired end land use state for the Chalk River Laboratories as a whole, prior to making determinations on where and how to permanently dispose of radioactive waste currently at this site.

In regards to outstanding issue No. 3, it is regarding the lack of adoption of a Willing Host model for the NSDF project and associated lack of commitment to adhere to the First Nation's Free, Prior and Informed Consent decision.

The First Nation has identified that we need to be a Willing Host for this permanent hazardous waste disposal facility. Linked to this Willing Host principle but enhanced because it is also recognized as a requirement under Canadian and international law, is the

idea that the First Nation's request for Free, Prior and Informed Consent should be sought.

CNL and AECL have not committed to adhere to AOPFN's FPIC decision.

So, our recommendation is: AOPFN recommends for CNL, AECL and the CNSC all to respect and adhere to our First Nation's Free, Prior and Informed Consent decision on the NSDF project proposal when it is being made.

The third, to continue, the First Nation holds that in the NSDF instance, the need to respect and adhere to Indigenous FPIC is heightened and it's not reduced because of these characteristics.

The first one is in regards to Canada. Canada has committed to implementing UNDRIP, which is United Nations Declaration on the Rights of Indigenous Peoples, in regards to all federal laws and practise of reconciliation with Indigenous Peoples, and Free, Prior and Informed Consent is a requirement under UNDRIP.

The proposed location is on unceded Algonquin traditional territory.

The proposed project is not required as an emergency solution.

The proposed project could be undertaken successfully and safely in other locations on and off Chalk

River Laboratories.

And the proposed project is in a special class of development -- hazardous waste disposal facilities -- that are subject to heightened FPIC requirements under Section 29(2) of UNDRIP.

In regards to issue No. 4 is the importation of radioactive wastes into AOPFN's traditional territory for disposal at the NSDF project.

AOPFN recognizes that low-level waste at CRL site needs to be permanently disposed of, though it is a yet-to-be-asked, let alone answered, question whether the proposed NSDF is the best approach.

However, CNL has also proposed to add as much as 10 percent of total waste stream from off-site sources. This would mean as much as 100,000 cubic metres of waste imported back into the unceded Algonquin of Pikwàkanagàn traditional territory for over the next 50 years.

The importation of radioactive waste from other facilities is opposed to, including the First Nation's Nuclear Sector Principles and also the Anishinabek Nation Declaration on Nuclear Waste, which calls for no import or export of nuclear waste.

The fact that Canada has already in the past imported waste to Chalk River without AOPFN's

permission is not an acceptable argument for why this should continue in the future.

The First Nation does not accept the argument that bringing more waste in will make conditions at Chalk River better at the Chalk River Laboratory site.

So, these are our recommendations in regards to our issue in relation to importation of radioactive waste. We put forward four recommendations. All radioactive waste management must be planned and subject to the approvals of the Algonquins of Pikwàkanagàn First Nation people whose unceded lands are being operated on

Our four recommendations on this slide are all tied to the fundamental need.

At a minimum, the 10 percent of off-site import waste needs to be removed from the NSDF project should the project proceed.

At a larger level, there is a critical need for CNSC to require CNL and AECL to convene with Indigenous people in a more dedicated planning forum in regards to nuclear waste.

Issue No. 5 is in regards to inadequate consideration of the Algonquin knowledge and inaccurate assessment of project effects on AOPFN's traditional land use

With funding provided by CNL and CNSC, the First Nation has conducted studies and developed reports with evidence on three different topics. The first study that was conducted was the Algonquin Pikwàkanagàn Knowledge and Land Use Study. The next study that was conducted was the Culture and Rights Study, followed by the Diet and Harvest Study.

Despite this, the EIS and the Commission Member Documents have not been updated to accurately reflect the findings from these studies.

The First Nation studies have found that the NSDF project will impact on AOPFN's traditional use by, number one, increasing the length of time into the future where portions of the CRL facility will likely be inaccessible to AOPFN to use due to the permanent access restrictions and habitat alterations.

Number two, increasing the length of time, severity and possibly even the geographic area where the First Nation's willingness to use areas off the CRL site are impacted by the permanent presence of radioactive waste in the NSDF.

The proponent does identify some commitments to reduce impacts on traditional use, but those impacts will still be there and still be measurable and adverse in nature if the project does proceed, something

that should have been recognized by both the proponent and CNSC staff filings.

Our recommendation focuses on the Commission accepting our evidence, finding that the project will have impacts on AOPFN's traditional use requiring a cumulative effects assessment on traditional use, if the project proceeds, and actually implementing conditions that protect our traditional use.

In regards to issue no. 6, it is inadequate assessment of project effects on our culture and wellbeing.

The First Nation notes that the focus in the EIS on culture is almost -- is mostly exclusively only on physical heritage resources. This is a small part of a concept of our culture from AOPFN's perspective.

The First Nation found that the Draft and Final EIS does not do an adequate job scoping, assessing and mitigating impacts on overall AOPFN's wellbeing.

For Indigenous people wellbeing is tied to the experiences and the perception of the lands, water resources and spirits in our traditional territory. These aspects of wellbeing are not being meaningfully considered in the EIS.

One of the critical gaps in relation to the assessment of effects on Indigenous wellbeing is the

absence of the consideration of psychosocial effects, which includes fear, stigma and uncertainty, and these are associated with the permanent radioactive waste disposal.

Again, our recommendation focuses on the Commission accepting our evidence and findings that the project will have impacts on the First Nation's cultural wellbeing, and we require a cumulative effects assessment on these valued components, if the project proceeds, and actually implementing conditions to protect the First Nation's culture and wellbeing.

Issue No. 7 is in regards to impacts on the First Nation's -- the Pikwàkanagàn's rights. So, as we know, our members' rights to harvesting and traditionally use governance and stewardship and culture continuity have been seriously constrained in the project area during the nuclear era, since the 1940s, but they have not been extinguished.

And the NSDF project has shown that in the joint Rights Impact Assessment conducted by the First Nation and CNSC Staff will have additional measurable adverse impacts on those already heavily-impacted rights.

The EIS explains that security fencing in the area will remain throughout the decommissioning period and into post-closure, which is expected to last at least until -- well, over the next 300 years. This means that

there will not be any harvesting rights practiced on the project footprint or in the buffer zone for many generations of the First Nation of Pikwàkanagàn members, or if ever.

It is likely that the creation of a permanent radioactive waste facility would increase already existing perceived risk from water and fish. Contamination could result in continued reduced harvesting of fish, water and vegetation from the Kichi-Sibi River by the First Nation members, which is a critical part of AOPFN's cultural landscape and considered a critical spiritual and cultural area along its entire length.

The joint AOPFN and CNSC Rights Impact Assessment found measurable adverse effects on two of the three pools of rights, likely from the NSDF project, including low to moderate severity impacts on AOPFN's harvesting and culture rights.

AOPFN was troubled to see this turnaround in the Commission Member documents by CNSC Staff and to a statement that the NSDF would cause no new impacts on AOPFN's rights. This is the opposite of the Rights Impact Assessment findings.

The CNSC Staff's statement undermines the good work that AOPFN did with the CNSC Staff in regards to the Rights Impact Assessment and is misleading to the

Commission. A statement that more accurately represents the finding of the Rights Impact Assessment would be that the project would make things worse for AOPFN's rights for a longer period of time.

The Commission is requested to consider these project-specific and cumulative effects on AOPFN's rights in its decision on whether the project should be allowed to proceed as proposed.

The next issue is in regards to the context of cumulative effects and existing conditions at and around the proposed NSDF project.

The First Nation has raised concerns that establishing previous harms done by Canada at and around Chalk River Laboratories is relevant and -- is relevant to consider of effects from the project because already-harmed values are more vulnerable to the project effects.

In particular, the First Nation has communicated that existing significant cumulative effects have increased the sensitivity and vulnerability of AOPFN's traditional use to additional change, which must be acknowledged and addressed in the development of mitigation of project effects.

The past and the cumulative effects of the present of Chalk River Laboratories in our First Nation's traditional territory has had undeniable impacts to AOPFN's

members, traditional ways of life by virtue of the size of the land use, and closing off these spaces from AOPFN's access.

The real and perceived contamination of the sites and the impacts on the environment on site and likely beyond the site through air and water, among other impact pathways. But these cumulative effects have been largely ignored in this process.

We urge that the Commission to both require for this project that -- request the federal family as a whole, additional cumulative effects assessment be conducted, and also a seriously-considered total cumulative effects in its project-specific decision making.

Issue No. 9, is in regards to the adequacy of monitoring and adaptive management mechanisms. So there are currently no dedicated Algonquin knowledge monitoring programs at and around Chalk River Laboratories. Decisions have been and are still being made behind scenes, or at least without our meaningful involvement.

So the First Nation, in many cases, has no idea how the project is being managed in ways that are technically sound and respectful in line of the First Nation's expectations and requirements.

However, CNL has made some solid commitments to improve the role of the First Nation in

monitoring and management should the project proceed. Despite this not being adequate to allay the First Nation's extensive concerns, CNL and AECL should be also recognizing that in the future no matter what occurs at the laboratories site, that the First Nation needs to play a leading role in project monitoring and management.

The First Nation is cautiously optimistic about CNL and AECL's commitments regarding project monitoring and management, and this issue has been dealt with largely --adequately by commitments made by AECL and CNL. Although, the First Nation notes the quantum of the commitment is still to be determined.

In regard to the final issue is the lack of evidence benefits to offset adverse changes in regards to the past, present and future.

So just to note that any new proposed project must also demonstrate positive benefits to the Algonquins of Pikwàkanagàn First Nation. Indeed the assessment of positive effects is one of the key requirements under the new *Federal Impact Assessment Act*.

So our recommendation for this issue is that the CNSC is recommended to require CNL to provide further concrete evidence of benefits that are likely to accrue to impacted Indigenous groups prior to the CNSC making its required decision on the NSDF project.

In regards to our First Nation's overall findings, the project as proposed does not adhere to the following AOPFN nuclear principles and requirements.

The first principle requirement is as a self-governing Indigenous Nation our right to free, prior and informed consent for a nuclear project will be respected. Algonquin knowledge will be used alongside western science in planning, monitoring, and management of nuclear facilities. No nuclear waste will be moved into or out of our territory without AOPFN's permission.

AOPFN will be meaningfully involved in all aspects of decision making related to nuclear project planning. AOPFN will be accommodated for project-specific and cumulative impacts that do occur as a result of nuclear projects.

The project, as proposed, is not ready. The AOPFN is not ready to provide its free, prior and informed consent. Further work is required to confirm with impacted parties that this is the best location for CRL waste storage.

Removing incoming waste streams from the project plan as well as show that impacts on rights are properly predicted, minimized and accommodated for.

There is no emergency requiring immediate action. Canada and its contractors should take the time it

takes to develop a project that the First Nation members can consent to.

The CNSC Staff can play a key role in this by requiring additional work be done prior to making a decision, or deeming the project is not ready to proceed as proposed.

The Algonquins of Pikwàkanagàn First Nation's concluding statement is as the priority constitution right holder, holding and other -- and most impacted First Nation located closest to the proposed NSDF project, the First Nation of Pikwàkanagàn is committed to working with CNL and AECL, as well as the CNSC, to ensure a meaningful assessment of effects is undertaken and adequate measures adopted to ensure the protection of our rights, traditional use and interest.

The worst possible outcome would be for CNSC Staff to state we hear you to the members of Pikwàkanagàn, and then refuse to act in a meaningful way. The essence of reconciliation can only be found when listening results in acting meaningful on what is being heard.

We sincerely appreciate the opportunity to present our issues, concerns and recommendations. We have taken the time to invest our energy into this process, and we hope that CNSC Staff is willing to not only seriously

consider our words, but also integrate them into its decision in a meaningful way.

Meegwetch. Thank you.

THE PRESIDENT: Chi meegwetch.

Let me start off first, on behalf of the Commission, to express our appreciation for being able to conduct these hearings in your homeland. Chi meegwetch.

I also want to thank you for your really excellent intervention, your submission, and your presentation. As you just said, it very much reflects the investment that you have made, your interest, your commitment, and your concerns with the project. It's very thoughtful in expressing your issues, and why you have those, and then in a very positive way coming up with recommendations. And so for that, I also thank you.

With that, let me open up the floor for questions, and we'll start with Ms. Maharaj please.

MEMBER MAHARAJ: Thank you, Madam Velshi, and thank you all for coming today and for allowing us to learn more from you about your concerns and how we can come together on this project.

I think my first question would be, just to make sure I'm understanding, where you've come with the relationship with CNL and with CNSC. So what I heard is that there has been some positive progress towards the

relationship and towards that understanding, but that you feel that there may be more still to be done.

Could you help me understand a little bit more about the issues that are still of concern to you that you feel could be resolved or explained better by the CNSC Staff in particular and also by CNL?

MS. TWO-AXE KOHOKO: Thank you for your question. So I'm Amanda Two-Axe Kohoko for the Algonquins of Pikwàkanagàn First Nation.

So in regards to your question about what is the current progress on the engagement with CNL, AECL and CNSC Staff -- so, yes, we did mention in our submission that direct engagement started in 2020. So that's two years ago.

As you know, this is a large project and there is a number of elements, key elements, that requires, you know, a lot more in-depth engagement. And we really did focus on, you know, getting through a lot of the engagement and the work that needs to be done in regards to the environmental impact statement.

But I think the challenge is, and I know I've said this before to AECL and CNL, is the challenge is time. Because the project is so large, there's just a lot of things that the First Nation, our community, needs to continue to be engaged on.

So, as you know, I listed in my presentation there were six gaps that were identified as very significant topics to our First Nation members and our community that we wish to be further directly engaged on.

And one being for AECL and CNL and CNSC to respect the First Nation's request for free, prior and informed consent on the project. That is one of, you know, our issues that we believe is really significant to the First Nation, as being able to have our consent, decision being honoured, respected by the proponents.

And, as you know, that takes a lot of commitment and time to have an understanding of both our perspective and their perspective.

I note that I did hear that in CNL's presentation, that they're committed to Canada standards, but also noting that Indigenous perspectives on FPIC is different. And FPIC is new so I think, you know, we're all trying to do our best to understand what that means to the Algonquins of Pikwàkanagàn First Nation.

So to summarize it, I just think there's a lot of information to continue to be engaged on.

MEMBER MAHARAJ: Thank you. One follow-up question from that.

Do you feel that you're getting enough information about the project itself to create a foundation

for that understanding or are you missing particular aspects of information that could be provided to help build the foundation of understanding so that you can create that deep understanding of the project and convey the impact to both CNL and to the CNSC?

MS. TWO-AXE KOHOKO: I'm just going to take a moment to write down your question. So I'm Amanda for Pikwàkanagàn First Nation.

So in regards to -- on behalf of Pikwàkanagàn do we feel that are we getting enough information about the project?

So I think what we believed is that the First Nation is not missing information about the project. I think the only thing that we would be missing, if there was any change being made by the proponent, that would be probably it.

But we found that the location is a problem, which parties have not been moved -- have not moved on. And in regards to that, we are opposed to the importing waste which have not been removed from the waste streams as well.

Thank you.

MEMBER MAHARAJ: I guess my final question on this area, and then I'll pass the microphone over to my colleagues, is that I appreciate that this must be a

two-way street.

And so what I understand from what you've said is that you have received information. Has the information that you've given about the impact of the project on your culture, your rights, your practices and your traditions, do you feel that has been openly received and heard?

MS. TWO-AXE KOHOKO: So I'm Amanda Two-Axe Kohoko for Pikwàkanagàn.

So in regards to the information received by the proponent in regards to the impacts that were noted in the environmental impact statement we have received their information. The challenge is that we just disagree about how the impacts were recognized in the environmental impact assessment, which -- that was one of the issues that we've also said in our presentation.

So there were some impacts that were not recognized in the environmental impact statement based on AOPFN's perspective and the reports and studies that have been conducted by Pikwàkanagàn as well, which includes the Algonquin Knowledge & Land Use Study as well as the Culture & Rights Study, and the Diet & Harvest Study.

MEMBER MAHARAJ: Thank you very much. I think I'd like to listen a little more.

THE PRESIDENT: Thank you, Ms. Maharaj.

And maybe I'll just ask some follow-up questions, and maybe I'll start with CNL first.

Engagement on this project, or direct engagement, we've heard from the intervenor didn't really start until 2020, and yet this project has been in the works for a long long time.

Can you give your perspective on why there would not have been earlier engagement as the project was being planned, as alternatives were being considered?

MR. QUINN: Pat Quinn, for the record. Thank you, President Velshi.

As I've stated before, CNL undertook its broad engagement program in 2016. This included distribution of the project description and then succession of, you know, updates and opportunities to engage. And these have been communicated to all the communities and organizations identified in our engagement list. This also included the Algonquins of Pikwàkanagàn.

It was not until 2020 that we had received the letter from the Algonquins of Pikwàkanagàn to say we would like, you know, a more direct level of engagement. And so while they had been in receipt of information, you know, it was in 2020 when we got that indication.

We were very pleased to receive the letter and we took immediate action. And I think that over the

last two years there's been a real deep concentrated level of engagement. Accomplishments have been made in, you know, regular meetings on the project, regular meetings actually on discussions related to the long-term relationship agreement, completion of studies, and we've packed a lot into those two years.

THE PRESIDENT: Thank you, and I'll back later on the state of the relationship and engagement at the moment.

But, Staff, is it the same story at your end, that direct engagement only started in 2020?

MS. MURTHY: Thank you. Kavita Murthy, for the record. So since 2016 CNSC Staff have worked to ensure that our consultation approach informed Indigenous Nations and communities of the proposed project and sought to understand their concerns and assess impacts on their Indigenous and/or treaty rights.

So I'll hand this off now to Clare Cattrysse who can give you more information.

MS. CATTRYSSSE: I'm actually going to pass this to Mr. Adam Levine because Adam and I we're working with the Algonquins of Ontario who, at that time, were working and representing the Algonquins of Pikwàkanagàn.

So Adam Levine.

MR. LEVINE: Thank you. Adam Levine, for

the record. So, yes, in 2016 when the project started we reached out to all the identified Nations and communities, including AOPFN, and also the representative organization at the time for their community, the Algonquins of Ontario.

So there was a protocol in place for consultations and engagements with the Crown or proponents that communications would go through the Algonquins of Ontario. And, we went to many meetings with the Algonquins of Ontario here in Pembroke; their offices are just down the street, and there are representatives that come to those meetings from AOPFN, they are a part of their leadership table. And we made sure that all communications went to both parties. And we always asked the question to AOPFN representatives if they would prefer to have a separate dialogue and consultation with their community. And from 2016 to about 2019 the response was, "No, we continue to go through the AOO due to capacity constraints, et cetera, from AOPFN."

Then in 2019, I had the pleasure of meeting Amanda for the first time at a conference in Ottawa, and Amanda was just hired by AOPFN to coordinate their consultation through funding through Ontario's New Relationship Fund, and we talked about what was going on in the territory, including this particular project. And I asked if she would like to have direct engagement from the

CNSC on these files, and she said, 'Absolutely.' So, we followed up and we brought a large group of CNSC Staff down to their community with Donna and Amanda and we had a whole day together learning about them, their community. They did some traditional ceremony and -- and dances, and we learned a lot together. And ever since that time we've been building a really strong relationship with them and been working on developing the consultation process, which is detailed in our submissions to the Commission.

So, we have been working to consult and engage throughout the process, but really directly with AOPFN starting in 2019 and 2020.

THE PRESENIDENT: Thank you for that. Dr. Lacroix?

MEMBER LACROIX: Thank you very much, Madame Amanda for your presentation, it was quite interesting.

On the path to reconciliation between the Crown and the Indigenous people, and with the NSDF in the background, what do you value the most: the journey or the final destination?

MS. TWO-AXE KOHOKO: I'm Amanda Two-Axe Kohoko, for the Algonquins of Pikwakanagan First Nation.

So, thank you for your question.

In regards our answer is that for us, what AOPFN values most is the final destination. Our governance

and stewardship needs to be respected.

We have to have a say in where, how and what happens in our Algonquin traditional unseated territory.

Thank you.

THE PRESIDENT: So, over to CNL, in your opening remarks, Mr. Quinn, today, you gave us a very quick state of the -- the terms of the Memoranda of Understanding or Terms of References. If you looked at the AOPFN, specifically, can you share again with us what the state of those formal arrangements are, and how well do they address the recommendations that AOPFN have made today, addressing those ten issues and the twenty-seven recommendations, or at least those recommendations pertaining directly to CNL?

MR. QUINN: So Pat Quinn, for the record.

A little bit of information about the Memorandum of Understanding that we have entered into together with AECL and the Algonquins of Pikwakanagan First Nation, the -- this is an opportunity that we have taken alongside of the environmental assessment process. While there was deep discussions going on, on the EA, we also saw the opportunity, because CNL desires to have a relationship beyond the scope of any given project. This is important to the organization and I believe equally important to AECL and the Algonquins of Pikwakanagan.

We saw an opportunity to mutually identify

areas that our relationship should focus on. And, in particular, and with the one that I think is most important at this stage is the -- you know, the role that the Algonquins of Pikwakanagon can play in our environmental monitoring activities and our presence on the land.

However, we have looked at other areas, as well and have agreed to discuss and build certain aspects around employment and training, economic development, important aspects around cultural protection and heritage, and -- and to continue the discussion on that because it is very important and -- and I agree with Ms. Two-Axe Kohoko in that it is the time that we take here, and it is a significant investment, and the -- it takes time to develop these activities.

However, with respect to reconciliation, of course we supported studies to help inform our environmental assessment but we also looked at opportunities like alongside. We're waiting for our agreements to be signed off in ink. But where we saw an opportunity to implement certain actions, we did so.

So, some of the -- the tangible items are the creation of a communication specialist based within the Algonquins of Pikwakanagan First Nations community to help develop risk communication so they can help to bridge the gap between what -- what works -- you know, what works are

undertaken at Chalk River and in particular the project, and take -- take it back to the community.

This has just started, but there's a person on staff with the OPFN now.

We also started to take a look at a really important initiative and it has to do with environmental monitoring and the Guardian Program. And, so we've undertaken through our organization to engage with representatives from the Algonquins of Pikwakanagan First Nation to help inform their program.

We are, you know, of course building the capacity to support it, but we've invited these individuals and representatives on to the site. They have done preliminary inventories and are working to build the program. The goal here is that an Algonquin of Pikwakanagan First Nation representative is in role. And alongside of it, we have chosen the NSDF project as a starting point to grow this program so that they will be alongside and be able to report back out on an environmental nature.

The benefit of this activity is that Algonquins of Pikwakanagan have a reliable and trusted source for information, but we also learn through our environmental program the aspects of the value components or items of great importance to the AOPFN and we're able to work it

into the program.

THE PRESIDENT: Thank you. What I really wanted to get a handle on are the specific twenty-seven recommendations and which of those -- or, have you systematically gone through those and said, 'Well, look, there's a recommendation around doing an assessment on cumulative effects, and what are we going to do about that recommendation?' Have you done that? Have you dispositioned those and can you share that with the Commission just so that we know which ones we need to focus on, get affirmation from the intervenors that they're onboard with that or they still have residual concerns?

MR. QUINN: Pat Quinn, for the record.

Yes, we have gone through the recommendations, of course. We have actually in fact sat down with the AOPFN and AECL and reviewed the recommendations and discussed them, as well. This is an opportunity after the submission and, you'll recall, in the submission they requested that, so that was something that we were most definitely on.

Before I go to Ms. Meggan Vickerd, though, to talk about cumulative effects, we'll use that as an example of how we are -- are addressing the -- the recommendation and the needs of the First Nation on that item. But I stress that this is -- this is an ongoing and interim

process. We are quite open to discussions. I believe that we are engaged in those meaningful discussions right now and they will continue over time.

At this time, I will turn it over to Ms.

Vickerd.

MS. VICKERD: Meggan Vickerd, for the record.

So, since direct engagement with the Pikwakanagan in 2020 we've had a number of working groups where we've had opportunities to understand their key concerns and interests, especially in the area of how their traditional rights are incorporated or what value components and how we assess those value components in our EIS.

So, with respect to cumulative effects, as Ms. Kohoko has already identified, we -- you know, although we came to different conclusions, we recognize that these are complex assessments and they require in-depth discussions and understanding and we respect that we come to different conclusions, but through that we can identify commitments to mitigate those issues and concerns as we proceed further.

If you want a specific discussion of cumulative effects, I can certainly go to Ms. Faught but we recognize that we're at a place of different conclusions and we're working through. We have provided quite a comprehensive

list of commitments in our consolidated list -- Consolidated Commitments List, plus an Indigenous Engagement Report which has been submitted as a supplemental CMD for this hearing.

THE PRESIDENT: Thank you. No, that's sufficient. And maybe on coming to different conclusions I can ask Staff, on Staff's conclusion around no new impacts on AOPFN rights, which the intervenors take exception to. And I think Ms. Two-Axe Kohoko, if I heard you correctly, I think what you had said is it could be a qualified statement that it's maybe not new impacts, but it does make things worse and for a longer period of time.

Does Staff have any reaction to that?

MS. CATTRYSSÉ: Clare Cattrysse, for the record, CNSC.

I am going to pass this to Jessica Wray who is working very closely with AOPFN on this matter with respect to looking at cumulative effects on rights and the different use.

I also did want to mention, though, with respect to the earlier question, we're the lifecycle regulator, as you know, so we are committed to working towards a long-term relationship agreement which would address a number of these matters, and we have discussed these.

We can also talk a little bit further, too, about the IK matters, the Indigenous Knowledge matters, about how we will look at it in the future, and some of the timing issues around that.

Also, as was mentioned, there are commitments and those -- we will be enforcing those commitments that are in those Commitment Tables that have been put in place with CNL and we strongly encourage CNL, also, to -- as the proponent, to address a number of those issues that are more tied to what's in their ability to address.

So, I'm going to pass this over to Jessica right now.

Thank you very much.

MS. WRAY: Jessica Wray, for the record.

So, with respect to the Algonquins of Pikwakanagan's concerns around the statement of no new impacts within the CNSC Commission numbered document, that statement was made early on in the CMD and was it a general statement about all of the effects, all of the impacts included within the environmental assessment. But you'll note later on within the Environmental Assessment Report there are conclusions within Section 9 that highlight the specific impacts and the joint conclusions we came to with the Algonquins of Pikwakanagan, and includes some of those nuances such as a low severity of impacts to rights for

some of the various impacts that we identified. And, so those nuances are characterized within the Environmental Assessment Report, and they were also highlighted within our presentation to the Commission during the Part One hearing.

THE PRESIDENT: Thank you. Ms. Maharaj.

MEMBER MAHARAJ: Thank you, Madame Velshi.

I have a follow-up question for CNL. Ms. Two-Axe Kohoko mentioned that there is a gap in the uptake or the recognition of some of the issues with respect to Indigenous Knowledge and issues where -- where there hasn't been a reflection in the EIS of some of the concerns or impacts that perhaps are some of those issues where there may be a legitimate difference of conclusion, or a difference of opinion between CNL and the AOPFN.

My question to CNL is more about communication. When there is a difference of opinion, how was that communicated with -- you know, with due respect to the AOPFN because we -- we have to recognize that people can have different opinions. But how was that input recognized in your communications, written and oral, and how was it conveyed back for further -- further conversation and further discussion with the Members of the AOPFN?

MR. QUINN: Pat Quinn, for the record.

Before I turn it over to Ms. Meggan Vickerd, I

would just like to assure the Commission that, you know when there's a difference of opinions, and we have all -- many of us from the Project's base have had opportunities to be engaged in conversations with the AOPFN and through those conversations we've been very open and transparent, and so, for instance, where we do find an item that, you know, we are -- you know, there is that gap, we work to explain the differences and work to try to build that consensus as best as possible and ultimately build an understanding on why a decision is being made a certain way if the -- if, you know, the gap persists.

But at this time, I'll turn it over to Ms. Vickerd.

MS. VICKERD: Meggan Vickerd, for the record.

So, one of the studies you've heard about is the Traditional Knowledge and Land Use Study, and that has been incorporated into our final EIS, and I use that as an example.

Within the final EIS, we certainly made sure that through our working group, so we've established a working group since 2020 where we explored concerns with the project when these -- as we (indiscernible) these studies were done. We looked at how we incorporated it in the EIS, and we ensured that the AOPFN had an opportunity to review what was incorporated in the EIS and provide

direct feedback to us.

In some instances, their exact edits were incorporated to the EIS so it reflected directly their concerns, their community's concerns, and some of them are directly written into the EIS to the extent that certainly I think a very large document could accommodate, a very technical large document could accommodate.

But AOPFN input is directly reflected into the final EIS, as well as the Indigenous Engagement Report, and we did go through a, you know, review cycle and a validation to ensure that they were satisfied with how their concerns and issues were reflected.

MEMBER MAHARAJ: Thank you, Ms. Vickerd. But what you've heard today is that it hasn't gone far enough to recognize some of those issues. And, so my question then, to you, is, what is your next step to ensuring that the identification of the issues that are still unrecognized in the view of the AOPFN are recognized?

MS. VICKERD: Meggan Vickerd, for the record.

So, in areas where we could not come to a resolution of a concern, we did develop with AOPFN commitments that would reflect that next step, and so those commitments are filed under the Consolidated Commitment List as well as the Indigenous Engagement Report, and those were developed collaboratively with the AOPFN, so it was

not just CNL offering a commitment and proceeding forward. We did work together to try to ensure that language was appropriate.

There are some aspects of concerns and issues that were not specific to the NSCF Project and were more of a corporate nature, which are reflected in some of the discussions in the Long-term Relationship Agreement.

MEMBER MAHARAJ: Thank you. Thank you for that answer.

Ms. Two-Axe Kohoko, CNL seems to be saying, and I'm happy to be corrected if I'm wrong, that they feel that they have identified or have recognized those issues that where there may have been disagreement and there has been a process for trying to collaboratively arrive at a mitigation measure, but are there -- I think what I've heard from you was that there are still items or issues or concerns that you feel haven't been acknowledged and haven't been recognized.

Is it possible, perhaps rather than speaking in generalities as CNL is currently stuck with at the moment, is there an example that you could give us so that we could understand better how this isn't coming together, or is coming together?

MS. TWO-AXE KOHOKO: Amanda Two-Axe Kohoko, for the Algonquins of Pikwakanagan First Nation.

So, in regards to what CNL is saying that the -- for example, the Algonquin Knowledge and Land Use Study in the Culture and Rights, those findings are reflected in the EIS on their perspective.

So, for based on the First Nation's perspective, I think what is important here -- I know that we -- I guess what I'm trying to say is, the cultural -- one of the findings from the study's report is, for example, cultural continuity. That is one of our findings that is in relation to impacts.

Cultural continuity is, you know, in the EIS, it's kind of saying that heritage resources is considered cultural. But the First Nations perspective in regards to cultural continuity is our relationship to the land, water, earth and the spirit connection that we also have with that, as well.

So, the other thing to note is that it is really hard to identify and explaining what those cultural continuities are to members of Pikwakanagan because a lot of the time we know that when we are practising -- we are practising our rights every day, and we don't know that we are doing that, so it is really difficult to explain that on paper.

So, I think that's an example that I could share, based on the perspective of like how do we

understand that in a written form and text that can be reflected in documents on paper.

Also, yeah, I think I'll take a minute.

--- Pause

MS TWO-AXE KOHOKO: So, I just wanted to ask you, Commissioner Maharaj, did I answer your question in some form?

MEMBER MAHARAJ: Yes, you did. And ...

MS. TWO-AXE KOHOKO: Okay.

MEMBER MAHARAJ: And I think what I'm understanding is that it is very difficult to encapsulate how you live your life and how you have a connection to the Creator, to the earth. It's very difficult to put that into point form and say to a proponent, "You need to acknowledge this," because it's your skin; it's how you are and who you are and how you live.

And I guess my question is, do you feel you have an open opportunity to teach both the CNSC and CNL, or to allow them to try to understand better? Because it's a difficult thing perhaps to compile in writing, but I understand that it's a matter of experience and it's a matter of time and it's a matter of sitting in it, sitting in that place together. So do you feel you have that opportunity in your relationships to convey that sense of the core of you?

MS. TWO-AXE KOHOKO: Amanda Two-Axe Kohoko, for Pikwàkanagàn First Nation. Thank you for your question.

So I think there is an opportunity, and I know that in the last two years, because of the COVID pandemic, we cannot do a meeting in an in-person setting, and I know that I think that's going to happen more now that the pandemic has calmed down a little bit, but because of that, we're doing virtual meetings and, you know, sometimes we have our screens off and sometimes our faces are frozen, and it's just that's why we have screens off.

But I do agree that I think there could be an opportunity to share our way of life and practices and culture with proponents. I know that will take a lot of time, and effort as well, and commitment from all parties.

The other thing I just want to note - that the community itself, we are struggling right now to keep and revitalize our own cultural programs. So when I talk about the one issue in regards to offsetting benefits, that is one of the significant priorities to our community members, is that, you know, we only have a few language speakers currently because the language is gone. Today, here, I'm speaking English because I do not know my language.

So, if there is an opportunity that we

could collaboratively and in partnership work together on how we can benefit all parties so if our community members are sharing our knowledge and traditions and ways of life and culture, I think there is also -- I think the community should also benefit in other ways by support in our community needs in regards to revitalization programs in our culture, our language, and our practices.

We know that one of the significant practices is the ability to exercise our right to harvest and fish and hunt. And again, I don't know how that can help us because we are limited to where to hunt and fish and trap and practice, but having programs that support members to continue their cultural -- which is, you know, one of the impacts that we did mention, which is culture continuity, too.

So I think there is a potential, and I think there is an opportunity, and yes, I think so. Thank you.

MEMBER MAHARAJ: Thank you very much for that information.

THE PRESIDENT: And maybe just to carry on with that line of thinking, Ms. Two-Axe Kohoko, do you get a sense -- and it's kind of hard for us to do that here, but do you get a sense from both the proponent and CNSC staff that there is good will there to actually have those

kinds of dialogues and see how, even though there's language use or nuances around impact, there is acknowledgement that there is impact of this project on the rights and practices of the AOPFN -- that there is good will there to actually have those kinds of conversations to advance those objectives that you have around cultural continuity, that I'm sure the proponent has in wanting to make sure that you are fully engaged and your perspectives are being presented and accommodated?

And I can probably speak for CNSC; as they said, clearly our vision is around reconciliation and building relationships, that we want to continue with that.

But I wanted to get your sense of confidence in, is this going to happen? While you're thinking about it, maybe, what is it -- what will it take to make it happen?

--- Pause

MS. TWO-AXE KOHOKO: Amanda Two-Axe Kohoko for Pìkwàkanagàn. So I think the question you ask is, whether or not we get a sense from CNL and CNSC staff that there is good will?

So I think, based on our perspective right now, is that what we think -- yes, so only our perspective, but what we call is that they will listen to us but they will make the decisions. And I know that in our

presentation and in regards to our issues, the main issue that Pikwàkanagàn has sought is in regards to achieving AOPFN's free, prior and informed consent. So I think if there is some progress made on achieving and honouring and respecting the First Nations' FPIC, that's an important step to reconciliation based on our First Nations perspective.

THE PRESIDENT: Thank you very much.

And maybe with that, if I can ask AECL to come and, as you make your way out, maybe I can start my line of questioning on this. AECL is an entity and agency of the Crown. So the question is posed to you in that vein, and Mr. Dermarkar, on the first day of this hearing, in your introductory remarks you did share with us how AECL sees itself advancing the Government of Canada's objectives around UNDRIP, and having heard what you have from the Intervenor around free, prior and informed consent, can you maybe repeat what you said on Monday for the benefit of the Intervenors who were not, or Members who are present here who were not here Monday, how do you reconcile what the Intervenor says is a big issue, and how can AECL as an agent of the Crown, address that?

MR. DERMARKAR: Thank you, President Velshi. For the record, my name is Fred Dermarkar, and I am the President of AECL.

In just reflecting on the discussions that have taken place this morning, certainly I can say AECL as an agent of the Crown is committed to implementing free, prior and informed consent as we understand it to be, which means that we will consult, we will consult early, and we need to get better at that, but consultation does not necessarily mean a veto. And so, consultation is part of the process.

--- Shouts and boos / des cris et huées

I would like to just reflect on a statement that was made at the very end of Ms. Amanda Two-Axe Kohoko's presentation, which really resonated with me. And she finished with, "The essence of reconciliation can only be found when listening results in acting meaningfully in alignment with what is heard." I think that this statement is profound.

And "acting meaningfully", for me, means acting in a manner where there is mutual benefit to both sides, acting in a manner that is respectful of the views that have been shared. And as the CEO of AECL, we are committed to act meaningfully in alignment with what we hear. That does not mean doing something that we do not agree with, but it does mean finding an answer that is meaningful and acceptable to both sides.

THE PRESIDENT: Thank you, Mr. Dermarkar.

MR. DERMARKAR: I'd also like Mr. Jason Cameron, the Vice President of Communications and Public Affairs at AECL, to provide an additional perspective. Thank you.

MR. CAMERON: Thank you, Mr. Dermarkar. For the record, my name is Jason Cameron, Vice President, Communications and Public Affairs with Atomic Energy of Canada Limited.

Maybe some additional comments from the perspective of AECL as the Crown Corporation of the Federal Government. We are committed to the journey of reconciliation, and I am pleased to be here with AOPFN this morning. As has been discussed since 2020, we've advanced our engagement in particular with AOPFN, and I understand in particular Ms. Two-Axe Kohoko's hesitation when she asks about trust -- trust in us and trust in all of the entities, and I really appreciated the pause that she had there.

I would like to put on the record though some specific remarks in regards to the United Nations Declaration on the Rights of Indigenous Peoples and the principles of FPIC. They're an important discussion that we had this morning, and I think that it's important to be on the record in this Commission hearing.

The Government of Canada endorsed, without

qualification, UNDRIP, and committed to its full and effective implementation in 2016, and a year ago it implemented a law, in June of last year, to subsequently adopt into a federal law. There are numerous references to FPIC throughout the United Nations Declaration on the Rights of Indigenous Peoples, including Article 29.2 that emphasized the importance of recognizing and upholding the rights of Indigenous peoples and ensuring that there is effective and meaningful participation of Indigenous peoples in decisions that affect them, their communities and territories.

As my President said, and as the President of the Canadian Nuclear Laboratories said on the day one of this hearing, and has been said throughout, we are mindful and committed to the Government's objectives related to UNDRIP and FPIC, and we believe that FPIC is about working together; listening and learning, in partnership and respect; and in working together in good faith on decisions that impact rights and interests.

Despite what some have said, as my President just echoed, FPIC does not necessarily mean having a veto or requiring unanimity in government decision-making, and this is the view of the Government of Canada's interpretation on FPIC. Nonetheless, we strive to build relationships that ultimately work towards broad

understanding and achieving consensus. Consensus may not always be possible, as my colleague, Mr. Quinn, mentioned a few minutes ago.

But that said, if I can use a turn of phrase, the absence of consensus does not impose a veto on us moving forward together. We have been committed to working with AOPFN on this over the last year, and as Mr. Quinn mentioned, the trilateral relationship that we have, with AOPFN in particular, the MOU which was signed just over a year ago, starts to work on broader issues and the building of capacity within AOPFN in order to engage us better. And one of those aspects is on the long-term relationship agreement which we're in initial stages of, which is committed to cultural protection and promotion, which was one of the issues which was just raised.

So I think with that, President Velshi and Members of the Commission, those would be the remarks that I would have in regards to UNDRIP and FPIC from the perspective of Atomic Energy of Canada Limited.

THE PRESIDENT: Thank you very much, Mr. Cameron. And maybe one last question to CNSC staff before we wrap up this part of the Intervention. What's the status of any MOU or terms of reference between the CNSC and the AOPFN?

MS. CATTRYSSE: Clare Cattrysse, for the

Record. Jessica Wray will give an update, thank you.

MS. WRAY: Jessica Wray, for the record. So with respect to any MOU we have with the Algonquins of Pikwàkanagàn First Nation, we had signed a project-specific terms of reference for the Near Surface Disposal Facility Project and two other projects, and we are also working with the Algonquins of Pikwàkanagàn First Nation on a long-term relationship, terms of reference that will cover off projects and activities within their traditional territory, including the NSDF and the Chalk River Laboratory site, as well as other projects.

THE PRESIDENT: Thank you very much.

So, Ms. Two-Axe Kohoko, I'll turn it over to you for any final comments or remarks you'd like to make, please.

--- Pause

MS. TWO-AXE KOHOKO: Amanda Two-Axe Kohoko, for the Algonquins of Pikwàkanagàn First Nation.

So thank you again for allowing Pikwàkanagàn to present its presentation in regards to the Near Surface Disposal Facility Project. I would like to thank the Commissionaries, CNSC staff, and AECL and CNL staff, and as well I would like to thank and acknowledge the members of the Algonquins of Pikwàkanagàn First Nation.

There is one more comment that I would

like to speak to, and it is in regards to the last question that was asked, regarding free, prior and informed consent. I would just like to say that, does the project support FPIC? At this time, no, it does not. And one of the reasons FPIC is known -- what it means is free, prior and informed consent, which is what does "free" mean, what does "prior" mean, what does "informed" mean, and what does "consent" mean?

So, with "consent", I know that it is stressed that, you know, what does that mean to the First Nation and what is the understanding based on the First Nation? And we don't want to say, like, "no" to this project. That's not what it's about - free, prior and informed consent. It's about the ability to be basically -- the ability to ask our community members to decide. You know, how are we going to know if the community is going to say "no" if we're not being asked in the first place in regards to our free, prior and informed consent? So I just wanted to note that, that that's what it means, is just seeking and honouring and respecting the First Nations' consent requirement.

Okay. Well, again, I just want to express appreciation for the time given, and on behalf of the Algonquins of Pikwàkanagàn First Nation, *gchi-meegwetch*, thank you.

THE PRESIDENT: *Gchi-meegwetch* for your intervention, your presentation, for getting us started today. Thank you.

We will take a break and we will resume at 11:25 a.m. Thank you.

--- Upon recessing at 11:09 a.m. /

Suspension à 11 h 09

--- Upon resuming at 11:26 a.m. /

Reprise à 11 h 26

THE PRESIDENT: If I can get you to take your seats, we are ready to resume the hearing, please.

--- Pause

THE PRESIDENT: Our next presentation is by the Kitigan Zibi Anishinabeg First Nation, as outlined in CMDs 22-H7.113 and H7.113A.

We have Elder Verna McGregor making the presentation.

Elder McGregor, over to you, please.

***CMD 22-H7.113/ 22-H7.113A**

**Oral presentation by the
Kitigan Zibi Anishinabeg First Nation**

ELDER MCGREGOR: Thank you, President Velshi and Members of the Panel. Miigwech.
(Algonquin spoken / L'algonquin parlée)

I would like to introduce my counsel too as well, Renée Pelletier.

MS. PELLETIER: Good morning.

ELDER MCGREGOR: I am very honoured to be here for us too as well. I am from Kitigan Zibi, Kitigan Zibi (Algonquin spoken / L'algonquin parlée).

So I am going to start my presentation really quickly because we have limited time.

I have been sitting with the Elders all these years, but I have also worked in the mainstream and what I found -- and I have been speaking a lot lately to a lot of the government departments because of all this interest starting -- the return of our knowledge and the seeking of our knowledge.

And again, I think we are in this time of reconciliation because there are different understandings, the native understanding and the non-native understanding. And because of the oppression that happened on contact, our

understandings and teachings were pushed aside. And it started again -- and we have to go back to 1492 where they estimated there was about 112 million. That was an estimate of Indigenous people here on Turtle Island.

Why we call it Turtle Island too as well, North America's Turtle Island, that is tied to our teachings. Our teachings are to -- it was related to our governance. Even on our territory here, which is our traditional lands, I would go with the Elders to do a ceremony at Bon Echo, which is Mazinaw Lake, and where they had the petroglyphs. Because again, that's that understanding of Turtle Island and our governance, our traditional governance.

And here when we are talking about the nuclear Chalk River, Chalk River is across the river from another sacred site, which is Oiseau Rock. And again, with the building of Chalk River, which again I will go into my presentation, we were never -- there was no consultation back then. And again, it impeded access even today, even more so as more development occurs, even the storage. It impedes even our access to our sacred sites and again too as well, there is no legislation in Canada for our sacred sites and burial mounds and that is also a human right.

So before I go into, I say for us too as well, the Algonquin Omami-wininiwag, which means the

nomads, prior to the creation of the reserves our clan system was based on the watershed. And we were here prior to the creation of Canada and the creation of Ontario and Québec.

So when I said (Algonquin spoken / L'algonquin parlée), that's what I said, is (Algonquin spoken / L'algonquin parlée). Fox is my clan on my mother's side and (Algonquin spoken / L'algonquin parlée) is my clan on my father's side, which is Thunderbird.

So we have been here since time immemorial and they are always talking about, "Oh, we have been here 10,000." For us it's time immemorial.

So I'm just going to move next.

So again, too as well, I'm here to basically bring a traditional understanding too. For us, one of the Algonquin First Nation's inherent understanding is that women are keepers of the waters, men are keepers of the fire. Why are women keepers of the water is because we bring in the next generation, that when you are about to give birth it's the breaking of the water to bring in new life, and the most sacred of all things is new life. So part of our water teachings is also too, yes, the caretaking of the water, but the understanding that the rivers and streams are like the veins of Mother Earth and

Father Sky.

And I will say too as well, the biggest diversity, in our understanding diversity starts with the male-female. Although our roles were different, it didn't mean one was superior to the other, but that was the biggest clash of understanding with this colonization.

And it is the patriarchy today which was also more male-dominated, and it was very strange for the tribes here, even in marriage for the woman to take the man's name, because it meant ownership, even ownership over the children. And also the clash in understanding is the ownership of lands even. So here we are in this time of reconciliation.

So going back to our concern is the risk of burying nuclear waste in the Algonquin unceded -- Omami-wininiwag unceded traditional lands is it jeopardizes the safety though also too of the water. And our concern is all the municipalities today, because we have been displaced and put on reserves, limiting access to our traditional lands, but it jeopardizes the safety of over a million people, in Ottawa alone 1.4 million.

But also the other understanding is the fire teachings. Men are keepers of the fire and one understandings too as well or a concern is that the burying of nuclear waste also changes the earth's internal fire,

which is the men's responsibility. The other fires, an example is the sun shining on everybody and the physical fire. So that's why we have fire keeper teachings, which includes the earth's internal fire.

Really quickly, why do we come from now -- where does this come from too as well?

We had a grandmother, who is probably one of Renée's relatives today, who -- she has since passed, grandma Mondamin(ph) -- who walked all around the Great Lakes and brought the water and went up the St. Lawrence towards the headway of the St. Lawrence.

Why I brought this picture here is also if you look at the shape of the landmass of Michigan, it is shaped like a woman holding a child or praying for the water. Then you go up, you follow the St. Lawrence and you see the woman praying for the water and it's a younger woman looking out at the headway of the oceans. And I said, the river is like the umbilical cord.

But today if you look at what has been done to the St. Lawrence River too as well, even the damming of the rivers, for us here in the Ottawa River watershed since colonization, part of that is, yes, we were the "meeters" of Champlain and when he arrived here the fish were so abundant even John Cabot, having his boat on shore, thinking he hit shore when it was the amount of

fish. Today, that's gone.

For us in the Ottawa River watershed the oral history is that we once had salmon. Today that's gone. It wiped out -- now, here is a scientific study -- 95 percent of the American eel from the damming of the rivers. So today they are trying to bring that back. Part of that was with the Chaudière, when they upgraded the Chaudière they installed a fish elevator.

So again, we have to start thinking that way in terms of what have we done to this environment. And I know you have all had the scientific studies from prior interventions earlier, so I am not going to go into that. I am here to give a traditional understanding of why women are keepers of the water and men are keepers of the fire, because we all need to become caretakers.

Interestingly enough, two nights ago, with one of the Senators, Senator Boyer had a discussion also for us on the sterilization of native women issue and I was thinking afterwards, I was thinking, oh my goodness, I was part of that too. When I was 12 they tried to sterilize me and I said so then you become infertile. My concern now today is that we are looking at all the nuclear issues and then when we do have an accident we are also making the biggest lifegiver on the earth, which is Mother Earth, infertile as well.

So that's why we are raising these issues. And I know that what you are doing today is basically like project management risk assessment, and hearing all the panellists that come forward to do presentations.

And in that contrast too as well, when you have to look at Indigenous knowledge versus scientific knowledge, you are looking at qualitative and quantitative. And quantitative when you look at scientific too as well, yes, it's always -- sometimes too it's the data, but also the data is based on data analysis and that could be also changed for interpretation. So is the qualitative, but I think what your job is today in terms of issuing a licence, and that is why you are including this Indigenous knowledge, is to assess the qualitative and quantitative research. We have been left out in this qualitative by also not having a proper process of consultation.

My concern coming back from Kitigan Zibi -- and they have issued a letter, they were only going to send a letter -- is the issue of consultation here, where basically we were left out. And again, why I say that too is going back to -- why I say that too is, well, now going back to I say that water is life, but also water is energy, which is nuclear. It includes nuclear, but other energy. Energy is power, but also power is control. Even the dams were controlled. They were built also to

control the people.

But it is First Nation people who are the inherent right holders at the end of the day. Because what is an inherent right? It's the right that was here prior to contact with Europeans. This right too, why do we say we are unceded? Because again it goes back to the right which was also affirmed through the Royal proclamation of 1763 with King George III that only development occur through treaty with the original people on the lands.

And that is why we are here today too and we are very insistent that we need to be heard, because the Ottawa River watershed still remains unceded. And again, I said earlier, permission was never sought from the original right holders.

The Algonquin First Nations today hold the inherent rights even for the construction of the Chalk River nuclear facility, because the Chalk River nuclear facility was constructed in 1944 at the height of First Nation oppression legislation under the federal statute of the *Indian Act*.

Legislation in place in 1944 also included the inability of status Indians, First Nations under the *Indian Act* to access legal representation in the imposed foreign system. We couldn't have -- I couldn't have had my lawyer here today, no.

There was also the imposition of the pass system whereby Indians, which is First Nations -- I say "Indians" because that is how we were referred to under the federal statute of the *Indian Act* -- were not allowed to leave their reserves to also observe development on their traditional lands.

Because my grandfather and my grandmother inherited land in Pembroke here, the heart of the Ottawa area, and they didn't want to leave the reserve. Why? Because they were so scared that the Indian Agent will come in and apprehend the children, let alone getting an access to the Indian Agent to leave. So let alone -- but they once would come and hunt here by Mattawa. So that's -- and that's not -- the history is not long ago.

Again too, my concern too as well is Ottawa, the nation's capital. I know you have all the studies in place in risk management, but at the end of the day also accidents have happened in the past. We have also a war going on in Europe, but now the issue of nuclear is on the table and so there is heightened security around the nuclear. Because again too as well, it has the biggest impact in terms of sterilization of the earth really.

So the population of Gatineau is 1.4 million and that's not the other municipalities. And it also connects to Montréal and Québec City, which rely on

the Ottawa River for potable water.

For us in Kitigan Zibi we had an issue with naturally occurring uranium, so everybody in our community in 1993 was put on bottled water. So I said, who is going to provide all the bottled water for the City of Ottawa and Gatineau? And there was concern with the government with -- there were only about 400 households on our reserve, so with the cost of that.

In addition to the traditional lands of the Algonquin Nation being unceded as per the Royal Proclamation of 1763, there are Supreme Court rulings to date for Canada's obligation for the duty to consult, such as -- and that even started with the *Decontie-Côté* case with Kitigan Zibi. Then there is the *Haida*, *Delgamuukw*, *Tsilhqot'in*.

But other recent events include Canada recently passed Bill C-15 to adhere to the United Nations Declaration on the Rights of Indigenous People; the release of the Truth and Reconciliation Commission Report in 2016 for reparation in the apprehension of First Nations, Inuit and Métis children and the issue of cultural genocide. Cultural genocide too as well includes our access to our sacred sites and the erosion and destruction of our sacred sites.

Canada has made a commitment to address

the drinking water. My problem is Canada has made a commitment to address the drinking water issue on reserve; yet, the issue of nuclear waste which could potentially impact the drinking water not on reserves, but major communities and cities' access to safe water. So on one hand you are trying to fix our water problem, but on the other hand it could impact the drinking water of major populations. So that is why we are having these hearings today too as well.

So why the traditional understanding of waterkeeper and firekeeper?

My other issue too as well, in speaking to -- I listen into a lot of government meetings too as well, but the Government of Canada has a commitment to the gender-based analysis framework as a result of the lack of a formal consultation process, which would include the recognized traditional Algonquin people, the traditional First Nation waterkeepers and the firekeepers, the male. This goes counter to respecting the GBA and also UNDRIP. But also under a GBA framework the issue of nuclear waste does also impact the reproductive rights of both male and female, which goes into also a UN issue, a major UN issue on women too.

And that's why I was bringing this forward too as well, because there was just consultation with

Pikwàkanagàn and then Algonquins of Ontario. It was very emotional for me to come here this morning, because the last time I was in this room was in 2013 where I came here with the grandmothers and we read a declaration that this land claim is wrong because it hasn't included the Algonquin First Nations, because the Algonquin Nation is not divided by Ontario and Québec, which is a colonial understanding, because it goes back to also the Royal Proclamation and understanding also to the process of treaty-making and the honour of the Crown. And the honour of the Crown, we never consented to be divided between Ontario and Québec, even Canada and the United States. So I am here to say too as well, where is the respect?

So in closing, I just said walking the talk on reconciliation in the United Nations Declaration on the Rights of Indigenous People means the allowance of a proper consultation process for the Algonquin Nation, whose traditional lands, unceded lands, will be impacted by nuclear waste disposal. So we need to emerge from the 1944 era of unbridled development and disrespect of First Nations for the benefit also of future generations and also creation.

So on that note, just in listening this morning too as well, in terms of also consultation, the TRC was only released in 2016 and the feasibility studies for

this Near Surface Nuclear Waste storage only started in 2016.

So again too as well, we are on a journey of reconciliation and understanding and bridging that gap of different understandings. So on that note, I say meegwetch, but I also have the letter.

Kitigan Zibi was not going to present today and they made it -- so they had sent a letter earlier to your Commission for today. I am not going to read the whole thing because of time, but their concerns included the consultation process. And again too as well, they went -- one of the concerns is they used the Tribal Council, but the communities themselves were not consulted.

And again, it's always about the shortage of time. And again, the shortage of time leads into another issue, though, they have such a short time to consult, but if you look at for example the lifespan of this burying of waste, there has been concern of that too as well because it is a corporation, but what is the lifespan of the corporation? We have seen this too even with the mining where they can also declare bankruptcy and then who is responsible for that? Who is responsible for that?

The other part is the -- some of the things they have also put is also controlling the inputs to

the landfill. The understanding is there has already been acceptance of other nuclear waste, tritium in the water. The site selection because of also too as well -- and this has been repeated in other presentations -- the proximity to the river, long-term monitoring, precautionary approach.

And their conclusion, I am just going to read their conclusion:

"In conclusion, we do not give our consent for this project in its current form. While we do understand the need to dispose of radioactive waste in a controlled environment, we consider that there are too many loose ends with this project that have not been addressed. As mentioned above, we also do not consider that we have been adequately and meaningfully consulted, and especially not accommodated on this project."

(as read)

And going back to the fish and the dams, I was talking about the Elwha Tribe in Washington where they removed the dam and the salmon returned. I said, so yes, that's reconciliation too. Reconciliation is not just with

the newcomers to our lands and all the development, reconciliation is what we humans have done to the animals. So when they removed the dams, the fish came back.

The problem with nuclear is that it is permanent. And if we are asking for time, we are asking for time. Meegwetch.

THE PRESIDENT: Meegwetch. And thank you for sharing your knowledge with us, Elder McGregor.

I will turn to Dr. Lacroix first for any questions, please.

MEMBER LACROIX: Thank you very much for this presentation. It was very interesting and you shed new light, you gave me a different perspective on things and I must acknowledge that my knowledge, Indigenous knowledge is zilch, none, nada. I have no knowledge on Indigenous knowledge and this really bothers me in a sense that we talk -- everything that I have heard thus far about the reconciliation process comes from Western culture and I would like to have your point of view.

For instance, a very simple question, with regards to the NSDF, do you think that the reconciliation process is in the right direction? Are we proceeding correctly? If not, what could we do to improve things?

ELDER MCGREGOR: Well, first of all, our understanding too as well, traditionally too, going back to

even the nuclear, there are stories that at one time -- this is oral stories too -- that at one time the uranium was exposed and so it took thousands of years to cover that, because it was where nothing grew and it was meant to stay in the ground and that we not disturb it.

But because of our ever knowing knowledge I guess growing -- and one of the teachings too as well is that the clash in understanding is that the non-native understanding, and that is enforced by also religion, and that is no disrespect, that man is at the top and everything else is beneath. And the control over nature and the control of everything for us as Anishinabeg, it's flipped and the understanding is that we were created last, but we were gifted language and reason. But because we were gifted with language and reason, we have a bigger responsibility to look after the earth and its creation. And sometimes too as well, it's like we all have the ability to abuse, but that is why we were gifted with this language and reason and knowledge, to use it also respectfully.

And on contact too as well, for us, for example in Kitigan Zibi, yes, we were referred to as the savages, the pagans, the heathens, but there was a reason why and if you understand that too as well of the responsibility, that's why we lived the way we did.

And I speak a lot to the government agencies recently too, and it is the native understanding and the non-native understanding. And it's not saying one is better than the other, but what the Elders talk about is our biggest challenge is how do we balance that. It's like the male/female understanding that we balance each other to bring in the next generation.

So here we are. So in this process of consultation it seems like they have already made the decision to move ahead on this, but sometimes too as well, where was the decision to say maybe we should move ahead in the first place. And there's other countries, like in the United States they still have an issue grappling with the nuclear waste disposal. And the building of this mound is also experimental. Yet, we still -- there is always this process to move ahead, move ahead, okay, and we are seen as an afterthought.

But again too as well, we have the -- how do you balance the scientific research, but also too as well with the Indigenous understandings too. And we are moving ahead.

And they may come up with the argument that we need the radioactive isotopes to heal, but there are now other ways to access that.

And I see that too as well, why also the

focus on nuclear, with all this push towards now -- we are in the age of climate change, but we have also destroyed 80 percent of biodiversity. We are in the age of climate change, so one of the solutions now is to switch all the vehicles to electric, but that will fuel also too as well the need for nuclear.

So again, even our process of consultation here with you at the front, it always comes into like it's almost a confrontation. It's not meant to be that way. And our process was the circle, that everybody is in the circle and although it does take more time, but also too as well it's the ability to also come up with unique solutions and sometimes that's for everyone.

So our biggest concern short term is that as Algonquin First Nations we weren't consulted properly, especially on the Québec side. So no.

MEMBER LACROIX: It's interesting.

CNL, would you like to add something to this concerning the consultation process?

MR. QUINN: Pat Quinn, for the record.

Without going back into we started in 2016, we did do, though, direct outreach to Kitigan Zibi on the notifications, et cetera, and likewise with ANTC, and it was never our intent that Kitigan Zibi would be -- or ANTC would be the proxy for those conversations. However,

our engagements that I participated in, Kitigan Zibi was present and participating.

Furthermore, I am going to go to Mr. MacKay here in a moment to talk a little bit about some of our engagement activities that we had directly with staff from Kitigan Zibi in the early stages of the environmental assessment. Those have trailed off over time, but it doesn't mean that CNL that is not desirous of having, you know, more in-depth and direct connection with the community.

At this time I will turn it over to Mr. McKay just to describe a little bit about some of the work that was completed.

MR. MacKAY: Sure. Thank you. Mitch MacKay for CNL. It is nice to see Elder McGregor and thank you for your words and it is nice to see you as well, Ms. Pelletier.

Mr. Quinn is correct. We have made efforts to reach out to Kitigan Zibi with some work that has resulted in some good discussions together, including having Kitigan Zibi First Nation early on in the project actually touring the proposed site.

As Mr. Quinn alluded to as well, between about 2018 and 2020 we didn't really hear back from Kitigan Zibi, but we continued to share information.

And then just recently, in November of 2021 we have got discussions going again and we are sharing information on the project to try to understand Kitigan Zibi's interests in the project.

We have met with Erik Higgins and Pierre-Luc Bastien and we have been told that those are the correct people to work with at this time. Before we were working with Linda Dwyer, but we understand she has left that position. So that is who we are reaching out to right now, but we would be happy to reach out to -- I know we have worked with Ms. Pelletier and Elder McGregor before and we would be happy to include you in these discussions as well, or if you want to find a new way of working together we would be happy to discover that as well.

ELDER MCGREGOR: Meegwetch. But the problem though too as well is we appreciate the outreach, but the tour of the site was not consultation. And we appreciate the sharing of information, but it is still not a proper consultation process. A proper consultation process includes not only Kitigan Zibi. As well, there are 10 Algonquin First Nations. And also, too, the issue is it's time to change. We need to bring in the traditional people, because then that comes back with the knowledge and the understanding.

And I always think about that too as well,

even with the dams, with the disappearance of the American eel, it was the Elders who were talking for 40 years, "What about the eels, what happened to the salmon?" And that is our biggest concern too. Even today when we are in an age of climate change and we have food stability from other countries too, that we might need our own local food supply, in addition to our inherent rights to in terms of to fish, to have safe fish, to have a safe food supply. So that's where this whole consultation comes in.

And even with their -- they could have also -- with the consultation process, it may expand also their concerns where there is always a fear of conflict. And if you are in a project, your project time and cost, it's always that, yes, we have to keep within the parameters of the project time and cost. So I think too as well, when you are formulating your projects, it's also -- as part of reconciliation is to include the allowance for reconciliation factors such as proper consultation, especially with the traditional people, which would involve also cost, but also time, but also may result in a better project, more innovation I think. But by pushing forward all the time, look at what we have done to the environment.

MEMBER LACROIX: In a consultation process, are you looking for an agreement or a compromise?

ELDER MCGREGOR: Well, it depends on the

project and like with nuclear that goes back with our traditional teachings and that is why the traditional people. But also too, in a consultation process, the most important are concerns to be heard, wouldn't you think?

MEMBER LACROIX: That's a good point. So it means a compromise or an agreement?

ELDER MCGREGOR: Well, I guess on nuclear it means an agreement.

MEMBER LACROIX: Thank you.

ELDER MCGREGOR: Meegwetch.

THE PRESIDENT: Elder McGregor, let me just get additional thoughts from you around the consultation process, where you have very clearly said that it has not been adequate on this particular project. What I am hearing from CNL -- and we will get to staff in a moment, but what I am hearing from CNL is, yes, there was a hiatus for a couple of years, but things have really picked up in the last year. What would you like to see specifically going forward? What would really good consultation look like for you with the Kitigan Zibi for this project?

ELDER MCGREGOR: I think it would be sitting down and agreeing on a framework. And it's not only with Kitigan Zibi, as well it's with the Algonquin Nation, which includes the 10 Algonquin communities. Yes.

Meegwetch.

THE PRESIDENT: Thank you.

So get all 10 Nations together --

ELDER MCGREGOR: Yes.

PRESIDENT VELSHI: -- and come up with a framework that is acceptable to everyone --

ELDER MCGREGOR: Yes.

PRESIDENT VELSHI: -- to get it going?

CNL, your thoughts on that?

MR. QUINN: Pat Quinn, for the record.

We actually have a track record of establishing frameworks to have meaningful engagement with First Nations and we are open to that idea. I think it is critical to have, you know, that established set of parameters to identify what is important to the parties at that table in the community so that we are able to, you know, clearly address or over time discuss and grow understanding on those items. CNL is open.

THE PRESIDENT: Thank you.

And staff, again, if you can comment on the consultation to date with the Kitigan Zibi and if the proposal is, look, we don't want to do it, you know, kind of Nation by Nation, just bring everyone together and come up with almost an umbrella framework with everyone around voicing their needs and concerns and desires, what are

staff's thoughts on that?

MS. CATTRYSSÉ: Hello. Clare Cattrysse, Director of Indigenous Stakeholder Relations Division at CNSC.

Yes, we have actually had that discussion at the staff level. Myself and Adam Levine have had a number of different meetings with different people at Kitigan Zibi over the years and we understand too, though, there have been issues with respect to there are a lot of projects and activities that have taken up their time and so that has been a bit of a challenge. We have offered -- I think a lot of the responses I was personally getting was that a lot of people didn't really understand or know what was taking place in their territory. So our initial discussions were, well, maybe we could get out into the Nations and go from Nation to Nation and we could do presentations, you can come to the community, you tell us what you want. So we did have those initial discussions and we were talking. We also did offer that there was an opportunity to put together a relationship agreement.

I am going to pass it over to Adam because I think in the last little while -- you can give an update on where we went. Thank you.

MR. LEVINE: Sure. Adam Levine, for the record.

So, just to back up in terms of where we started and where we are now.

So in 2016 we reached out to Kitigan Zibi, the Algonquin Anishinabeg Tribal Council and all the communities in the Algonquin Nation. We were open to whatever forum each community, each Nation wanted to engage with us, and at that time the preferred approach was doing coordination through the Tribal Council, ANTC.

We organized a meeting that was funded through our Participant Funding Program in Maniwaki, right next door to Kitigan Zibi, at the ANTC offices, where all the leadership from the Algonquin communities came together and we talked about the projects. Pat Quinn was there and CNL folks were there as well to talk about the NSDF and the projects, and the understanding was that was how we would go forward, is work through ANTC, ensure there is coordination with all the communities, kind of like you are hearing today, a coordinated approach.

And then in recent years we have heard more so from different communities like Kebaowek First Nation, Kitigan Zibi and others that they prefer to engage directly with us, which we are very flexible and happy to do and we are doing that and working on individual agreements and processes with each Nation or community. But if the preference again is to move back to a broader

agreement amongst all Algonquin Nations, we are very open to that as well.

We just need the clear direction, clear communications from all parties of what it is that they are wanting, but we have always been really flexible and whatever the communities wanted or the representative organizations we have done and we have tried our best on those efforts.

THE PRESIDENT: Thank you.

We will come back to you once you have heard on other things. Thank you.

Ms. Maharaj...?

MEMBER MAHARAJ: Thank you, Madam Velshi, and thank you, Elder McGregor, for being here and particularly for your teaching about the role of women as waterkeepers. I think that is very important and very relevant to this particular understanding today. So thank you for that teaching.

I would like to ask you specifically around water and the role that water plays in our lives, which is fundamental. I would like to understand if you have had an open communication or method of communication with both the proponent and the staff to not only understand what the proponent is saying the potential impacts on water will be but also to convey your point of

view, your concerns and your learning and your Indigenous knowledge about the importance of water and the importance of this watershed as a whole. Have you had that opportunity?

ELDER MCGREGOR: No, we haven't. And that is really important for us too as well as personally too. I work with the women in Ottawa, not only Indigenous women but Ottawa women. An example is the Ottawa Midwifery Association. They want ceremony, but also the teachings of the water, and we go by the Ottawa River.

Recently, as well, we have this initiative, too, with one of the islands on the Ottawa River, which is Fitzpatrick Island. That's such a special area. It's a sacred area. Again too, as well -- also, some of the studies, for example, recently with the RiverKeeper, they have the Hickorynut mussel, but one of the scientific studies -- and here's where I'm thankful for the scientific studies too -- is that they clean the water. And they are concentrated in that area. So, it's almost like a dam that cleans the water.

But it's also in close proximity to Chalk River. And what happens is we need to stop -- and one of the biggest things too, as well, I remember in the early 2000's we were having the Sacred Fire at Victoria Island by the Chaudière Islands in Ottawa, and they were closing the

meeting but one of the Councillors, Paul Dewar, who has since passed from cancer, mentioned -- he goes is there anything else that we should know about the water? And I said, well, wait a minute. I said when listening to the oral stories -- and that's the thing too, as well, with the consultation, is also the oral stories too come out. And I said the biggest understand with the newcomers coming to the lands here is how they use the waters as a dispersant. And we didn't do that. You honoured the water. But they use it as a dispersant. And that's going to come to a head.

So, part of our role and why I'm here today too, as well, I know I'm not bringing in the similar studies like you've had earlier, but our understandings were passed down orally too. And also too, as well, that respect for water.

So, going back, we need to become more aware, and just because other countries are doing it doesn't mean we have to do it. I think Canada needs to also be the example too, in terms of not only consultation now because in light of all the things that are coming forward in terms of reconciliation. But also too, as well, we're in the age of climate change and also species extinction. So, if it takes a little more time for consultation, and it might take a little more money, we're

here though, too. And our understanding is we're here for the seven generations.

Going back to that Hickorynut mussel, it records time and it also records happenings. And I said I just don't want to see any radiation recorded in the Hickorynut mussel, which is an endangered species as well. You have to get special permission to even handle it. That's how endangered it is. Yet it's under the water and we don't see it. We need to be more aware, I think, because before, in the past, when they did things to the water, such as the dams or the floating of the logs on the river, it was out of sight/out of mind.

I'm here also, I guess, to speak for the ones that can't speak for themselves, which is the fish, the birds, the animals. Our understanding too, as well, is the interconnectedness of everything.

The other interesting point I was reading the other day too, as well, I know this whole economy, the growth in GNP, GDP, the government bases its success on. But the currency was only widely accepted in Canada in 1914 and look what we've done.

So, I think we need also better methods of measuring what our success is.

THE PRESIDENT: Elder McGregor, thank you ever so much for your submission, your presentation,

sharing your knowledge with us.

I will turn to you and Ms. Peltier for any final comments you would like to make, please.

MS. PELTIER: Good morning, or good afternoon, I suppose. Renee Peltier.

I just wanted to touch on one very important point that Member Lacroix, monsieur Lacroix, you just made, about your lack of understanding and knowledge, Indigenous knowledge, which I think is excellent that you yourself acknowledge. I think it really highlights the importance of taking the time for consultation.

So, there is a commitment to integrate Indigenous knowledge into this project.

But what are you supposed to do, as Members of the Commission, with this important traditional knowledge that Elder McGregor has brought here today? How are you supposed to integrate that and reflect that in your decision?

I don't think anyone here has an answer for you. The reality is that that process takes time and should be happening before a day like today.

I just remind the Members of the Commission that Kitigan Zibi is not here today asking for this project never to happen. They made a very reasonable request: for more time for consultation, more time for the

Indigenous knowledge, such as what you heard today, to be actually integrated.

I will turn to Elder McGregor, but I hope that I speak for her when I say that, you know, we are reiterating that request today for more time.

ELDER MCGREGOR: I agree. It's the time but also you need the resources too, as well. I see in Kitigan Zibi we have our Natural Resources Department.

But going back to when I talk about not only just the residential school, the ability to engage legal representation prior to the *Indian Act* in the sixties, the other part is our history too, as well, is that it wasn't until the mid-60's that our people went back to college and university because you had to enfranchise to attend post-secondary education. So we're playing catch-up too, as well, in terms of also having educated people, such as Renee here, even in our community members.

So let alone too, as well, our ceremonies and gatherings were outlawed. It was only in the early '90s -- no, 1986 we brought back our pow-wow gatherings, because prior to that they were outlawed.

So let alone our traditional knowledge, as Ms. Kohoko was talking about, even the loss of language, let alone our teachings. A lot of our own people are just also on the road of reconnecting back to the language and

culture.

So, when you get also bombarded with all these requests for environmental assessments, which has happened in the last couple of years, and there's maybe only two or three people in the Environmental Department and you're bombarded with all these reports that you're supposed to analyze, that's an issue.

And the issue is also the capacity. And at the same time you're supposed to have the mainstream education but also the traditional education.

An example is last week, I got a request for just a translation of "welcome" and that took a long time because there's many variations of "welcome".

Or else Natural Resources recently named their department. They finally had a process of consultation and decided on Sweetgrass. But then they came to myself for the translation. But there's four words for the translation of sweetgrass. And they decided on "nokwewashk". That's the syntax of the word again. Again, the language is very expressive because the language is tied to the land. And why did they decide on "nokwewashk"? Because the syntax of the word includes "the woman", "ikwe".

To bring back that gender-based analysis to remind the people in natural resource extraction, which

was male dominated, how do you bring back the female balance in resource extraction as well? Before that, it was the female who would explain to the male: It's enough now. You've over-harvested enough, so let it regenerate for our children.

So, it's that understanding. That's what bringing back this knowledge is too, as well, and through the language. Really, we're also emerging from this patriarchy and the patriarchal. And we all need to heal.

THE PRESIDENT: Elder McGregor, thank you. I could listen to you all day, but we don't have all day. And we have others waiting to come and present.

ELDER MCGREGOR: Meegwetch.

THE PRESIDENT: Meegwetch.

With that, we will break for lunch and we will resume at 1:25 p.m. Thank you.

--- Upon recessing at 12:24 p.m. /

Suspension à 12 h 24

--- Upon resuming at 1:35 p.m. /

Reprise à 13 h 35

CHIEF WAWATIE: We are waiting for the drummers to make their way.

The drum represents the heartbeat of the

nation, and this is something that also represents the spirit, you know, the sound of it. When a child is born, the child will be born when it is born. That's just the simple message of what the drum represents to the heartbeat of Mother Earth and her living creatures. Meegwetch.

THE PRESIDENT: The next presentation is by the Kebaowek First Nation, as outlined in CMDs 22-H7.111 and .111A.

Before beginning with this presentation, I want to welcome Elder Rosanna Wawatie, along with Kokum Jeanette Wawatie, from the Algonquins of Barriere Lake who will be starting the afternoon session with an opening statement. Following the statement, there will be a drumming ceremony with youth drummers, accompanied by Norman Matchewan, also from the Algonquins of Barriere Lake.

Drumming, as we've heard from Chief Wawatie, is representative of the heartbeat of Mother Earth. So Meegwetch for helping us start this afternoon off with ceremony.

I would request you all to stand.

ELDER WAWATIE: (Algonquin spoken / L'algonquin parlée)

Good morning and welcome, everybody. My name is Rosanna Wawatie Beaudoin. I was born and raised in

Rapid Lake. I'm a member of Kitigan Zibi. For me, I'm a residential school survivor and a day school survivor, and I am an Elder for my Nation.

This is how I always represent myself. When I do openings like this one, I never forget my Nation. I not only come from two communities, but I am an Algonquin Anishinaabe and I'm very proud. For me, I'm fluent in my Anishinaabemowin, an Anishinaabe Algonquin, and I am very proud of who I am.

I am very proud of my Nation, and I am very proud of Mother Earth. I'm here on behalf of her to protect her, because we are the protector. We are here to protect Mother Nature and all her children that's born upon Mother Nature, on Turtle Island.

For me, I'm going to do an opening as in my language, Anishinaabemowin, which is the Algonquin, and I'm going to ask the Creator for help and guidance. When I say my thanks to the Creator, it's all about Mother Earth on Turtle Island, and all the children and the ones that cannot speak for themselves. This is who I speak for. I will do it in my language.

And for anybody that wants to give thanks to their Creator, they could do so in their own way of when they do their thanks to the Creator.

For me, like I said, you know, I'm a

residential school survivor. I don't use the words when they ask me to do an opening, because they always put prayers in the front. For me, I don't because I was forced to this. So, for me, I always say thanks to the Creator because that's who our Creator is.

(Algonquin spoken / L'algonquin parlée)

For me, I'm going to speak a little bit about myself. You can sit down.

Like I said, my name is Rose Wawatie Beaudoin. I was raised in Rapid Lake. I was born in a cabin. My grandmother delivered me, my great-grandmother. So I'm related to Mother Earth. My grandmother delivered me. I wasn't born in the hospital. She was the first one to touch me and give me knowledge when I first came to this Mother Earth. She gave me her knowledge. That was the first one that touched me, and I'm very grateful for that.

Like I said, I was a residential school survivor. And for me, going to the residential school was something I didn't know. I had no idea. I was five years old when they took me away. I had no knowledge of what the outside world was from my community. I was about five years old.

My mother passed away when my sister was born, and my grandmother and my grandparents took care of us and my siblings. This is where I was taught my culture,

my beliefs, and what the Creator had given us. This is what I was taught about, growing up.

But when I left home, me too, like I was 15 when I started to work. I wasn't the one, you now, to -- because this is what I was taught, to do my part for survival. But I never forgot the teaching, the understanding, the fate, the custom, our traditional way of life from the teaching from Mother Earth in my community, which is Kitiganik.

I love my community. I'm glad I was taught that teaching, because I did not forget my way of life, what the ancestors had lived and taught us, what Mother Earth is on Turtle Island, because she is on Turtle Island.

And when I speak about the turtle, because the turtle, *mikinàk agamo*. *Mikinàk agamo* means that it's floating on water, the turtle, and Mother Earth is on top and she is the one that gives birth to all of our needs today. This is what I was taught and I was to believe in. That's my fate, my value, and today I still value that and I think about it all the time when I see destructions.

Water is very important. I was listening and somebody had asked here on the panel what does the water represent. What does that mean to you?

In my giving thanks to the Creator I mention the water, the fire, all what she represents,

Mother Earth on Turtle Island, and the universe.

My grandfather, my grandparents taught me all these things, and they weren't the only ones that taught us that, the community did, and I never forget that teaching.

And like I was saying about water, you ask about the water, where are you from? When your mother was carrying you you were in the water. I hear a lot of times when a woman gives birth "my water broke." So that's how important the water is, because we were in water, you guys, every single one of us, we were in our mother's womb. And this is what it looks like on Turtle Island, she is floating on water.

For me, I think very highly of the water and what the Creator on Mother Earth on Turtle Island is. I am very honoured to be here and to be asked as an elder. I never thought of myself as an elder. It's my people that considers me, that recognizes me as their elder, and I'm very proud of that.

I didn't choose this upon myself, to say I am an elder. I was chosen by my people because they saw me as their elder. I asked a person one time in non-native, "What do you see? Who is your elder?" They look at one another, because he's old. You know, it's true, because they're old.

But what does that represent to them? For us, it's a very respectful thing when you recognize your elder. It's true, we have elders that are old, they're not -- we recognize them as sometimes they don't give... But when you have an elder that you recognize they speak of their knowledge. First, it's their experience, their knowledge, and their wisdom.

And when you're recognized by that by your people, that's when they respect you, because you are an elder, you recognize who your elder is. And, for me, this is how I stand here before, because I was asked as an elder.

One time my brother, before he passed away I asked him, "What am I supposed to do here?" You know, because I really admired him, he gathered people, he was a respected man in our community, he was a leadership. He wasn't a chief or councillor, he was just leadership. And that's what I had asked him, "What am I going to do here in life?" "When the time comes," he told me, "you will know. You will know."

And as the years go by this is what it was, people would ask me, you know, and ask for advice. I said, "Why do you come to me?" "Because people trust you. You don't go and repeat as to what somebody says to you in confidential, and you give advice. You don't judge them."

That's what he had told me.

So, for me, I really am on my healing journey. I went to a rehab to recover, it's 15 years, but that wasn't enough. I had to find myself: why do I judge people; why do I criticize; why do I have to say things about or even think about people in this way? I didn't like myself.

So I had to do a healing journey and I went to a trauma -- and that's where my healing started. And this is how it is for me, I want to help people that are in their traumas.

But, for me, I am here because Mother Earth is in trauma too. And I think we are here to help Mother Earth.

I watch TV, and with all the war that's going on, and for me it's very sad to see that. And I think this is why we are trying to say that (indiscernible), whatever that thing that you want to bury underneath someplace, what if that thing leaks? What's going to happen to our people? Just like, what do you call that, the oil spill, and the gas lines. It's corrupting, it's busting underneath.

What about this one? What's it going to do? What's it going to do to our animals, the ones that cannot speak for themselves? And our water, our air, we

all need that, every single one of us.

But as an Anishnaabe people I speak for the Anishnaabe people too, they're not all here, I see only people that represents their community. And as the Algonquin and Anishnaabe people are here to defend as to where they want to put this deadly thing that they want to bury.

So, for me, I am here to defend that and I'm here to stand for that, because of what my grandparents had taught me, and my elders from my community. This is what they want to protect. They always think as I want to protect Mother Earth.

Don't get offended to what I'm going to say. Anishnaabe and then the non-Anishnaabe, we have a different mentality. The mentality of the non-native, they see dollar signs. The Anishnaabe people, they want to protect what wants to be destroyed. This is how they see it. This is how I see it. This is what I believe. This is what my heart and what Mother Nature tells me.

Sure, we want to have a better understanding. And this is where truth and reconciliation comes in. We have to work on that. I am not a very education person, this is why I don't speak the million-dollar words that lawyers and people that go to school. I don't use that, that's not mine.

But if you want to ask me something, ask me in my language, my mother's tongue, I will definitely answer you in my language because we do have million-dollar words, us too.

And the thing is too, this is what the elders say because they didn't go to school, they were forced and they blocked their mind, I know I didn't. At one time I didn't want to be an Indian because of this history of what I had read at that time; how bad we were. I didn't want that. I woke-up one morning and said, what the hell am I saying that about myself? I'm proud of who I am, and I'll always be proud.

I was forced to speak this language that I'm speaking to you today. This is not mine. Our language was taken away from us and all our beliefs, all our traditional ways.

The drum is coming back, our people are getting up, they're having a better education. I don't have nothing against education. My kids went to university. Those are my secretaries today when I want to listen to people that I don't understand, those are my secretaries.

The chief and councillor are here today. Those are the leaders, they went to school, I didn't. But they understand my language, how I understand what people

are saying when they make translations. This is how I understand, this is why I'm able to speak as to defend what my belief is, my values and my people on Mother Earth, on Turtle Island.

Meegwetch.

--- Drum Ceremony / Cérémonie du tambour

CHIEF WAWATIE: Chief Tony Wawatie, here. This is the young drummers from Barriere Lake. Thanks to the drummers to wake-up our spirit. So that represents the strong vibe that we're still alive and we still exist. So just a simple reminder of our tool that we're bringing to you.

Meegwetch.

THE PRESIDENT: We'll now proceed with the presentation, and I understand Councillor Justin Roy will be making the presentation. Over to you please.

***CMD 22-H7.139/22-H7.139A**

Oral presentation by the

Mitchikanibikok Inik, Algonquins of Barriere Lake

COUNCILLOR ROY: Kwey, bonjour, good afternoon. Madam President and fellow Commissioners, fellow Chiefs, intervenors, all the Staff in attendance and members here and people watching in person and virtually.

Let me start by thanking Elder Wawatie and the Algonquins of Barriere Lake, these drummers for opening this session in Algonquin tradition.

I would also like to say meegwetch to elders and cultural keepers from AOPFN for their opening prayer, song, and smudging ceremony this morning.

I'd also like to provide a land acknowledgement and welcome and thank everyone for gathering here today on unceded, unsurrendered Algonquin territory.

My name is Justin Roy, I'm an elected member of the council for the Kebaowek First Nation. I have been requested to present today on behalf of Chief Lance Haymond who, due to health reasons, is not available to be here today and sends his regrets.

Related to this intervention, the health of our community members and health of the Ottawa River watershed is a priority to our community.

I'm joined in this presentation by fellow Councillor Verna Polson and Community Engagement and Legal Counsel Advisors Rosanne Van Schie and Renee Pelletier.

Before continuing, and for the record, I would like to address some procedural concerns about the conduct of this hearing that's taken place today.

Although I appreciate that it doesn't seem

like there's any time constraints being put on, you know, 20 minutes to speak and 10 minutes of questions afterwards. But only being given an afternoon, one time, to be able to speak in front of the Commission on our concerns, our opinions, our thoughts on the proposed NSDF project goes against how we would like to be consulted and spoken with.

You know, the fact that we break for lunch and I understand, you know, the Commission and its members are, you know, waiting for us to be present, waiting for our drum group to be setup ready to go and our elder to be able to speak, it only further speaks to why this process does not work for Indigenous peoples.

Where as if you, the Commission, being on unceded Algonquin territory were to come to our communities to see our people and meet together and present to discuss how we could proceed in these hearings, it would be far beneficial.

You know, we would gather together in the morning in a circle where we're all equals looking at each other eye-to-eye. You know, we would break together for lunch and we would feast together. So that when the time comes for lunch to be over and the hearing to begin, we would do so together.

But that's not how things are happening. So it just further speaks to why this process is

ineffectual for the Algonquin people. So, unfortunately, this hearing process has been marred by your own policy and process.

Instead, we'd prefer the Commission adopts a decolonized approach in facilitating Indigenous community hearings, for example, as was carried out in the 1977 Berger Inquiry for the Mackenzie Valley Pipeline Project where, for example, the Commission would travel to our Algonquin communities where we, as unceded rights and title holders would be able to fully and meaningfully articulate our concerns, where our own knowledge keepers are able to clarify relevant facts and ask questions through cross-examination.

You know, taking in this morning's hearing and hearing folks from CNL and CNSC speak to, you know, memorandums of understanding with AOPFN, and then also mentioning that, you know, letters of intent have been signed with Kebaowek First Nation.

I would just like to add a little context to this. This process started in 2016. We are now June of 2022 and the signing of the letter of intent between the proponent and Kebaowek First Nation was only done in April of 2022, so only two months in advance of this hearing taking place.

Now which only provides us on a project of

this magnitude two months to... Again, that's a letter of intent, that's the intent to consult, the intent to accommodate. So the signing of a letter of intent doesn't mean we have been consulted.

You know, by having meetings and discussions leading up to today, again, does not mean we have been consulted. Having a site tour of the proposed facility does not mean we have been consulted.

Our recommendation to the Commission, supported by other intervenors, was to adjourn this hearing due to the failure to consult with our community and all other Algonquin communities. In our view, many details concerning this hearing being called remain to be reconciled.

I conclude my introduction with no disrespect to you, the Panel. However, this entire procedure to date is unfair and designed to be intentionally ineffectual for Kebaowek's free, prior and informed consent to the project.

In order to safeguard this situation, I request that this hearing presentation also be recorded as a consultation under protest.

On January 23 of 2013 our First Nation along with Wolf Lake First Nation and Timiskaming First Nation jointly released a Statement of Asserted Rights,

which summarizes the Aboriginal rights, including title, which our three First Nations assert and provides detailed evidence to substantiate it.

Copies of this Statement of Asserted Rights, maps, and background documentation were transmitted to the Governments of Canada, Quebec and Ontario in January of 2013.

Here KFN requests recognition and respect for the Algonquin jurisdiction that merits further discussion and analysis than what is currently provided by this hearing process or its preparatory activities. That being said, our comments are aimed at Kebaowek's (indiscernible) and request for a more rigorous review of the NSDF project.

Today our lands and waters risk being severely affected by proposed a near-surface nuclear waste disposal facility, NSDF. Whereas we fully support the details expressed by our fellow Algonquin communities, the Ottawa River Keepers, Concerned Citizens of Renfrew County, the Canadian Environmental Law Association, and the numerous municipalities and citizens that are opposed to this project.

Our comments today do not reflect an acceptance of the NSDF project nor can they be considered as our acceptance of the current NSDF review process.

As well, Kebaowek wishes to reiterate major concerns already reflected in previous documents submitted to the CNSC and NRCan.

This presentation is in two parts. Part One, words from myself and fellow councillor Verna Polson, comments from our policy advisor Rosanne Van Schie on community engagement to date.

Part Two is on our technical comments by our legal counsel Renee Pelletier.

Now, Part One is comments from myself. Madam Chair and fellow Members of the Committee, it is obvious that, one, Kebaowek First Nation cannot accept the situation that does not respect our Constitutional rights and, Two, the Crown would not want the Commission to proceed in a manner that would be inconsistent with guidance from the Supreme Court of Canada.

Despite repeated requests from KFN to adjourn this project's Environmental Assessment and Licensing Hearing in order to satisfy the Crown's duty to consult and accommodate, we reluctantly find ourselves in a hearing that has continued to proceed with undue haste despite the objects of KFN and other intervenors.

We have viewed this alarming situation with as clearly and consistent with the federal objective in advancing reconciliation, moreover the Commission's

bypassing our and other Algonquin communities' participation in CEAA 2012 Environment Assessment and ignores our rights under Section 35 of the *Constitution Act, 1982*, and the Crown's duty to consult and accommodate KFN's concerns.

As a result, the NSDF consultation process has not,

1. Properly taken into account the cultural environmental and social concerns and interests of our community, including gender-based analysis and incorporating our watershed sustainability and long-term nuclear waste effective related concerns into the evaluation of this major development.

2. Take into account traditional knowledge and our capacity to carry out independent studies as part of environmental, social and cultural impact assessment processes with due regard to our ownership of and the need for the protection and safeguarding of our traditional knowledge.

3. Collaborated on appropriate land use, social and cultural impact methodologies and technologies providing suitable timeframes to implement studies within a mutually agreed upon consultation framework agreement.

4. Identified and implemented appropriate measures to prevent and mitigate any negative impacts of

proposed studies, developments or monitoring.

5. Taken into consideration the importance of balancing inter-relationships among cultural, environmental and social elements; and,

6. Recognized and supported Algonquin jurisdiction and a community-led assessment.

KFN would also like to raise our concern that both the proponents, CNL and the Commission, have placed consultation focus on input from a so-called Indigenous Organization and their staff called the Algonquins of Ontario.

As we have stated on numerous occasions, there is no such thing as Algonquins of Ontario. Quebec First Nation or the Algonquin Nation does not divide itself between Ontario and Quebec. In our view, the AOO is a legal and policy invention designed to overtake our own Indigenous community engagement.

Kebaowek First Nation does not accept or acknowledge any claims of any aboriginal or treaty rights made by the Algonquins of Ontario, or recognized the AOO as an entity entitled to consultation and accommodations in impact assessments on Algonquin and Anishinaabe lands.

We discovered that AOO, AECL and CL signed a tripartite Memorandum of Understanding in 2018 regarding the development at the Chalk River Nuclear Site in the NSDF

BIS and Commission Member document. This situation remains to be reconciled with true Algonquin rights and title holders.

Furthermore, we reject the AOO having their naming ceremony for the entrance to the Chalk River Nuclear Site, calling it Minwamon, meaning or supposed to mean clear path.

Before I pass it over to my fellow councillor, a couple of other little points. Reconciliation has been brought up a lot today. But we can't forget that it's supposed to be Truth and Reconciliation. You cannot have reconciliation before you have the truth, and to be able to have the truth you need to have the knowledge, you need to know what this means. And I appreciate the one, you know, Commission Member stating today that, 'I know next to zilch.' You know, that's a tough thing to say today; it is. You know, everyone -- a few people said this morning that people are afraid of conflict, of saying the wrong things when it comes to Indigenous or Crown-related issues, so it is up to us to become knowledgeable so that we can learn the truth, and then by learning the truth, we could have true reconciliation because you cannot have one without the other.

Now, we also hear a lot about, you know, 'They have the commitment. They have the willingness to consult

and accommodate.' Those are beautiful words but at the end of the day, they are only words. Those words need to be followed by action, and serious action, because the project that's being proposed today is a very serious project that will be with us.

Now, we talk about Indigenous peoples being here for time immemorial. This waste mound will be here long after you know our children, our grandchildren, seven generations down the line. We have to ask ourselves, 'Do we really want to put a Band-Aid on a large, I guess, issue like having -- what are we going to do with the storage of nuclear waste, so that generations down the line have to deal with this? That's a question we really have to ask ourselves because it really sounds like that's what we're trying to do today.

You know, this mound has, I think, a life expectancy of I think five hundred years, whereas the nuclear waste that's being stored there has a life expectancy or however some of these scientists claim it, you know, in the tens of thousands, in the hundreds of thousands, in the millions, in the billions of years. So, what are we going to do after this mound has deteriorated right next to the Kishi Sipi? It won't be our problem; it will be our future generation's problem.

Now, before closing and passing over to my

fellow councillor, FPIC, it's been another acronym being used a lot today, and the gentleman from AECL, you know, talking about how FPIC is not a veto. You know what, in my opinion, I'll agree. FPIC is not a veto. FPIC is supposed to be a way for Indigenous peoples to have a clear, respectful, transparent and open path to proper consultation so that at the end of that consultation we, as Indigenous peoples, as the ongoing and original stewards of these lands, have the information, have the knowledge to be able to say yes or no to support a project.

And he wanted to find that as a veto? You know what, I think we go back and forth for years on end on trying to define if that is considered a veto. But I'll finish with this, that if the Indigenous peoples were to always give yes at their consent to all projects, we would never hear a Crown or the proponent talk about veto. The only time they talk about veto is when Indigenous peoples and nations say no to a project happening.

Meegwetch for listening. Now, I will pass it over to Councillor Vera Polson.

ELDER POLSON: Meegwetch, Justin.

Get all the mics, I need all the mics.

--- Laughter

ELDER POLSON: Let's do this.

Bonjour, Kwe, Hello.

First, I'd like to start thanking Elder Wawatie for the beautiful prayer and the words of wisdom that she gave us here this afternoon to start our afternoon in a good way.

And, also, Kitchamegweech to the drummers who sang beautiful songs in their language that I wish I spoke, and I wish I can do the same at times when it comes to important issues like this, what we're faced here, as a Nation, the Algonquin Anishinaabe Nation.

My name is Verna Polson. I am an elected Council Member for Kebaowek First Nation. I was also the Grand Chief of the Algonquin Anishinaabe Nation Tribal Council, AANTC.

I now work also as a cultural coordinator in my community, which is a big switch from politics to something I really enjoy: working with my community, brining back our culture, trying to bring back the language.

I am also glad to see people from our Nation here, leadership, members, people who are here to support what we are going to be presenting here today, and what has been presented so far in this hearing.

It is our collective duty to protect our lands, our water and the environment of our -- for our present and future generations. Human Rights legislation is designed to protect our peoples from discrimination in ways that

respect who we are as Anishinaabe people.

Our cultural identity, our history, our stories, our race, our religion, also our language Anicinabemowin, and of course our land.

Since contact, the Canadian government have completely disrespected our fundamental human rights as Algonquin Anishinaabe peoples. This history continues in the Canadian government, taking positions that they can buy their desire and policies, design watered-down values of our Algonquin Anishinaabe Nation people by creating fake Algonquin citizens.

It's a betrayal of a series of sacred trusts, Anishinaabe aki was not created for business profit. Our Nation was not built to turn the Kishi Sipi, our great river, into a self-storage unit for nuclear waste.

I really hope and I pray and I will offer tobacco every day to the water, to Ottawa, that this cannot take place because we need to protect our lands. We need to protect our medicine. I'm a grandmother of a two-year-old and I look at her every day; I'm trying to teach her the good way of life, teaching her the importance of the water. And I don't want to be the one that's going to be responsible or part of a decision to contaminate our land, our air, our water, because it's her children and her children after that, her grandchildren, great-great

grandchildren that have to live with that. It's something that I take dearly to my heart, the water.

I wear this medallion today, the shells that represent the water. I'm Anishinaabe Nibi Ikwe, Anishinaabe Water Woman. I am proud to be here today to talk on behalf of the water, Kishi Sipi.

We must really think about what we're going to be deciding here today and beyond, after today. As the Elder had spoken earlier this morning and this afternoon, it has you thinking we need to work together.

And how do we see that? For me, it is through ceremonies. Like the gentleman said, he has no idea of our traditions. He has no idea of who we are as Anishinaabe people. And as Mr. Roy had mentioned, our culture. That's who we are as Anishinaabe people.

Come to our ceremonies. Come to our communities. Come and see who we are as Anishinaabe people. You'll see the difference from sitting here and sitting in the circle around the fire trying to understand one another.

It's very -- when it comes to water, I get very emotional. My thoughts are sometimes angry, hurt, especially sometimes confused because sometimes I think how can we even be sitting here talking about something like this?

Our trees need to live, as well. If this takes place, our air, our animals, our medicine -- my granddaughter won't be able to go out on the land and provide for her family because the animals will be sick. The air will be contaminated. So, today, that's why I'm here, to speak on behalf of my granddaughter and her children to come, and also for my community of Kabaowek First Nation, and as an Anishinaabe Nibi Ikwe.

I was going to share a song. I want to share a song with you, I'm going to sing it, the four versions. It's about the water.

If I may, I'm going to start. I'm going to stand up and I'm going to turn to the east and I'm going to turn four times, the east, the south, the west and the north. I always sing this song to my granddaughter when I get a chance to hold her and rock her, and she just listens, sometimes she even falls asleep. I'm trying to get her to follow the good life in a good way, and that's teaching her our way of the way we used to live, the way our ancestors used to live.

So, I will stand now and sing the song.

To the East -- I think that's the east.

(Elder Polson singing in Algonquin language)

ELDER POLSON: Meegwetch.

So, that's the song I sing to my granddaughter

and I'm really hoping soon that she's going to start singing it with me because she's starting to talk.

So, I thank you for giving me this time to speak here. Madame Chair and fellow Commissioners, we are yet to be consulted. So, Meegwetch.

MS. PELLETIER: Good afternoon, Madame Chair and fellow Commissioners, and fellow intervenors and Elder Rosanna Wawatie, I want to thank you for words, and sharing your history on the landscape and, Verna, that beautiful song taking us into the four directions, and us wondering today what direction we might take going forward here. So, once again, thank you for the extra time.

I have been working with the Algonquin communities on Algonquin Anishinaabe Territory for almost twenty years now, helping them in the environmental assessment for some wildlife protection and there's been a lot of history in this watershed, it's got a rich history.

I just want to take you back to a story that I heard in my work over the years, and it takes us back to when Champlain was in the watershed, first opening up this country, right, to exploration and the first people he met in this watershed were the Algonquins, and they were the technology provider of the only craft that was able to navigate the watershed.

But related to engagement and community

engagement, he did have an Algonquin guide, or it was described in his party he had an Algonquin guide. And they came to a boundary where it was Haudenosaunee or an Iroquois community or settlement, and Champlain was engaging with the Algonquin guide to go directly into that community, and tell them that he was there and wanted to converse. And, so the Algonquin guide was saying, no, no, that's what we do. And he was describing a difficulty he was having with his Algonquin guide. And the Algonquin guide described, 'No, we've got to sit here and build a fire. We've got to light a fire and we've got to sit here and then they're going to know we're here and then you know they're going to come to us.'

These are ancient protocols, they are sacred protocols, they've been run roughshod over for a long time now. And so, yeah, I really appreciate that song, and thinking about new directions, and new information, and you know how we move forward in a better way.

I won't take up too much time. I think Justin did an excellent job here. Like, he has been working closely with both CNSC and CNL, but I think there's some cultural practises that have to be followed. We have to sit back and take direction from the communities as to what a proper community engagement process might look like. I know we hear like the out-front thing is to like engage

Indigenous communities and organizations and work plans and execute agreements, but we've also heard today from Elder Verna McGregor, and if you look back at Algonquin history, Allumette Island was a significant point and place in Algonquin history on the territory. It was an important boundary for people coming down the watershed. They even ran a tollgate off of Morrison Island at one point. And Verna is talking about the return to Fitzpatrick Island, which is just offshore of Allumette Island and we're working on an Indigenous protected conservation area there.

It has got probably the world's largest habitat of endangered hickory nut clams that she was mentioning. She also gave some light to the legal archives of those clams and that how that river looked in 1897 or 1630 if you have one of those clam shells it would tell you exactly the composition, and it would actually demonstrate radionuclides from the 1944 reactor issue, or whenever that happened, in Rolphton.

Yeah, so we need more information and more traditional ecological knowledge that hasn't come to the table. You know, I've made other interventions, as you know, Madame Chair, you know, on regulatory oversight for CNL at Chalk River and I've always stated that we need a protocol agreement, and we did try to get a start on that. It's not at that point in time, and we were disappointed to

just see a terms of reference with the NPD and SMR project on it, bypassing the NSDF. There's so much work that the communities have to do on the NSDF. We were not consulted. That information is not in the Environmental Impact Statement of Canadian Nuclear Laboratories. As Justin just provided, there is a long studies that still need to be completed.

Yes, so much more work to be done, but thank you for this opportunity today. And I'm just going to pass the mic over to our legal counsel, Renée Pelletier, to conclude.

MS. PELLETIER: Thank you Roseanne, and thank you, Madam President and Member of the Commission. As mentioned, my name is Renée Pelletier. I am here right now, acting on behalf of Kebaowek First Nation as their legal counsel, and I will be brief. I want to touch on the duty to consult and accommodate, and the United Nations Declaration on the Rights of Indigenous People.

So, firstly, the duty to consult and accommodate has two components: as a procedural component, and a substantive one. The procedural component is concerned with process. So you have to ask yourself questions like, "Did meetings take place? How many? Were the First Nations consulted in a manner of their choosing?"

Now, even from a procedural standpoint,

the record before you is flawed, but what I want to focus on this afternoon is the substantive component of consultation. The substantive component of consultation is aimed at determining whether the concerns raised by an Indigenous group have in fact been addressed.

So, after giving consideration to the potential impacts brought forward by an Indigenous group, has the proponent made changes to their project to avoid or mitigate those impacts? If avoidance or mitigation is not possible, have the potential impacts been accommodated in some other way?

Now, if the proponent has not already taken care of this, are there conditions of approval that you, on behalf of the Crown, can impose that would fulfil the substantive element of consultation? Now, satisfying the substantive element of consultation is obviously necessary for satisfying the duty itself. Given what you have heard from Kebaowek First Nation, it is impossible for the duty to consult and accommodate to be fulfilled in this case.

Furthermore, we submit that you will not be able to satisfy your requirements under Sections 5(1)(c) of *C.E.A.A.* 2012, or meet the conditions under Section 24(4) of the *Nuclear Safety and Control Act*. And that is simply because you do not have the requisite information.

You do not have before you a list of Kebaowek's concerns and potential rights impacts. You could not accommodate these even if you wanted to. It is why Kebaowek, along with other First Nations, have asked for an adjournment of these proceedings, so that they could have the opportunity to study the Project, engage in studies to identify which of their rights might have the potential to be impacted, and to potentially work with the proponent to address some of these concerns.

Now, the importance of truly satisfying the Crown's duty, and not just paying it lip service, in a project such as NSDF is underscored when we look at what the United Nations Declaration on the Rights of Indigenous Peoples has to say about the rights of Indigenous peoples when it comes to having hazardous waste stored or disposed of on their lands.

Now, this morning, representatives from AECL talked about how free, prior and informed consent, or FPIC, is not about the right to say "no", but rather it is about a process of consultation. Now, with respect, when it comes to nuclear projects, it *is* about a right to say "no".

Now, before I draw your attention to the article in the Declaration that deals specifically with hazardous waste, I want to highlight where I think some of

these arguments about consent being more about a process actually come from.

So one of the articles I'll just focus everyone's attention on, Article 19, is one of the FPIC provisions in the Declaration, and this is what it says. So Article 19 reads:

"States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislation or administrative measures that may affect them."

So if you listen to some of that language -- language about "states *shall* consult *in order to* provide their free, prior and informed consent," this is where I believe that some of these arguments that consent is more about a process come from.

But now I want to contrast this with Article 29.2, which is the provision that deals with hazardous waste. Article 29.2 states that:

"States shall take effective measures to ensure that no storage or disposal

of hazardous materials shall take place in the lands or territories of Indigenous people without their free, prior and informed consent."

So again, "*shall* take effective measures to ensure."

You will notice the lack there of any qualifying language when it comes to FPIC. I remind the panel of course of the passing of Canada's *UNDRIP Act* and this Government's commitment to following the principles of *UNDRIP* in its decision-making.

Now, in closing, I want to highlight that Kebaowek First Nation is not here today to say that a project like NSDF can never go ahead. It is simply saying that a project like NSDF can't go ahead now -- not without sufficient information on potential impacts to Kebaowek's rights and interests in order that those impacts can be properly addressed.

As I know, I do not need to remind you that it is your legal obligation to ensure that the Crown's constitutional obligations are fulfilled before approving a project such as NSDF. Kebaowek First Nation asked for time in order to put the Crown in the position where it notionally could fulfil its duty. If the decision on this Project has to be made now, then the decision has to be "no". Thank you.

THE PRESIDENT: Thank you very much to all of you for your submissions, and I will open the floor for questions, starting with Dr. Lacroix, please.

MEMBER LACROIX: Well, thank you very much. First of all, I really appreciate the ceremony, as well as the presentation, and what a relief to find out that you understood my statement this morning. I should have used the words "my lack of Indigenous knowledge field experience." I do read all the documents -- the studies, the technical reports that are thrown at me concerning this Project and the Indigenous knowledge -- but that doesn't mean that I do have field experience. I have no field experience. This is what I meant, and I think that you've understood it, so thank you very much. It's a relief for me.

I'm going to turn to CNSC, and I would like to know, could you take me step-by-step, in spite of the fact that you've already summarized it in the documents, but could you summarize the consultation process that you have undertaken since the beginning of the NSDF Project, with KFN, specifically with KFN.

MS. CATTRYSSÉ: Clare Cattrysse for the record, Director of the Indigenous Stakeholder Relations Division at CNSC.

Yes, we can walk through, and I'm going to

pass to Adam Levine in a moment, but I do want to assure the Commission that we took an approach that was meant in good faith, and we've made many, many attempts since 2016, and there have been many conversations with leadership with KFN as well. So I'm going to pass this over to Adam Levine, who can give a bit of a chronology, and as you recognized, it is in the supplemental CMD that we submitted. Thank you.

MR. LEVINE: Thank you. Adam Levine, for the record.

So, similar to our conversation this morning about Kitigan Zibi, a similar situation with Kebaowek First Nation. They are one of the Algonquin First Nations that we identified that needed to be consulted as part of this process, and we reached out to them directly, as well as the AANTC.

And at the time, Verna Polson was the Grand Chief, and as part of the first meeting that we held with the Grand Chief and including the Chief of KFN, Lance Haymond, who were there, we talked about again the process and how we want to work together on the consultation process. And at the time, Chief Haymond had indicated that he would like to continue to engage with us, he was happy that AANTC was coordinating this and would like to stay in touch on these files, and so we continued to do that

throughout the entire process. And we kept working with AANTC, providing funding to coordinate engagement and consultation with the communities that they're representing, and they did participate in the EIS, providing comments on the drafts, *et cetera*.

And then, at a certain point we started to hear more from KFN directly. That was around 2019, again similar to what we heard from Pikwàkanagàn as well earlier today, that there was more of a desire to work directly bilaterally with us, and that's when Roseanne first came before the Commission as part of a regulatory oversight report update to the Commission.

And right after that, we worked with Roseanne to find out how we could establish that direct relationship, and made the offer of, would KFN like to develop a consultation framework? Would that include AANTC? Would that include other Algonquin Nations, or would that be directly with KFN? And at that time, Roseanne and team said that she would go back and speak to the AANTC team and other communities, and get back to us.

And then there was a two-year period after that, that we kept making offers to meet, develop a protocol, start consulting, working through these issues, but KFN made the decision that they wanted to try first to work with the Minister of Natural Resources directly. They

sent a number of letters to the Prime Minister and Ministers to seek a broader protocol for the Nation with the Government and the Crown with regards to nuclear activities.

And then, in the summer of 2020 is when the Minister responded, indicated that they appreciate their engagement on these files but to work with the CNSC directly, as it is our process and we are the independent agency responsible for consultation on these processes.

But I'm happy to report now that, as of a few months back, we have now entered into negotiations and discussions with the team you see here on actually a protocol for moving forward, but we want to make sure that the community was able to continue to be involved in this process despite that delay. So we did award funding so that they could prepare for these hearings and appear before you, which is an important part of the consultation process to bring specific concerns and have them heard and addressed by the Commission.

So I'm happy to provide more details if you need.

THE PRESIDENT: So, Mr. Levine, a follow-up question. So, if you were to compare with the kind of consultation that's happened with the AOPFN with the KFN and the concerns raised that there is insufficient

information today on the impact of the Project, the concerns that they have, how would those compare? Because for the AOPFN, you said there was collaborative writing of the EA Report and the Rights Impact Assessment. Give us a comparison of the two, please.

MR. LEVINE: Adam Levine, for the record.

So, obviously with AOPFN, they were able to work with us directly and provide a lot of information, and they did work with us on providing their traditional knowledge. And unfortunately, KFN did not do this.

However, there is a lot of information available to us, including the claims that the community spoke about that they filed with the Canadian Government in 2013, and many other pieces of information that are publicly available, as well as some of the concerns raised in the conversations that we have been able to have over the years, which have typically been more about impacts to the river, more about the environment and the process in general.

So we haven't been able to ascertain the specific concerns about land use and impacts on rights from the specific Project, but we continue searching for that information and working with KFN to better understand that.

But certainly we did an assessment, as you see in our Environmental Assessment Report that

specifically looks at how the Project could impact the rights of the Algonquin Nations, those who engaged with us, those who didn't, and we were able to provide our conclusions, as you see in the EA Report.

THE PRESIDENT: So maybe I'll turn to CNL because with the AOPFN, a whole lot of commitments were made, a lot of follow-up actions as a result of the consultation, the concerns, the impact assessment, and how to accommodate or mitigate that. Are you in a similar stage with the KFN?

MR. QUINN: Pat Quinn, for the record.

No, I would not say that we're in a similar stage with KFN. However, we could elaborate a little bit more if you'd like.

THE PRESIDENT: Please do.

MR. QUINN: As part of the consultation process, of course CNL reached out to the KFN at the initiation of the Environmental Assessment, as per usual.

I'm going to turn to Mr. Mitch MacKay, who will provide a similar chronology that Mr. Levine provided. This is available in our CMD22-H7-1C, Appendix O.

Mr. MacKay.

MR. MacKAY: Thank you. Mitch MacKay, for the record, CNL.

I'd like to start also by thanking Elder

Wawatie, and thank you, Councillor Roy, for your words, and Councillor Polson, for your words, and Joanne(ph), also Ms. Van Schie. Thank you, and thank you again, Ms. Pelletier for your words.

And it has been nice getting to know all of you over the last couple months as we have been working more closely together, but I'll describe maybe some of the work that we did in the past.

So, as Mr. Quinn alluded to, we reached out in 2016 as the Project started, sharing information directly with Kebaowek First Nation, and engaging also through the AANTC, the Anishinabeg Nation Tribal Council, understanding that the AANTC was representing KFN interests. And then this also included sharing the 2017 and 2019 versions of the draft EIS, and then the final EIS in 2020 and 2021. As well, CNL has offered support for the EIS review.

And then, in response to that, in CNL's offer of capacity support, KFN and AANTC coordinated a meeting in June, 2020 towards developing a contribution agreement to enable KFN and AANTC to participate in the NSDF environmental process, but we sort of hit kind of what Mr. Levine talked about in terms of the process that KFN and AANTC wanted to take at that time. We respected that, but we did continue to share information and reach out to

KFN and the AANTC.

And then, in July, 2021, KFN again indicated an interest in developing a letter of intent with us. We were of course willing to do this and we came to an agreement on that letter of intent in December, 2021, and then signed in January, 2022. And that letter of intent is designed to get us to a framework agreement where we can begin to start to work out how we will proceed together and develop our relationship with the KFN, and really do look forward to that and look forward to working with all of you in the near future. In fact, I think we've got a meeting next week, so hitting the ground running. Thank you.

THE PRESIDENT: Thank you. Ms. Maharaj.

MEMBER MAHARAJ: Thank you, Madam Velshi, and thank you, Elder Wawatie, for your words this morning, and Councillors -- Councillors and the rest of your group. And Councillor Polson, I would especially like to thank you for your song. That was particularly meaningful for me as a mother.

What I would like to explore a little bit more is the path that this engagement has taken. It has taken a bit of a winding path, and that's a fact, and that's just fair; that's the way it's been. But I think my question for you is, do you feel you are now on the right path with the right beginning to the relationship that you

need to be able to express your concerns and your desires with respect to this Project and the impacts that you feel it will have on your rights and your traditions and cultures? Do you feel you're on the right footing now, with the agreements that have recently been put into place, so that you can move forward?

MR. ROY: Justin Roy, Kebaowek First Nation.

That's a really good question. Does a letter of intent or the signing of a letter of intent lay out that we have a proper path in place? No, I don't believe so. I think what the letter of intent is supposed to be is like what Mr. MacKay said -- is that it's supposed to clarify what that path is going to look like. But to be put onto this path, there's always going to be the time constraints hovering over our heads because this whole process -- it has a start date and it has an end date. So to be able to say, are we on the right path, it's tough to be on a right path together when, again, time is always of the essence. And I know we hear Indigenous peoples all the time talk about time, but there's never enough of it.

You know, you look at my colleagues -- yes, I'm a member of a Council; my dossiers are Lands and Resource Department. So I'm very active and involved in all files, all consultations, all harmonisations that take

place on our unceded Algonquin territory. There is myself, who – again, I don't consider myself a scientist, a biologist, a nuclear expert -- no, not even a knowledge keeper. I consider myself a knowledge protector.

And when we talk about time, we have, you know, our policy advisor, who is Roseanne Van Schie. She helps deal with all consultations having to do with the Provincial Government of Ontario and the Federal Government of Canada. And we have two other members that aren't present here today, Mr. Pascal Bibeau and one of our field technicians, Casey McLaren, who deal with all Quebec consultations. That's our team. That is it, when we talk about consultations.

And then, when I could go down and list, you know, probably over two, three dozen major, major consultation files that are happening up and down our unceded Algonquin territory, it's next to impossible to try and manage and stay on these timelines, and stay on these deadlines, and stay on all these agreements, and stay on all the reporting, and stay on all the funding. It's impossible.

Now, I consider myself a very organized and systemic person. I drive my wife and my kids crazy on how I like everything to be in order, but I lie awake at night thinking about all the files, and where we're at, and

are we staying on top of these things? So I won't deny that CNL or CNSC, you know, they send emails and they share information and all that kind of stuff, and we do our best. We truly, truly -- I can say that with the utmost sincerity, that we do our best to stay on top of all these files because there's no file that takes precedence or a priority over any other one.

Is a disposal waste facility of nuclear waste that could be sitting on our unceded territory for millennia a big priority? Yes, it is. But so is a moose moratorium. So is a dam, a bridge, a changing of a fire hydrant. You might chuckle and say, "A changing of a fire hydrant?" But these are things that we get consulted on. These are things that still take time to consult our community.

So, when we get consultations where we're sharing information here, review this hundred- or thousand-page-long document and you have 30 days to provide comment, and now the clock starts ticking, how do you do that? You know, how do we properly go back to the community and its members, to our people, and do proper consultation?

Now, proper consultation isn't Chief and Council; it isn't just our technical staff. It's everybody. It's our youth, it's our women, it's our men,

it's our elders. Everyone is involved in consultations. But to be able to do so in the timelines that are stated in C.E.A.A. 2012 or even the new *Impact Assessment Act* of 2018, you know, as better as it is, I guess, than the 2012 version, it's still not perfect. You know, there's still time constraints. There's still deadlines. So, to answer your question, are we starting down the right path?

Again, yes, the intentions are there and the willingness and, you know, when I look at Mr. MacKay and Clare and Adam, I know they want to find the right process, but in saying that, we will never be able to do so when we always have the issue of time hovering above us all the time. Because again, for us it's not just nuclear, it's all things and we take all consultation files, large and small, and we hold them to the utmost importance.

I'm not sure if I answered your question, but it's what I can present for you. Meegwetch.

MEMBER MAHARAJ: Thank you, Councillor Roy. I will try to break that down into some segments and ask you a few follow-up questions. I do appreciate your passion and how busy you are and I thank you for your time coming here today.

What I heard from you is capacity is a challenge, technical support and technical capacity itself is a challenge. I have heard that simply sending

information isn't consultation in your perspective, because receiving information means it just went into the inbox, it doesn't mean there was a conversation about it.

And what I have heard is that -- I heard a tiny shred of maybe some optimism that with the particular relationships that you have built and are starting to build with the individuals in particular with whom you deal in the CNL and the CNSC that you have some faith in their good faith to try to find a way. So I think those are the things I heard from you.

And so, you know, originally what I was exploring is -- maybe let me put it a little more directly. Do you have faith that the CNSC and CNL are trying to come together with you to create that path forward so that you can share equally and that you can be heard in a way that you want to be heard?

COUNCILLOR ROY: Justin Roy, Kebaowek First Nation.

I consider myself an optimistic person, you know. To be a pessimist and being in my role, my respective role that I really cherish close to my heart, to sit here and say no, I don't believe that they have that good faith, you know, no, it's not within me. Unfortunately, because of COVID, a lot of these meetings that we have had have been via Zoom -- well, all of them

have been via Zoom and we made the best of it, but is that the best way of building relationships? You know, 70 percent of discussion or conversation is through body language. So to be able to sit across from someone and see, you know, are they shuffling in their seat, are they moving around, it goes a long way in building trust and in building faith.

So the words that I hear from the individuals from the CNSC and CNL, you know, again being an optimistic person, do I want to believe? Yes, I do. I truly do. But in saying that, I know my Chief, who can't be here today, and I know the former Chief of Wolf Lake, Harry St. Denis, who passed away a few years ago, when I was first getting involved with the community and Council, I always wondered why they had such big reservations about sitting at the same table with Crown and proponent and, you know, why were we always hesitant.

But then, you know, the longer I sit there, I can see it's because they have been down these paths before where the nice words are said, the nice gestures are made, but then when it comes time for action, the action does not follow the words. So that's why, you know, it kind of was almost a light bulb moment and realizing, that is why our -- well, my current Chief and some former Chiefs, and I am sure Chiefs across Turtle

Island that have been in these roles for such a long time, you know, they have these reservations.

But with me being a young 34-year-old Anishinaabe man who, you know, hasn't been doing this for 20, 30, 40 years, you know, I want to remain optimistic. Because, you know, if we are going to decide a better path forward it is going to be together. We cannot figure out a better path forward when we are butting heads. Are we going to butt our heads? A hundred percent we will.

You know, these are very tough discussions, but we have to have clear minds. We have to have strength to be able to find a way forward that is beneficial for everybody involved, not just Indigenous peoples, not just Algonquin Nation, everybody up and down the Ottawa River.

So do I believe in the faith? You know what, I will say yes because again I am an optimistic person. I won't speak for my fellow Councillors or the rest of my technical team or my Chief, no, I am just speaking for myself. Because to have a pessimistic view and to sit here with a negative mind and a closed mind and heart, for me it is not going to get us anywhere. Meegwetch.

MEMBER MAHARAJ: Thank you. And if I might then, it sounds as though the key to moving forward

in a positive way is some time, some time to build, now that things are coming together is to build forward and what you are asking for, what I have heard you say is that you feel you need time. Is that fair?

COUNCILLOR ROY: Justin Roy, Kebaowek First Nation.

Yes, that is fair. No, time is what we are asking for.

MEMBER MAHARAJ: Okay.

COUNCILLOR ROY: I know this project doesn't fall underneath the *Impact Assessment Act* of 2018, but the 2018 *Impact Assessment Act* talks about Indigenous jurisdiction. Now, this has been something that we have been raising issues about for quite some time since the new *Impact Assessment Act* has been put into place. And again, I understand it is not the Act that we are going through with this project here, but the reason why we have pushed really hard on other files that are underneath the new *Impact Assessment Act* is because the Indigenous jurisdictional regulations that upon granting jurisdiction in the Indigenous communities, we have the authority then to ask for a pause or put a pause on the process to gather more time. It's why again, time, time, time, there is never enough time.

As a husband and a father, there is never

enough time in a day to do what you need to and when it comes to consultation files of this magnitude, again I don't think there will ever be enough time, but the time that is currently being given is far from being what is required of us to be able to state that we have done proper consultation and accommodation with Kebaowek First Nation.

MEMBER MAHARAJ: And I do understand that and I think if I was to ask the same question to the CNSC staff and to CNL, I don't think I would get a disagreement from them, but I think there is a balance to be achieved in terms of time because time isn't infinite and things do need to move forward in a proper pace and I think I will just leave it at that. I don't have any additional questions for staff or CNL on this point. Thank you.

THE PRESIDENT: Well, maybe I can add a couple of things to that. And we hear you because you have been very clear on your concerns.

I had a meeting with Chief Haymond, I think it was almost a year ago, and it was exactly on this topic, on how do we -- and Ms. Pelletier, I think you were on it -- how do we make sure that we are actually listening to each other and hearing the concerns. And now it is a year later and I don't know how much further ahead we are, if at all. So my concern, and much as I share your optimism, probably times 10, my concern is that we could be

here a year from now and still not have moved in spite of good intentions and, frankly, a lot of effort by a lot of people.

So I just want a bit more reassurance or advice on what more should happen to make sure we actually are moving ahead and hearing and addressing the needs and concerns of every party, because everyone has different objectives and hopefully there is a lot of common ground as well.

MS. VAN SCHIE: Yes. Thank you so much for that question, Madam Velshi.

Rosanne Van Schie for the record.

I just want to say that Kebaowek First Nation, Wolf Lake First Nation and Timiskaming First Nation have been involved in a pilot environmental assessment under the *Canadian Environmental Assessment Act* of 2012 for the replacement of the Timiskaming Dam Bridge, and in doing so we put together a Kichi Sibi technical team made up of technicians from each community and we are working through all the capacity needs in terms of land use and occupancy, sociocultural impact assessment, baseline studies, fisheries studies, species at risk studies and training community members to do this work and in the future lead their own assessment. That is all part of that Indigenous jurisdiction piece of Indigenous communities being able to

lead their own assessments.

Unfortunately, and I guess the tricky point in time we are in right now is that my understanding is the Environmental Impact Statement for the NSDF was marked complete in terms of Indigenous consultation by the Commission, whereas we are saying no, we haven't had the time to do all that work. I would say the communities are getting their capacity in place and where it's not we would have a really strong framework agreement where we would bring in other experts to satisfy this question you just asked, you know, could you make a firm timeline.

So I would say we are in good shape for that and thanks for asking that question.

THE PRESIDENT: Thank you for that.

Maybe I will get staff to give their perspective and then CNL on how -- you know, given what you have heard and the kinds of concerns you have heard, how do we make sure that everyone feels comfortable that the needs, the concerns, the impact is well understood and addressed and accommodated?

MR. LEVINE: I can start and we can certainly see if others want to add in.

Adam Levine, for the record.

I think we have heard a lot of the concerns about capacity and we definitely have heard that

along the way in our conversations together and that is why we have continuously offered lots of different opportunities to gather Indigenous knowledge, to get involved and collaboratively doing the work together in accessing funding through our Participant Funding Program.

And, you know, every community is on its own path in terms of how ready they are to get involved, but from our perspective, as staff has stated in our documentation, we feel that we have hit best practices across the government in terms of what we have done over the last six years. This has been going on for six years, this consultation process, and our whole team, everyone here and CNL have been making countless efforts to get everyone to come to the table to work together, work through these issues and understand them.

And when we actually look at the project that is being proposed, from our assessment it's very clear that this is something that is actually going to improve the current conditions on site and consolidate the wastes that are there. And through the EIS process, through all the mitigations and all the commitments made from our perspective that the impacts are negligible, we don't foresee any offsite impacts, and any of the concerns that we have heard from communities are really some of the legacy concerns, the broader concerns of having nuclear in

their territory, which are serious concerns, but they are not necessarily tied to this specific project.

And I think you have heard commitments from us and others at CNL and AECL of a willingness to work beyond the specific project on addressing those concerns and ensuring that communities feel comfortable with the state of the environment and we have lots of different tools and things that are coming up on a regional level that we can talk about that could help address those things, that we are actually working with KFN and others on in terms of regional monitoring, et cetera.

So we feel the impacts have been appropriately identified, assessed, mitigated and addressed and that the consultation process has been thorough. And again, it has to be clear that it takes two, both parties to come together to make it a meaningful consultation process. It has to be reciprocal and we are happy this is happening now, but we feel that the process has been very good so far in line with best practices and we are happy to learn more moving forward, but for this particular project we have done our work.

THE PRESIDENT: Okay. Thank you.

CNL...?

MR. QUINN: Pat Quinn, for the record.

Very much aligned with Mr. Levine's

comments. This is something that we have been approaching for six years. CNL has this established track record where the opportunity is afforded us to engage and consult, we are able to find solutions together. And, you know, to earlier comments, that is not easy work and it takes, you know, a serious commitment and effort.

We have put forward capacity in the letter of intent so that we can establish the framework. So there is the opportunity for us to be able to build something together where -- you know, like beyond the scope, because we are always talking beyond the scope of the project as well, that you can put together initiatives similar to risk communications activities, environmental monitoring activities, those types of things.

Again, I will say that we have had success with other First Nations where we have been able to commit to that and actually start building it and hire people and, you know, this is something that we could also embrace with Kebaowek First Nation.

THE PRESIDENT: Thank you.

Well, with that, I will turn it over to you and if you can -- whether you want to respond to this particular one, Ms. Van Schie or Ms. Pelletier, but also with everything you have heard, any final comments you would like to make, please?

MS. VAN SCHIE: Okay. Thank you, Madam Velshi. I will just start and then our counsel Renée Pelletier will finish.

I am really happy we have had the opportunity to have this open discussion today and hear from CNSC as well as CNL. I will maintain there is still work to do. Neither CNSC nor CNL can describe the impacts to Kebaowek First Nation at this point in time.

And something that impact assessment fails to address that really has to come out in environmental assessments as well -- and we heard a bit of it today through Rosanna Wawatie and I want to thank her again -- is the intergenerational trauma of these developments and the displacement on their land base. So we have work to do in terms of gender-based analysis, like Verna McGregor mentioned, and the intergenerational trauma and reconciliation piece.

So I will just close off there and pass the microphone to my colleague Renée.

MS. PELLETIER: Thank you, Rosanne.
Renée Pelletier, for the record.

Just to reiterate that, you know, I think it has been acknowledged and admitted today both by CNSC and by CNL that the groundwork has started on a relationship with Kebaowek First Nation, but it really has

just started. So, you know, just a reminder that when you hear consultation efforts started six years ago, Kebaowek First Nation has not been at the table for six years. That is certainly not what has been happening.

And I think Rosanne made an excellent point that Kebaowek First Nation is currently involved in another project in a process that is working, right? So I take the Member's point earlier about the time is not infinite to say, okay, well clearly more time is needed, but to what end. And of course the request isn't give us all the time in the world. The request is give us enough time to have this work properly, right? Give us enough time to have Kebaowek actually be able to identify its concerns be properly and meaningfully consulted. And Kebaowek has a template that could work and some time is needed for that, but I don't think an infinite amount of time.

So again, I think just to reiterate, my legal submission is if a decision has to be made today, unfortunately I think it has to be no. I think it does have to be no. Consultation can't be fulfilled, but maybe it could be given a bit more time. So, you know, that's an option also.

Justin, did you want to say something?

COUNCILLOR ROY: Thanks, Rosanne, thanks

Renée. Justin Roy, Kebaowek First Nation.

Just a couple of closing remarks.

The staff of the CNSC and the CNL, they come here very well prepared. They can list dates and times of e-mails, when we met, when we got a phone call, but when it comes to things they have offered or funding or trying to build capacity, they don't elaborate in much detail on what are they offering, how are they trying to build capacity, what kind of capacity, how many jobs do they want to hire, so that, again, we could have that capacity and the funds to be able to be properly consulted.

So it's maybe a rhetorical question, but I would ask them, you know, provide the detail on what you have offered us on these million- if not billion-dollar projects and I'm sure you will be quite surprised by again the piecemeal offerings that were given to be involved to try and do proper consultation.

So I thank all the Members of the Commission for taking the time to listen. I pray to the Creator that you have been listening with open minds, open hearts and open spirits so that we can all, hopefully, come to the proper decision in this project.

And as our legal counsel said, as of today it must be a no. It must be a no. We are not anti-development, we are not anti-nuclear, we are

pro-UNDRIP, we are pro-FPIC, we are pro-Indigenous jurisdiction, we are pro-proper consultation and an accommodation process. Chi meegwetch. Thank you, everybody.

THE PRESIDENT: Chi meegwetch. Thank you. Thank you very much.

Okay, we will take a 10-minute break and we will resume at 3:30, please.

--- Upon recessing at 3:20 p.m. /

Reprise à 15 h 20

--- Upon resuming at 3:28 p.m. /

Reprise à 15 h 28

THE PRESIDENT: Okay, our next presentation is by the Wolf Lake First Nation, as outlined in CMDs 22-H7.120 and H7.120A.

We have Chief Lisa Robinson making the presentation.

Chief Robinson, over to you, please.

***CMD 22-H7.120/22-H7.120A**

Oral presentation by the Wolf Lake First Nation

CHIEF ROBINSON: Okay, good. All right.

(Algonquin spoken / L'algonquin parlée)

CHIEF ROBINSON: Good afternoon. I introduced myself in my language to honour that and to ground the position where I am coming from speaking here as Chief of Wolf Lake First Nation.

Today I bring to you a lot of knowledge, a lot of values and teachings from our people of the Wolf Lake First Nation. Wolf Lake is one of 11 Algonquin communities situated on the east and the west side of the Kichi Sibi . That provincial border is something that was put to divide us and that is exactly what it did, a colonial process to create division within our Nation, the Algonquin Nation.

But today, you know, following other colonial processes, Wolf Lake is one First Nation among three Algonquin communities today that does not have a recognized reserve land base -- three, in 2022 from, you know, the original people, the original Algonquin Anishnaabeg people.

The reason why I am starting with that is because I hear the issue today is time. If you want to talk about time, talk to us at Wolf Lake and how long we have waited for that recognition.

So today you talk about a process that started six years ago and you are talking about things and

impacts, cumulative impacts that we have yet to know that are going to be around beyond our time.

In this, I would also like to say that we have been here since time immemorial as the people of Wolf Lake. We come from the Dumoine. We were known as the Kiwe'gom Anishinaabe at that point in time in our journey. We were relocated due to the lumbering era to Grassy Lake, then on to Wolf Lake, Mahingan Sagahingan, our namesake, to Hunter's Point, then further dispersed out onto our territory and now reside in areas Timiskaming, Kipewa, North Bay area and beyond.

I am really happy to be here today presenting and seeing our Algonquin Anishinaabe Nation communities here, Pikwàkanagàn, Kitigan Zibi, Kebaowek and Barriere Lake as well.

We are all here today because we have concerns, concerns that have not been heard for some of us and it's concerns that are so close to the Kichi Sibi. Because you see, as Algonquin people we are people of the Kichi Sibi. We have been here since time immemorial and that Kichi Sibi, as you heard from our Elders, is our life, our culture, our identity, our way of being. It is us as Algonquin Anishinaabe.

I would like to acknowledge our territory where we are on today and the Elders that have come before

us and shared their knowledge. And I am really glad that space was made to hear and listen for our Elders to speak.

I would like to also acknowledge the leadership that was here, the Councillors, the staff and everybody that was here today, and in particular the drummers, the youth drummers that were here, because you see today I am here doing the work, we are all here doing the work, but it is not about just us, it is about that future. So I want to say chi meegwetch to the drummers for bringing that heartbeat into this room, because right now sitting here it's strange to me because I feel I have my back to everyone and I don't feel like I am respecting the people that are here by doing that. So I just would really like to acknowledge, you know, the smudge ceremony that happened earlier today, the Elders and the drum and that being brought in, because it is so important for us as Anishinaabe.

Importantly, as I said before, I bring my values, my teachings and knowledge of our people, but I also bring my academic background in environmental biology. And, you know, I am sure as the Commissioners, you have heard those environmental concerns and I hope you have listened to them loud and clear because they are huge.

From Anishinaabe perspective and from Western science this is all about ecology. Ecology, eco,

study -- or ology, study, study of the host. That is what the Latin derivative of that term is and that is what this is all about, this ecology and how everything is connected and from our Aboriginal worldview, Indigenous worldview.

I would also like to say that we support and recognize the work that has gone on before us and the declaration made by our Iroquois and Anishinabeg Nation Brothers and sisters in their declaration on the transport and abandonment of radioactive waste. In that declaration they had five key points regarding no abandonment, better containment, more packaging, monitoring, retrievable storage, and the key here for the Kichi Sibi is away from major water bodies.

And also, we heard earlier from Pìkwàkanagàn about no imports. That is a huge concern.

Today, as leaders, it is our duty to preserve and protect the land, Mother Earth and our future generations, and we cannot risk the destruction of our aki and our sibi, our land and our water, which are life-giving for all of us as human beings on Mother Earth.

In my presentation today I'm going to share with you our Anishinaabe world view, how we are connected and how embedded in each of us as Anishinaabe Algonquin people we have that inherent responsibility as caretakers of the earth. And that inherent responsibility

lies in our inherent rights, and those rights are the Aboriginal rights which are protected by the highest court of Canada, the Canadian Constitution, Section 35.

I will talk about why the Crown's duty to consult has been triggered and how extensive that duty to consult is, and explain, as well, why you as the Commission have to assess whether or not Wolf Lake has been properly consulted and why the Crown has failed to consult Wolf Lake First Nation.

And, finally, why this Commission cannot grant the application to amend the licence for the Near Surface Disposal Facility at this time.

It would be an error of law for the Commission to grant the application before the Crown satisfies its duty to consult and accommodate Wolf Lake First Nation.

As an Anishinaabekwe, I carry with me great responsibility as a mother, as a woman, as a Chief, as a leader, to protect the water for today and for the generations ahead. As women, we are responsible for the water teachings and the protection of the water as it provides for all of creation.

On my way here, I went to the water, and I had a ceremony with the Kichi-Sibi to affirm through ceremony and prayer my relationship, our relationship as an

Anishinaabe, to the responsibility of Mother Earth and all of creation.

We come from a rich history of the Kichi-Sibi. We have a deep legacy that runs throughout this entire watershed. It has been our home, our highway, our provider since time immemorial. Anthropologist Frank Speck travelled up and down the Ottawa River documenting this in the early 1900's, and in his records he calls the people of the Ottawa River the Kichi-Sibi Anishinaabeg, or the Kichi-Sibi Ini. We have always been here. We have always relied on our lands and our waterways, and we will continue to do that.

We have maintained our inherent rights under our own jurisdiction, our own custom, law and governance, known as Ona'ken'age'win, and this is our law, our supreme law that talks about the landscape and our freedom to conduct our traditions of hunting, gathering and to live sustainably through our inherent responsibility of our lands and waterways for our future generations.

The Kichi-Sibi is important for our identity, central to our culture. It is our school. We learn from it. It has our history. It has our stories, our culture and our traditional practices held throughout. It is our church. It is there for us for spiritual reasons, for ceremonial purposes, and these locations are

still found throughout our territory and known and shared by our oral tradition to this very day.

It is reflected in our language and the toponomy, the names of locations throughout our territory. One example is Migizi Kiishkaabikaan, also known as Eagle Rock. This is situated just down from Swisha, which is the area where the Dumoine River enters into the Ottawa River today. It's a rock face that rises some 150 feet above the Kichi-Sibi, and it was recorded in history and told by our people that this was a sacred site, and in European history it was recorded as a place where an offering was made for passage through Algonquin territory.

Sometimes we hear the story about the man who turned to stone. And if that protocol wasn't followed, safe passage didn't happen.

So, this and other stories special to us -- and you heard a few of them today -- talked about Fitzpatrick Island, another area. And Elder Verna McGregor also mentioned about the eel. Up at our end of the Ottawa River there is a place not too far from there called Pimisi Bay, where the eel used to be but it's no longer there.

So, these are stories, and these are toponomies that still exist to this day and that are shared and handed down by that oral tradition.

At Wolf Lake we continue to be active

keepers of the land and our waterways, with seven generations worth of responsibilities for our livelihood, our security, our cultural identity, our territory and biodiversity. Today, we have both traditional and contemporary interests. Not only do we have hunting, fishing, trapping and gathering, we also continue to occupy and access our territory, as we have since time immemorial.

We are also involved in resource management, ecotourism and stewardship from the basis of Crown Indigenous consultation engagements throughout our territory.

For us, though, at Wolf Lake it has been a challenge in terms of consultation and contamination at Chalk River. It's important to note that even before the Canadian government completed the construction of Chalk River in 1944, no assessment was undertaken to determine how that nuclear complex might affect the Kichi-Sibi upstream or downstream. No thought was given how that might affect members of the Algonquin Nation.

You know, our dependence on the then plentiful watershed and its resources of the Kichi-Sibi provided us with a huge multi-generational, social-cultural connection throughout our territory to places and customs. No thought was ever given to whether the promises of the Royal Proclamation could be upheld if the complex was

built.

We do not agree with the Near Surface Disposal Facility proposed on our title territory alongside the Ottawa River. We view this situation as clearly inconsistent with the federal objective of advancing reconciliation. Moreover, the Commission is bypassing our Algonquin communities in participation by following the *Canadian Environmental Assessment Act 2012*. And the presentation from Kebaowek really spoke to the differences between those two environmental assessment processes.

In terms of us, the Crown has a constitutional duty to consult and accommodate Aboriginal Peoples whenever it has a decision that will have adverse impacts or affect our recognized and asserted Aboriginal rights and treaty rights. This is placed as an obligation on the Crown to ensure that our rights are protected and that damage is prevented, not only on the resolution of claims but in respect to established Crown obligations recognized under Treaty, which we are not a part of.

The duty to consult arises when the Crown has knowledge, real or constructive, of the potential existence of the Aboriginal right or title and contemplates conduct that might adversely affect it.

The Commission has already admitted that there is potential for this proposed project to impact the

environment, and one can assume that Wolf Lake's asserted and title rights will be adversely impacted by this decision.

You heard earlier about the Statement of Asserted Rights in 2013. This document was provided to Canada in 2013 as a statement of our asserted rights and title from the communities of Wolf Lake, Kebaowek and Timiskaming First Nation.

This Statement establishes that Wolf Lake does possess a strong prima facie claim to our traditional territories on both sides, east and west of the Upper Ottawa River. The purpose of this Statement was to support Wolf Lake, TFN and Kebaowek in our efforts to engage with the Honour of the Crown and its duty to consult and accommodate our interests and matters affecting our traditional interests and territories.

We have never surrendered our Aboriginal rights or our title and have never authorized any other group in Quebec or Ontario to negotiate for us in relation to these rights. Our members remain connected to our territory and continue to occupy and manage, safeguard and intensively use our lands and our waterways.

Wolf Lake does not accept, acknowledge any claims to any Aboriginal title, treaty rights made by the Algonquins of Ontario or any other non-title organizations

or recognize the Algonquins of Ontario or non-title organizations as an entity entitled to consultation or accommodation.

This Statement of Asserted Rights provided a summary of our evidence, our land use and occupation data to our territory, dating back from time immemorial to today, showing that we continue to use and occupy our territory.

We assert our Aboriginal rights and title to the exclusive use and enjoyment of lands and waters within our territory and portions of the Ottawa River, in addition to the waterways throughout our territory. Unfortunately, when you talk about the Statement of Asserted Rights, what we see is that the Canadian Nuclear Safety Commission, Canada, has been unprepared to address this assertion in any meaningful way. It has not engaged with our communities substantively and especially in respect to this consultation around the Near Surface Disposal Facility.

You see that the duty to consult is triggered, and there's different scopes of when that happens. It has to show that there is an assessment of the strength in the case, and that is what that Statement of Asserted Rights does. And it also has to have a serious and potential adverse effect on the rights being claimed,

and it does.

So, that is why the duty is extensive in the circumstances.

In terms of this project, the Canadian Nuclear Laboratories has applied to amend its licence to authorize the construction a Near Surface Disposal Facility. So, it is proposing to amend the licence, but the scope of this project is not just a licence renewal. The scope of this project is, from my perspective, really a new project in terms of scope.

Today, we cannot speak to what those cumulative impacts can be, and that is extremely concerning.

We have through the SAR document provided our traditional land use studies to document and describe our use of the lands and resources by our members in proximity to the project, that may be adversely affected. This also includes concerns for the release of harmful radioactive elements throughout the project's operational phase. These will have impacts on our harvesting, on our Aboriginal rights.

The potential for this to cause catastrophic effects on the Wolf Lake First Nation and other Indigenous nations is something that really has to be looked at and really understood.

The severity of the potential impacts and the scope of the Crown's duty to consult and accommodate Wolf Lake falls at the high end of that spectrum. Right now the Commission has to assess whether this duty has been adequately fulfilled. Has Wolf Lake been adequately consulted?

In terms of this, there is a number of key steps that need to happen before that.

First, we need to assess those potential environmental impacts and cumulative environmental effects.

Second, Wolf Lake First Nation needs to be consulted on this application, which includes providing us the information and the resources that we are needed. Our information and comments need to be taken into account in the decision-making process, and we need to see that in writing to show how these comments and concerns have been weighted and were considered in that decision reflected on behalf of the Commission here.

The Commission has the duty to assess the adequacy of the Crown consultation in the circumstances of these proceedings.

So, it is clear that the Crown has failed to meaningfully consult and accommodate Wolf Lake First Nation. Wolf Lake has never engaged directly with CNSC or CNL on this proposed project. I, as Chief of Wolf Lake

First Nation, have never received a letter regarding this project. Wolf Lake First Nation has never accepted any funding, no capacity building, and actually prior to me sitting down here I was just invited to start a conversation for the first time.

In terms of the consultation process, it has failed. And it has failed because the CNSC and CNL has reached out to the Algonquin Nation Secretariat. The Algonquin Nation Secretariat is the Tribal Council. It is a corporate entity that does not represent the rights and title of a First Nation community. A Tribal Council is there to provide programs and support to the communities, the communities of Wolf Lake, Timiskaming and Algonquins of Barriere Lake.

So, including us as part of that consultation is not proper. It is in fact incorrect because the ANS was mandated by us that if there is any land issue or consultation, that they are to directly contact the community involved.

And that has been the information that has been provided through phone calls, or whatever it may be, that's going to be stated in the record. But for myself, as Chief of Wolf Lake First Nation, I have never been consulted.

It really is, you know, our first time at

Wolf Lake learning about this project. We've heard about it, but we've never been consulted.

In light of the claim advanced for the potential and new and serious adverse effects to Wolf Lake's rights, the appropriate remedy for the Commission to decide today and as a matter of public interest is to decline the grant to the CNL application until such a time as adequate consultation and accommodation regarding the Near Surface Disposal Facility has occurred between Wolf Lake First Nation and the Crown.

It would be an error in law for the Commission to issue an order granting the exemptions and authorizations before the Crown has discharged its duty to consult and accommodate Wolf Lake First Nation in the circumstances.

This is my submission, and I wish to thank you for the opportunity to speak today and to share. I respectfully request that the Commission immediately engage in meaningful consultation with Wolf Lake First Nation. Meegwetch.

Did you want to add anything?

I will pass it off to Scott Robertson.

MR. ROBERTSON: Thank you, Chief.

My name is Scott Robertson, Legal Counsel for Wolf Lake First Nation.

I would like to thank you for the invitation today. I would like to thank the Elders and the Chiefs that appeared today. I would like to thank the community members, the drum group.

I would just like to pick up on two issues that were put forward by Chief Robinson.

Number one, the Statement of Asserted Rights, I would like to speak to that directly, and also the issue of ANS being recognized by CNL and others as the operative group in which to conduct consultation.

I think this causes -- either one of those issues would cause pause to the Commission, and they should.

The way I look at this -- and I've had the opportunity to sit through much of today with an open mind and open ears. And what I see is a continuing historical injustice to Wolf Lake First Nation. And what do I mean by that?

Well, in 1849 the Governor General of Canada -- not Canada, the Governor General at the time, provided an Order in Council to set aside 100,000 acres for the descendants of Wolf Lake First Nation. As of 2022, they still wait for enforcement of that Order in Council. They have no reserve. They have no recognition. But they do have Aboriginal title that's never been ceded.

So, that takes us to the Statement of Asserted Rights.

So, in 2013 on their own dime, so to speak, they put together the information with the help of Timiskaming and Barriere Lake, and they provided a Statement of Asserted Rights to put their so-called foot in the sand to protect those rights that were being taken away from them.

The government is very aware of that Statement of Asserted Rights. It was presented to them on several occasions. And yet when I look at the Indigenous Engagement Report provided by CNL, they dismiss it in one line, by saying we've looked on ATRIS, which is a government website that tracks and monitors claims, and we don't know what's the status of it.

Now, why is that important? Because without knowing what the statement of asserted rights are or if they're applicable, then you can't properly scope the project, because what are you holding up rights to if you don't know what those rights are? Are they Aboriginal rights? Are they Treaty rights? Are they Title rights? Without that, you can't possibly scope the project. That's an issue. That's an issue that the Commission should be very concerned about.

And it's surprising to read it in an

Indigenous engagement report because you think they would have gone the effort to find out what the status was.

Number two, the no consultation with Wolf Lake directly is quite concerning, and yet again in the Indigenous engagement report there's an appendix attached with the engagement record. I encourage you to read that engagement record because it's -- we talked about today -- I've heard the Commission saying that this should be a two-way street. Well, the engagement record is very interesting because it's CNL to ANS. "We sent you an email. We called you. We sent you information."

At some point, if there wasn't any response, somebody should have picked up the phone and called, I don't know, the Chief of Wolf Lake First Nation? If we're in a meaningful engagement and dialogue, would that not be the sensible thing to do?

And it's quite shocking to hear the Chief say that she was never contacted.

So continuing historical injustice. Let's just continue that thought for a second.

So 1849, we have no reserve, and then we were informed today by counsel for one of the other First Nations that there's a very dark period in Canadian history where there was an Act that prevented lawyers from representing First Nations on claims. Again, historical

injustice.

We've got residential schools. I don't think we need to get into all the trauma that's been caused by that.

And so when I see and when I hear and I feel what's happening with respect to this application whereby statements of asserted rights are being ignored, consultation is being conducted with an entity that doesn't provide or respect or able to give any kind of consideration to those rights, one asks, "Is this just a continuing historical injustice?".

And the reason why I bring that up is because I consider myself as part of this process, as you, Commissioners, as all the people in the room, we consider ourselves agents of harm because this process has been going on for a very long time. And when I say "process", I'm talking about removing the Algonquin people systematically from their title lands.

There is no Treaty. Why is there no Treaty? Is that on purpose? Is it an intention?

We talked about six years recently, about how this process has taken six years, and that's a very long time. Can you imagine being part of the Algonquin Nation and waiting for a community to be established since 1849?

And through the successive history, we see the lumber barons come in and push the Indigenous people off their lands for the resources. We see the mines being established, pushing them further off their lands. We see hunting and fishing rights being prosecuted, being pushed off their lands. And here we are again.

So to me, this just represents a continuing historical injustice. And I believe it's all in the name of expediency, which sometimes gets referred to in these processes as "balance of interests". And somewhere along the way there's going to be a Commission report and someone is going to say, "It's a balance of interests".

Aboriginal rights will be put up against the public interest of Canada irrespective of the fact that those rights are recognized and affirmed in section 35 of the *Constitution*. But we'll leave that for another day.

I heard words this morning about the earnest attempts to develop relationships and dialogues and understanding with the Algonquin people, and those are words that have been provided for a very long time to the Algonquin people. "We recognize your rights. We adhere to the principles of the *Royal Proclamation of 1763*". But yet no action.

I was very buoyed today when I walked into the room and there was a time when I started this practice

of law where I wouldn't have seen a drum in a process like this. I wouldn't have heard Indigenous people speaking their own languages. And I certainly wouldn't have seen a smudge ceremony to start.

We've come a little way in terms of recognizing the importance. But what the Algonquin people have tried to tell you through their songs and their drums and their smudge is those are practices, not protocols or procedures. Those are practices of law.

Those practices that you saw today were them exercising their laws which have never been surrendered or extinguished and very much part of the process. And there's been a cry -- there's been a cry out today about this process, about being in their communities, respecting their laws, using their languages to come to an agreement. But yet I feel in my own personal and speaking with the Algonquin people through Wolf Lake is that we're being pigeonholed into a process with platitudes of we'd really like to be able to come to an agreement on some of these issues.

But if we're going to really be sincere and if we're going to try to achieve reconciliation, which the Supreme Court has said reconciliation is recognizing the pre-existing sovereignty of the Nations that appear before you. Sovereignty. That sovereignty has never been

extinguished. And if we're going to do that, then I ask the Commission to think about the process that's being thrust upon them and think about the issue of six years and how insulting that must feel to be an Algonquin person and being told that we've been at this for six years. That's a long time to carry out consultation.

Those are my submissions.

THE PRESIDENT: Thank you, Chief Robinson and Mr. Robertson, for your presentation.

And I'll open the floor for questions, starting with Ms. Maharaj, please.

MEMBER MAHARAJ: Thank you, Madam Velshi. Thank you, Chief and Mr. Robertson.

I think if I can ask for some help from you, Chief, in understanding better where the traditional territories of the Wolf Lake First Nation are and how you're able to keep your people together and moving forward with that commonality of community when you don't have reserve lands -- that hasn't been given to you yet, and that's obviously not our purview.

But how do you do it? How do you keep it together and how do you -- how would you describe your traditional territory?

CHIEF ROBINSON: That's a really good question, you know, because it's not easy. It absolutely

is not.

How do you have a sense of community without even being together as a community? And for us, you know, our people still maintain that connection to our territory. It's vast. And each of our families still goes out and has those special places on our territory that they connect with our land and our water throughout our territory, and that's something that our people have always done since time immemorial and still do today. Hunting, fishing, gathering, being out there, learning, learning from our Elders, learning from their families, their extended families. That is how we've been able to be together out on our territory.

And when you talk title, title is one thing. Title is something that we have never surrendered. Our title is intact, and our rights go well beyond the territory of Wolf Lake First Nation.

As a collective of Algonquin First Nations or communities, we share our rights throughout Algonquin territory. If I have one of our people from Wolf Lake that want to go harvest in the territory of a neighbouring community, there's protocol there, and that's something that we have always had as Anishinaabe people. You ask. And that is something that we all understand throughout our territory.

And we feel home throughout our territory, these places that, you know, you hear that are sacred and, you know, have our names. You know, there's a lot of them throughout. And that shows that our presence is still there and that that knowledge is still there, and that is how we maintain to be together. But as a community, it is very difficult.

MEMBER MAHARAJ: Thank you.

And with respect to the scope of your traditional territory, the place where you're able to exercise your traditional rights and culture and traditions, does that encompass the Chalk River Laboratories' land? Can you give me just a bit of a geographic picture?

CHIEF ROBINSON: Well, the statement of asserted rights from 2013 provides a pretty good geographic picture and you will, in fact, see in that map that that is located within that territory.

And I think it's attached, isn't it, into our submission? Correct.

MEMBER MAHARAJ: Thank you. I'll take a look.

CHIEF ROBINSON: Okay. And that's based on all our land use and occupancy, so.

THE PRESIDENT: Of the two submissions

that we have, there was no map that I could see either.

CHIEF ROBINSON: Sorry. I thought it went in the kit, but we can provide it, absolutely. But I mean, that document was made public. It was submitted to the Crown and should be readily available and everybody should have accessed that by now at this point and really have a thorough understanding of exactly what that statement of asserted rights and title has. It's been nine years.

MEMBER MAHARAJ: Thank you.

THE PRESIDENT: Dr. Lacroix?

MEMBER LACROIX: Thank you very much, Chief Robinson, for your presentation.

In your second submission on page 8 of 16, you mentioned that you were never asked the question, how would you prefer to be engaged. So I'm asking you this question. How would you prefer to be engaged?

CHIEF ROBINSON: Well, in terms of engagement, like I said, it hasn't happened at all. And I think, you know, when you're looking at getting the concerns of a community, that's where it has to start, is with our community. Coming to our community, having those conversations, giving the time and the space to hear and listen, giving us our ability to conduct our research and our studies and at the same level as what's next to me here. That's what would be needed.

And in terms of us, you know, I think the recognition probably would be different had we had a reserve, and that is not our fault. That is not the fault of the Wolf Lake People. That is the fault of the Crown for failing to recognize us and our rights and our fact that our title remains intact. Does that --

THE PRESIDENT: I'll ask CNL and then CNSC Staff around the assumptions made that ANS actually could be the ones representing Wolf Lake, and you know at what point, you know, when you weren't hearing from them, did you consider that "Maybe we should go directly to Wolf Lake?"

MR. QUINN: Pat Quinn, for the record.

With respect to reaching out to the ANS, we again began in 2016, and it wasn't until May of 2022 that we understood that Barriere Lake -- Wolf Lake, pardon me, Wolf Lake was interested in the project. And immediately as we received the intervention and the desire to intervene, CNL actively reached out to the First Nation so that we could, you know, say our door is open, how do we connect? And we have started to try to make arrangements so we can, you know, begin meetings with the First Nation.

As Chief Robinson outlined, how do we want to be engaged? I think that's a great question and I believe the description that she proceeded is reasonable,

and that's something that CNL would most definitely welcome the opportunity to come to community, to talk with the community members and talk a little bit about ourselves. But most definitely take the opportunity to learn more about Wolf Lake.

THE PRESIDENT: And so you would agree -- or would you agree that as things stand right now, Wolf Lake has not been consulted, that you really don't have a good handle of what their concerns are with the project and then have an opportunity to address those?

MR. QUINN: Pat Quinn, for the record.

It's our understanding that the ANS was representing the communities and so that we were doing that outreach there. Presently, though, we do not -- like as I've just stated, we are willing to engage with Wolf Lake First Nation now, that we're aware that they are interested and willing.

THE PRESIDENT: I don't know, Chief, if you were here earlier when the Kitigan Zibi Anishnabeg were making their presentation. And one of their recommendations was that instead of doing kind of a one-on-one consultation, you know, bring all 11 Algonquin Nations together with CNL and CNSC. Did you have any thoughts on that, any preference?

CHIEF ROBINSON: Well, as Chief of Wolf

Lake, I do not have the liberty to speak on behalf of the other Algonquin First Nations.

THE PRESIDENT: What about for Wolf Lake itself? Would you want the consultation with CNSC and CNL to be with just you, or would your preference be bring all the Nations together?

CHIEF ROBINSON: I think that would be something that we would have to speak with, in terms of our neighbouring communities and see what the interests would be.

THE PRESIDENT: Thank you. And so, Staff, to you then around consultation to date with Wolf Lake, and given what you've heard, what would be your plans going forward?

MS. CATTRYSSSE: Clare Cattrysse, Canadian Nuclear Safety Commission.

We are saddened by what we're hearing. I mean, we really have tried. And we're also finding it's a little bit confusing because we tried -- we were getting a lot of messaging early on to try to work with organizations that represented multiple nations and that was the approach we took.

I'm going to ask Jessica to walk through a little bit of what we just did. And then now there's been a shift back to going to each First Nation. So we will do

whatever Nations want, is the best approach. But we're finding that we're getting lots of different messages. So it would be really good to understand what the best approach is.

I think for really addressing specific issues and specific rights of a community, working one-on-one with the Nations is probably the best approach and we can listen and learn and find out what that is. But we're open to hear that.

I am going to pass to Jessica, but I do just want to say, like we are hearing throughout the day, there is -- the common law, Supreme Court, and guidance has always said that there does need to be reciprocity, that both parties need to come to the table. And I just want to say that we have been at the table from the very beginning for consultation and we really rode CNL extremely hard. I think we drove them crazy too, with monthly meetings saying, "Have you heard from these Nations? Here's what we have heard. We've done a number of phone calls. We've written directly to Chiefs. We've met with a number of officials and leadership." And so we really have tried. That's why with we felt we had to document a lot of this because we really struggled trying to just get people to talk so that we could address and build a program around what the needs of the community would be.

I'm going to ask Jessica, though, to talk a little bit about ANS, because we do feel that we did try to reach out directly to the Chiefs. Thank you.

MS. WRAY: Jessica Wray, for the record.

With respect to specific consultation and engagement with the Algonquin Nation Secretariat, since 2016 CNSC Staff have reached out to ANS. We had conversations with them about who to speak to and were directed towards them and that they would be passing the information along to the specific communities, including Wolf Lake First Nation.

In addition, when we did send emails out, we did copy the Chiefs of those communities that ANS did represent, and we did not hear back from them. And we have been offering, you know, since 2016 to meet, to learn, to understand, to provide participant funding if that's something that they were interested in and to help support them in the process, and we've not heard anything back.

MS. CATTRYSSÉ: Can I just add one thing though? We did follow up with ANS also and say, "Are you getting our messages? Is that material getting to the Chiefs?" And we were told, yes. So we have had correspondence and we know that our material went and we did do follow-ups.

So could we have done better? I don't

know. I mean, we could have done numerous phone calls directly, and as I said in 2016 it was made clear to go through ANS, so we did. But we did do follow-up. So please don't just think we just sent a bunch of emails and just left stuff hanging out there, and we did follow up with CNL as well to make sure they did the same thing.

THE PRESIDENT: Though I guess what we're hearing is the follow-up was with a body that didn't have the authority to engage with the CNSC on behalf of say, Wolf Lake, is what we're hearing today.

MS. WRAY: Jessica Wray, for the record.

While it is the case that we were following up with the ANS, we also did ensure that our communications were going directly to the communities, and we did not hear anything back.

THE PRESIDENT: Chief, I know you very specifically said you hadn't received emails from CNSC. Is this a case of one of a zillion emails you get you're cc'd on and maybe didn't see?

CHIEF ROBINSON: As I stated before, I haven't seen anything. That could very well be the case. But regardless, you know, we've been outreached through engagement processes by other proponents developing resources on our territory, and if they do not receive a response through our consultation office, somebody is

following up from the proponent on their behalf, phoning our office, trying to get my Band Manager to track down the Chief, the Council, whatever it is, and that has not happened in this case.

THE PRESIDENT: Thank you.

CHIEF ROBINSON: I would also like to have a question for, sorry, Clare. Who exactly asked for mandate for you, or your organization to reach out to have -- like to reach out for organizations that represent First Nations, instead of directly to the communities? Organizations are entities and corporations. They are not rights and title holders. And I'm wondering is this because there has been outreach to other corporate entities that are non-title and in my mind, rights holders? And in that case, there's a pretty big problem there following that, because that is a pretty dangerous precedent to have happen.

MS. CATTRYSSSE: I'm going to pass this to Adam Levine because we had this discussion earlier.

MR. LEVINE: Thank you. Adam Levine, for the record.

So just to clarify, our approach is we are inclusive, broad, and flexible in terms of the way that we approach consultation and communication. So the beginning of any process or project, we make sure that we go broad in

terms of who we're reaching out to. Because it is not always clear who is going to be coordinating, who is going to be responding, and due to a lot of the capacity constraints we heard from Kebaowek First Nation.

So in terms of ANS, when you do the research, you look at the information about that organization and the communities they represent, it clearly states that they do represent the communities in these different capacities, and that's something the Government of Canada has through their Aboriginal and Treaty rights and information system as well.

So we followed the information that was available to us but, as was stated, we reached out to all the communities that they represent as well. We didn't want to assume that it was just the organization, that it was also the communities directly that may want to be engaged in the process, and we continue that throughout the process.

And then in 2020, we did another round of follow-ups and we sent letters directly to the communities as well as ANS to offer a consultation approach and, as was stated, we haven't heard back. But we don't take not hearing back from communities or organizations or anyone we're reaching out to as that they're not interested. There's capacity issues, many emails, as was mentioned, and

so we keep going back. We're relentless in following up and we're always happy to talk at any point in the process.

THE PRESIDENT: Mr. Levine, when you say you reach out to communities, who in the community do you reach out to?

MR. LEVINE: Adam Levine, for the record. So we always go to leadership first. So if we don't have direct contacts in the community, we don't have a relationship yet, we reach out to the Chief and Council for available information and then we call the Band Council, for example, to get information, or their representative organizations, and then we sometimes build in other contacts like consultation coordinators, et cetera. But always to leadership.

THE PRESIDENT: So we want to -- I mean, I'm sure we want to understand the process around who one should be engaging with and clearly whatever has been tried here has not worked, and I think I'm hearing two different things.

The Chief is saying, look, I've never received any correspondence and you folks have said you've been relentless in sending messages to everyone, so clearly things have fallen through the cracks.

So Chief, any suggestions from you because you have said there are other projects you're involved in

and that works. So what could have gone awry here given what you've heard from Mr. Levine and Ms. Cattrysse?

CHIEF ROBINSON: Chief Lisa Robinson.

Well, if this process started in 2016, I became Chief in November 2018. That could possibly be a factor in this as well. I'm not really sure, but...

And in terms of our leadership at Wolf Lake, we are a small community and you always hear about, you know, underfunding and under-capacity of the communities. Well, it's even more extenuating when you're community without a recognized land base.

In terms of our leadership, there's myself and I have two other Councillors as well, so we are a small First Nation, but we're mighty as well and we're definitely doing the work we need to do to better our community.

THE PRESIDENT: Chief, thank you very much for your submission and your presentation. Any final words before we move to the next one?

Thank you very much. Miigwech.

--- Pause

THE PRESIDENT: Our next presentation is by the Algonquins of Barriere Lake as outlined in CMDs 22-H7.139 and .139A, and we've got Chief Tony Wawatie making the presentation.

Over to you, Chief.

***CMD 22-H7.139/22-H7.139A**

Oral Presentation by the Algonquins of Barriere Lake

MR. MATCHEWAN: Actually, my name is Councillor Norman Matchewan, so I will be starting off.

I forgot to bring my lawyer, but we'll go ahead without him.

(Algonquin spoken / L'algonquin parlée)

My name is Norman Matchewan, and I'm from the Algonquins of Barriere Lake. My language comes from the land, comes from the water, comes from the air, comes from the animals. This is how strong our connection is to the land.

Earlier there was a question asked if there would be an agreement or a compromise. If there was such an agreement that says no, would that be respected? I don't think so because profits get in the way.

Water is essential. It is very important to our way of life. Water will carry us for the years to come.

Money and profits do come to an end. We don't carry that to our grave. But our grandchildren, the children will always have water, and this is why it's so important for us to be here to stand with our brothers and

sisters, to stand with the people that oppose this project.

I see and I've met so many people here that have been fighting for the past 30, 40 years, their life. They've put their life on this opposition. And I think it's time that they're heard also.

You know, we've always managed to move away from our territories to accommodate settlers. We were kicked off our land in so many places. We were pushed more in the bush to be more nomadic because there was more settlers after our -- after the Indigenous population was wiped out.

You know, we made that accommodation for your families, your ancestors, and we have given and given and given from time and time again our natural resources that have built this country. But what have we gotten in return is a failure in consultation and accommodation.

We've always accommodated forestry regimes so that this nation can grow. Meanwhile, the Indigenous Nations are left behind, and which was not supposed to be like that. That's not according to (Algonquin spoken / L'algonquin parlée), the belts that Tony will get into.

This is a simple reminder what we have done for settlers and how we have accommodated this country, but we have been left behind (Algonquin spoken / L'algonquin parlée). It is written in our beads, our

belts.

So to say that we don't compromise; we have. This is why our land looks the way it is now. When Elder Wawatie, customary late Chief Wawatie, identified a specific area called (Algonquin spoken / L'algonquin parlée), the Screaming Mountain, that was destroyed after it was identified. How can we trust the governments with our information, sensitive information?

When I listen to the stories of these Elders, that is a big part of my identity. I had the privilege of learning about (Algonquin spoken / L'algonquin parlée) but the kids behind me, they don't see that because that's not there anymore. That was taken away from us forever. The blankets on the ground was completely changed to a point where we can't even recognize it.

Another Elder talked about (Algonquin spoken / L'algonquin parlée), another sacred area that was provided and yet destroyed. But yet, you know, these developments, they always want our information. And for what? For it to be buried? For our identity to be sliced up? I don't agree with that approach.

You know, we have to find a way to co-exist and for life to go on, for water to go on for all of us. For you guys. For the children.

Miigwech.

CHIEF WAWATIE: Miigwech, Norman.

(Algonquin spoken / L'algonquin parlée)

My name is Tony Wawatie, I'm the Chief of the Algonquins of Barriere Lake. I've been Chief for almost a year and a half now, my term will be up. And it's an *Indian Act* system that was imposed on our people, across Canada, as a matter of fact. Our identity is

(Algonquin spoken / L'algonquin parlée). We have a traditional system as part of the Algonquin Nation. Our belts, our wampum belts, talk about that. And I'm honoured to be here to speak about the historical -- the sad historical doings of our people across Turtle Island, but specifically for our First Nation brothers, Algonquin Nation.

Back in the time, you know, before encroachers, before settler state colonizers that came here to take away our resources and identity, they tried every way to take away a spirit, Anishinaabe, Anishinaabe People. And we use the watershed for travelling to have our meetings, to gather at a central location, which is the Mitchikanibikok and that's where I'm coming from and that's where I'm from.

The Ottawa River watershed was a travel route so that when there was something happening within our respective areas, our territory that we occupy, there was a

messenger that would go around to say, "Hey, listen, there's encroachment going on here. How do we deal with that?" And we had to adapt to learning languages, French, English, and this is what it was about with the wampum belt. You know, we're supposed to be respecting the English-speaking nation, the French-speaking nation, and the Anishinaabe-speaking nation which represented a language, an identity across Canada, across wherever -- you know, the dialect. That's our identity. That's who we are.

A lot of our members, Algonquin brothers, were wiped out, and sisters. And meanwhile, the Queen was supposed to protect -- protect us. Now it's being channelled through the province to take away my identity. I don't want that. I'm not a Quebecer, I'm not a Canadian. I'm Mitchikanibikok Inik. And I'm here to support Kebaowek First Nation in their intervention, and Wolf Lake as well. I'm here to support them in their intervention and about the buildup of waste that can potentially contaminate.

And meanwhile we walk on the same ground. We walk the same air -- we breathe the same air, rather. We have our tools that showed us our existence, our identity. We are an organized society, and that's why that wampum belt signifies the English-speaking nation, the Anishinaabe-speaking nation, and the French-speaking

nation, that we would have been protected, we should have been protected. Our rights.

We didn't ask to be put in a reserve system. We didn't ask to go to residential school. Imagine that? Your kid was taken away at a very young age. Shame on that. Shame on that. And this is why we find ourselves dysfunctional, if you want, because of the policies that continued to assimilate us, stemming from the 1969 Trudeau White Paper. It's still the same damn thing that is just written in a nice legal jargon. Our inherent rights.

Our Constitution. We have a Constitution that we had to codify and amend. Our (Algonquin spoken / L'algonquin parlée). We had a system of governance that's not recognized by Canada. We have a system of governance. And today we're bogged down by court decisions that were made, the duty to consult and accommodate and all these other court precedents that continue to adjust to our way of life.

The time is not, you know, the time is to move on with recognizing our existence, recognizing our rights. That's what it is. And I'm saddened that, you know, we -- we're not familiar with the *Indian Act*. Lots of consultation papers come and go. Meanwhile, we've heard about capacity building issues. We're not familiar with,

you know, the things that are sent out by legal experts, which by the way, there's a big imbalance on the representation of lawyers that sit around the table for Canada. Meanwhile, we have chunks of change to pay our legal fees.

So you think that's the same level playing ball field? That we should be, you know, we should be at that same place where our rights, our Anishinaabe way, our identity is not negotiable. We have a system of governance that represented the family system that we had.

I remember -- you know, it reminded me of the wampum belt, the picture that was taken in 1923. Wampum belt holders come from Mitchikanibikok Inik. We had have the seven diamond wampum belt that represents the different Nations that existed within the Ottawa watershed. We forgot that, but it was always all oral history.

Now we've updated, we've digitized our existence just to prove to Canada, but yet they water down our rights through UNDRIP, known as CANDRIP to me, and that's something that, you know, we are here. We're not going anywhere and you're not going anywhere. But we have to co-exist and recognize who was here first. But peaceful co-existence -- you know, I think there should be more time given just the same.

You know, I come in here to support this

intervention with the Algonquins, my Algonquin brothers and sisters, and I think that sometimes, you know, we have to -- how do you say that? Compromise. You know, my rights are not for sale. My existence is not for sale. And we have to change that, acknowledge the hurt that you caused to our people, the misery that you've brought to our people. Residential school, reserve system, childcare, Sixties Scoop. And then just all that. The federal Indian Day School. You know, we -- our lands are dispossessed. Cultural genocide.

I stand here in support of, you know, Kebaowek's intervention and Wolf Lake's intervention, and we need to be reminded that we have (Algonquin spoken / L'algonquin parlée). We have our system, customary system.

For now, I'll leave it at that. I mean, I think that we have to take a look at how -- what are we going to do about the destruction that's happening?

There's so many knowledgeable people around the table, around the room. Traditional knowledge, Indigenous knowledge, call it what we will, and also scientific knowledge about how we destruct our earth, how we -- you know, manmade destruction that causes Mother Earth to react to it. I've never seen a tornado before around the area.

So these things that we have to take a

look at, talk, think about how we are destroying and that's going to impact a lot of, you know, the ecosystem, our animals, and even us.

So these consultations that we get all the time, you know, every little thing that you guys want to exploit. Consultation, consultation. So I think maybe instead of bringing Elders like that, you know, you need to listen to us. We have a checklist, too.

You want that checklist of accommodating, you know, and if we don't answer and if we don't respond or -- are we saying it's okay? Silence is consent? I say, no, it's not consent.

So I stand here with the activists as well, the ones that care about Mother Earth.

Miigwech. Miigwech. Miigwech.

THE PRESIDENT: Thank you very much, Chief and Councillor.

Anyone else from your group wanting to say a few words?

Please, go ahead.

MS. VAN SCHIE: Thank you, Madam Velshi.

Yeah. So Barriere Lake as well was under the auspices of this consultation by CNSC with the ANS. So a similar situation to Wolf Lake First Nation, only the Algonquins of Barriere Lake as well have not been

consulted.

So that's something we just wanted to put on the record, and I'm just going to pass it to legal counsel, Sarah Glickman, for some additional points and then I think we can wrap it up.

MS. GLICKMAN: Thank you, Rosanne.

Good afternoon, President Velshi and Members of the Commission. For the record, my name is Sarah Glickman and I do, in fact, act for the Algonquins of Barriere Lake as their legal counsel.

You previously heard from my colleague, Ms. Pelletier, about the two components of the duty to consult, the procedural and the substantive. And with respect to the Algonquins of Barriere Lake, what CNL has undertaken is a lot of offers on process. And the law is clear that that is not enough to satisfy the duty to consult and accommodate.

And as you just heard from Wolf Lake First Nation, CNL's attempts at fulfilling this procedural component were directed at the wrong body.

As far as I understood from CNL's response, it had no real answer to the question as to what steps it took after realizing that Wolf Lake and, consequently, all the individual communities CNL assumed were represented by the secretariat should be consulted

with individually. CNL simply indicated that Wolf Lake reached out on its own, which is exactly what the Algonquins of Barriere Lake did as well, which I will speak to.

The CNSC also provided input in this conversation, claiming that it heard from the secretariat that it represented the interests of these individual communities. But I have to emphasize that CNSC never received a mandate. The Algonquins of Barriere Lake never provided a mandate that the secretariat represented their interests in this matter.

I'll also note that CNSC conceded that working one on one with the individual communities is the best approach moving forward.

Looking to the proponent's materials, CNL Indigenous engagement report makes reference to six letters, eight phone calls or email correspondences and 16 general emails sent to the Algonquin Nation secretariat, which are irrelevant insofar as they do not constitute attempts to engage with Algonquins of Barriere Lake, if they can even be considered attempts at engagement.

CNL, like the CNSC, assumed that ANS represented the interests of Algonquins of Barriere Lake and, consequently, was only in touch with -- sorry, with the ANS. It did so without confirming the same with the

First Nation or receiving a mandate, and despite indicating on page 69 of its Indigenous engagement report that the Algonquins of Barriere Lake has their own elected Council comprised of a Chief and six Councillors, thereby acknowledging that it is, in fact, aware that Algonquins of Barriere Lake has its own independence governance regime separate from the ANS.

Now, at some point CNL realized that they were reaching out to the wrong people, that the Algonquins of Barriere Lake represented their own interests and the interests of their community, and that the First Nation had to be engaged and consulted with independently. Once the proponent realized this -- and even if that realization came too late based on the rigid timelines, it was CNL's responsibility to make the decision that consultation had not occurred and that the hearing could not proceed without it.

As a result of the CNL's failure to engage the Algonquins of Barriere Lake and to meet its procedural obligation to the First Nation, there has been no substantive consultation. The Algonquins of Barriere Lake have had no meaningful opportunity to identify their concerns regarding the proposed project's impacts on their rights.

They have not had time to meaningfully

review the materials being relied on at this hearing, including any studies on the project or its impacts. They have not had the opportunity to conduct their own studies to identify their rights on their affected territory or to identify the risk the project posed to their rights, and they have not been able to engage with their community members and present any of this information to them in order to obtain their input and consider their concerns and their perspective.

In the absence of this necessary work and considering that the Algonquins of Barriere Lake only entered into a participant funding agreement with CNSC to facilitate this work a month before their written submission was due, simply no dialogue has taken place between the Algonquins of Barriere Lake and CNL.

CNL is unaware of their concerns as a First Nation, has not even had the opportunity to assess those impacts in the first place, and CNL cannot be said to have addressed those concerns that it has not even considered.

Despite this, the Algonquins of Barriere Lake eventually became aware of their need to be involved in this process through discussions with Kebaowek First Nation.

Algonquin First Nation communities have

communicated with each other on issues of importance in their territory since time immemorial, family to family and band to band. Once Algonquins of Barriere Lake became aware that Kebaowek was becoming involved despite CNL's failure to engage with them as well, it took action to support its fellow nation and its own position.

The Algonquins of Barriere Lake reached out to CNSC on March 4, 2022 to discuss a participant funding agreement for their engagement with the project which it signed a month later, again only giving them -- giving them little to no time to undertake the tasks outlined in the agreement.

The Algonquins of Barriere Lake also submitted a request for a ruling to the CNSC on April 1st, 2022 in accordance with Rule 20 of the *Canadian Nuclear Safety Rules of Procedure* in favour of an adjournment of this public hearing for a period of 12 months. The request was made considering the Algonquins of Barriere Lake's significant concerns about the project and its potential impacts and the aggressive timeline that led to the negotiation of the funding agreement in an informational vacuum.

Despite this, the Commission determined that an adjournment was not merited and that it would be premature to adjourn the proceedings as the hearing forum

would provide "an opportunity to review and assess in a fair and transparent manner all of the evidence respecting the consultation and engagement activities undertaken respecting the NSDF project."

The Commission's decision further states that an adjournment is unnecessary in order to protect claimed or established Aboriginal and/or Treaty rights, as the issue will be dealt with at the hearing.

So here we are at the hearing, before the Commission, without knowing the impacts to Algonquins of Barriere Lake's rights, without knowing their concerns regarding these potential impacts, and without any response from CNL and with the Commission set to make a decision without any of this necessary information.

Thank you.

THE PRESIDENT: Thank you very much for that.

And so with that, let me ask both CNL and CNSC Staff, is this situation with the Algonquins of Barriere Lake the same as what we've heard with Wolf Lake as far as your attempts for consultation and where things stand right now?

MR. QUINN: Pat Quinn, for the record.

Yes, President Velshi, the approach was consistent. We went through the ANS, and it was our

understanding that information was being passed on.

Once Algonquins of Barriere Lake raised their intervention again proactively, we were copied on that. We reached out to the community to see if there was some engagement that we could undertake. We're still awaiting a response from the First Nation.

THE PRESIDENT: Thank you.

And CNSC Staff?

MS. CATTRYSSÉ: Clare Cattrysse, from CNSC, for the record.

I can confirm it's a similar situation. Again, we didn't say ANS was just the only body. They did step up, though, in 2016 and say they were to act as a window. But again, we did copy the Chiefs. And we have been doing engagements around other matters at the site and on this project now for over 20 years and we haven't heard from the Nation. So we're really glad to hear that there is interest and we're very open to moving forward on relationships.

In the interventions, there were some references, though, about the rights tied to environmental impacts and potential impacts, and I would like to ask if our environmental assessment people could make a statement because of where we've landed with respect to this environmental assessment, about whether there are

environmental impacts that would be as a result of the mitigation.

THE PRESIDENT: I don't know if that is really necessary. What we really want to hear is what do the First Nations think the impact is and their concerns are. I think we know what Staff's assessment has been of that.

So we'll turn to Dr. Lacroix to see if he's got any questions, please.

MEMBER LACROIX: No, I do not have any questions. Thank you.

THE PRESIDENT: Ms. Maharaj?

MEMBER MAHARAJ: Thank you, Madam Velshi and thank you, gentlemen, for your passionate presentation today. Clearly this is a situation that is close to your heart, and I respect that.

What I'm confused about, and I actually don't know who can help me answer my question, but I don't understand the relationship between the ANS and the Nations that it purported to represent. What is that relationship? Was there an involvement between the Nations and the ANS on something other than a consultative basis? Because it seems as though there is a great space of miscommunication where the ANS says, we represent these Nations, and so CNL and CNSC talk to ANS, copy the Chiefs. But there's a

missing piece here for me as to why the ANS thought that it represented these Nations, and why if the ANS didn't represent the Nations, the Nations didn't say to the ANS, "Stop saying that you represent us".

So I have a space of confusion and I'm hoping somebody can help me understand this.

CHIEF ROBINSON: Thank you for the question. It's Chief Lisa Robinson here.

In terms of my answer right now, I'm going to put on my hat as the Grand Chief of the Algonquin Nation Secretariat. So right now, my comment, I am not speaking on behalf of Wolf Lake, it is on behalf of the ANS.

ANS is a Tribal Council, which I stated earlier in my presentation. If you understand First Nation governance, it starts at the community level, and that's where that rights and title is held, and that's when there is land issues, such as consultation, resource extraction, land claims. That's where those are addressed. Outside of that layer, then you have the Tribal Council.

The role of the Tribal Council is to provide programs and support services to the member communities. In this case, ANS has three member communities, Barriere Lake, Témiscaming First Nation, and Wolf Lake. In terms of programs and services that are provided to these -- our communities, it involves a lot of

capacity, building and training, in terms of helping develop our human resources in our communities to help, you know, our day-to-day operations. But also in other areas. You know, in terms of doing different funding proposals and projects that help the community, you know, like health projects, cultural projects, et cetera. That's the role of the programs and services.

On the ANS side specifically, there is research work being done. That research work, though, is, you know, what helped develop say, you know, our research around the land use and occupancy data through our communities and provided the research that's based on that statement of asserted rights.

But with that being said, those rights and titles lie with the community, and that was the communication and the mandate that ANS has, is that if there's any consultations that come to ANS, they are to direct them to the communities, and I have spoken with both of our staff, and that is the message. They were mandated by resolution from the communities that if there's any consultation outreach to the ANS, that they are to direct it to the communities, and that is what our staff have done. And I cannot express that any more. Again, I am speaking here as Grand Chief of the Algonquin Nation Secretariat. Miigwech.

MEMBER MAHARAJ: Thank you, Chief. So that's helpful.

So then I guess my question to CNSC and secondarily to CNL is, if in 2016 when the first communication went to ANS, the response was, "Please direct your inquiry to the community directly", why didn't that happen or what happened? I'm really missing some puzzle pieces here. The communication is convoluted for me, and I'd appreciate some help straightening it out.

MR. LEVINE: I can start, and others can add in. Adam Levine, for the record.

Again, as we stated earlier, we reached out to ANS and copied the communities, as according to the information in the Tribal Council's website and all the information we could find publicly that they were the main coordinating body in a capacity piece to help the communities deal with different requests coming in and respond. So we wanted to make sure that they were the first point of contact but that the communities were also aware of the project and the process.

And then we had multiple phone calls with their Director-General, Peter Di Gangi, and we had lots of conversations with him to see if him and his organization, and then the communities, wanted to get involved and we explained how participant funding works and how he could

apply. At the time Mr. Di Gangi indicated that he was not particularly interested, but to keep them informed and that he would continue to keep the communities informed, but to continue to communicate directly through ANS and that they would ensure the information gets to the communities.

So we continued that protocol, but also continued to provide the information to the communities directly as well in conjunction, so we wanted to provide to both, and we were very open to speaking to both if they had responded. So we did what we could on that front and we're happy to change that, of course, moving forward, but we think for this process we did what we could to get engagement on that front.

MEMBER MAHARAJ: Thank you very much, Mr. Levine. And Mr. Quinn, I expect you want to say something?

MR. QUINN: Yes, thank you, Commissioner. Pat Quinn, for the record.

On this matter, CNL never received direction from the ANS to directly communicate with a specific community or that was the referred route of action. A good example of where we've been able to do that is the one we talked about this morning, with the AOPFN who clearly identified while they were a principal contact point, at the onset of our engagement they made it clear in

2020 in writing that they would desire a more direct contact with us or one-on-one, I'd say. That we never received from the ANS.

MEMBER MAHARAJ: Or from --

MR. QUINN: Or from the member communities.

MEMBER MAHARAJ: -- the member communities. Thank you, Mr. Quinn.

So my question then for Barriere Lake, is we've heard from Wolf Lake that despite the information we have received from CNL and CNSC, they didn't receive as a community, the information that was apparently sent, or the outreach that was apparently given. Could you let us know whether your community received those copies and information from CNSC and CNL?

CHIEF WAWTIE: I just got in March 10 and part of that problem too as well is just trying to get a transition going and I guess I must have missed that somewhere. But for sure, you know, I think that we should take a look at that and, you know, let's -- let's adjourn this and have a better look at this as well, you know. Because, you know, leadership come and go and that's where the problem is within the *Indian Act*.

And that's something that -- that's something that, you know, it's a problem because there's no

continuity, you know, in terms of whatever process is taken, you know, whatever projects are going, you know, because there is, you know, that ratification and within our community too as well. So that's the problem as well. Like our way of a system is bringing it down to the community, and from there, that's where we get our -- you know, our direction from a traditional standpoint.

You know from a traditional governance, they are the ones that look after the maintenance and stewardship of the land, not the *Indian Act* Chief, not within that system that we have. Because we did have our system, you know, where we were managing our programs and services through a Board of Directors, and this is where that problem comes from where Canada takes away, or not recognize our system of governance.

So there is that -- I come back to that respecting the Anishinaabe Nation, you know, and also the English-speaking Nation, and also the French-speaking Nation. So that's where the problem is in terms of all these consultation processes that take place. So we do have a system that comes from the Elders as well, you know, Council of Elders that we have within our Constitution as well.

We do have a structure and sometimes, yes, the *Indian Act* is imposed on us and I know that it's the

legal entity, but we do have to try to work with, you know, setting up support systems within the different -- whether it's land and resources, you know, so that there's got to be some, you know, transparency on that aspect as well for our governance to be recognized as well. So I mean, yeah, that's what it is.

Thank you.

THE PRESIDENT: Ms. Van Schie?

MS. VAN SCHIE: Thank you, Madam Velshi and Madam Maharaj, for that question.

I think something that's also missing here in this understanding is often the government delivers some very difficult budget cuts to Indigenous organizations and that, combined with different policy changes and so on and so forth, consultation offices are barraged by consultations and they're also handicapped in terms of resources in terms of how to handle them.

So an approach we've adopted is just perhaps a more business-like approach and that is like the resources have to be in place, there needs to be a letter of intent that indicates that resources are going to be in place, and then we look at a consultation framework agreement, what does that look like, what does the engagement look like, what are the proper resources.

And that goes for both the agency or

regulator in this case, and also the proponent. And that was completely absent.

So I think the message to CNSC and the proponent is please stop knocking on doors without, you know, taking a business and resource-driven approach to it because you're really in a stack of things that have to be dealt with and communities can only deal with them if they have the resources to deal with them. And part of that capacity is financial resourcing. So certainly the tribal council was suffering budget cuts as well.

MEMBER MAHARAJ: Thank you.

And I do accept that, and I've heard that for the day today that capacity is a concern, but wouldn't it have been preferable to at least have flagged that to the CNSC or the CNL to say, "Hey, we would like to be involved, but we need to have a conversation around capacity"?

And I think that's the first step -- prior to the step that you've indicated was missing, I think that's the first step that may have been missing. Is that fair?

MS. VAN SCHIE: Yeah. And it wasn't until 2018 that Kebaowek First Nation picked up on that and, prior to that, the agency or regulator would approach, let's just say, Algonquins of Ontario and Métis Nation of

Ontario on a licence renewal. But that's unacceptable.

The whole CNL site, Canadian Nuclear Laboratories site relicensing, was completed by only consulting Algonquins of Ontario and Métis Nation of Ontario. And so I'm glad -- I hope today we're going to turn the table on like a proper process here because to date it's been unacceptable.

THE PRESIDENT: I think that's a great segue to my last comment before we finish this.

Ms. Glickman, you talked about the request for adjournment that had been submitted by many Indigenous groups to the Commission and the Commission's decision not to adjourn the hearing because we wanted to hear firsthand on how the consultation or the extent of consultation, what the issues were, in a very transparent manner. And as we have seen today that this forum has actually provided us that opportunity for everyone to hear firsthand from folks the efforts made around consultation and how successful or unsuccessful they have been.

So not that I'm necessarily defending the Commission's decision, but I think the Commission's decision was exactly the right decision based on what we have seen today.

So I do want to thank you for your intervention. Very much appreciated.

And what we will do is we'll take a 10-minute break and we will come back -- well, actually, I'll give you 14 minutes. So we'll come back at 5:30 p.m.

Thank you.

--- Upon recessing at 5:17 p.m. /

Suspension à 17 h 17

--- Upon resuming at 5:30 p.m. /

Reprise à 17 h 30

THE PRESIDENT: Our next presentation is by Kitchissippi-Ottawa Valley Chapter, Council of Canadians, as outlined in CMD 22-H7.45. And we've got Ms. Ann Pohl making the presentation.

Ms. Pohl, over to you, please.

***CMD 22-H7.45**

Oral Presentation by

Kitchissippi-Ottawa Valley Chapter, Council of Canadians

MS. POHL: Are you going to run the timer?

(Inaudible response)

--- Laughter / Rires

MS. POHL: Well, phew. Okay. Thank you.

Just so I can say -- well, Ann Pohl, for

the record.

I've been listening all day long. So many of my points have been covered and so many additional points have come up for me that I really appreciate a little flexibility because I can't read my notes.

Aneen, hello. I speak on behalf of the Kitchissippi-Ottawa Valley Chapter of the Council of Canadians and our members are Renfrew County residents. All levels of the Council recognize nuclear waste issues must be resolved, but we are alarmed by Canadian Nuclear Laboratories, CNL's, proposal to construct a toxic nuclear waste landfill directly -- in Chalk River, directly next to the Ottawa River.

The current design threatens the Council's two highest priorities, protection of fresh drinking water, and other aspects of the common good.

And I'm not going to cover the science because you've already heard science for days now and some more today.

Sadly, in our opinion, it's a foregone conclusion that the current design will deeply fail. This is a David and Goliath situation, and you've been hearing about that all morning. Here is an example.

CNL's ad this week, a full-page ad in the Eganville Leader, it purports to tell the facts about Near

Surface Disposal Facility -- the Near Surface Disposal Facility, but, in fact, it leaves out a lot of facts, such as the Cobalt-60 and so many other facts.

I think it's clear that CNL has the dough, thanks to taxpayers and their Go-Co deal, to hire really good public relations specialists, but we're in a situation where we're just not hearing the truth about things, and that's as non-Indigenous people as well as the Indigenous people as you've been hearing today.

And I am non-Indigenous. I'm a Euro Canadian settler, but you can see I'm holding eagle feathers. In two separate ceremonies in 2005 and in 2016, I received these in recognition for my human rights and environmental front line activism solidarity work with Indigenous people across Canada. So I've been at it for a while.

Deep responsibilities come with these gifts, and I hold them today because I want to be able to speak very bluntly and I want to try to make sure that I do that in the best possible way.

I was going to talk about the 250 years or more of cultural genocide and brutality and dispossession and all the other things that the Algonquin people have been through, but that's already been covered today, too, and there's no reason for me to go back over that except to

say that there's no excuse for a nation as wealthy as Canada to keep doing those things and it seems that we are continuing to do them.

Why were or why are the Algonquins singled out for this abuse? I think it's pretty simple that the Algonquin territory is precisely where the British Governors of the nascent Canada decided to establish its national capital and there were Eurocentric reasons for this that I'm not going to go into, but we're in a situation now where it's really embarrassing that there's no Treaty for the Parliament buildings. And I think that colours everything that has been talked about as underneath and colouring everything that's been talked about today, too.

Arising from the Proclamation of 1763, all levels of government in Canada must uphold the honour of the Crown toward the Indigenous people of this land. The Algonquin Anishinaabeg are the unceded title holders of this magnificent watershed known as the Ottawa River or the Kitchissippi.

And the 2004 Supreme Court of Canada *Haida* decision says the principle of the honour of the Crown must be understood generously. It applies when the Crown has knowledge of the potential existence of the Aboriginal right or title and contemplates conduct that might

adversely affect it.

This morning I got up early to look at the map about -- because I studied into the Royal Proclamation a while back, but I was trying to remember where the line was and what the wording was exactly. And so this morning I got up early and I looked at it all and I reaffirmed for myself that there are three separate historic references of the Anishinaabeg -- Algonquin Anishinaabe people having been at the Treaty of Niagara where the Royal Proclamation was celebrated in 1764 and at least one Algonquin being signatory to that, so we can start with the Royal Proclamation as a baseline.

In 1982, Canada's *Constitution* was patriated and that means we now speak of the Federal Crown. We no longer speak of the Privy Council or the Queen when we're talking about the Crown.

Commissioners, you hold the authority and responsibility of the Federal Crown, and I'm sure that's not news to you, but it's in your role as the Crown corporation authority mandated to ensure the nuclear industry fully protects the natural environment and human health from its toxic waste. Indigenous Peoples are by constitutional, case law, and international rights, entitled to practise their governance responsibilities for the land, air, water, economy, and all other facets of

daily living in their original territories.

In 1946, Canada pledged to uphold the U.N.'s Covenant on Civil and Political Rights. Article 1 is of the -- the acronym is ICCPR, says:

"All peoples have the right of self determination in their territories."

Canada also signed onto the ICCPR's optional protocol. It was through this protocol that Sandra Lovelace gained the re-enfranchisement of Indigenous women who had married non-Indigenous men and lost their status as Indigenous People.

As a direct result -- which was one of the *Indian Act's* most rather egregious cultural genocide policies, that particular policy, and it affected generations. As a direct result in 1985, Canada amended its legislation, and more than 100,000 people regained their Indian status. And that's a direct result from the optional protocol appeal which is open to anyone who feels that their rights have been violated under that covenant.

I have no idea if any First Nation is considering an ICCPR optional protocol appeal, but as you can see, there are international human rights options available to the peoples that have been here today talking to you about their issues.

Your Commission must ensure due diligence

towards the rightful Indigenous title holders. As discussed much today, the route to diligence is through free, prior, and informed consent, and I spent three years as a volunteer working with a First Nation in Mi'kma'ki, I moved here from Mi'kma'ki, from the Mi'kmaw territory three years ago, helping them with a land title claim. And my job was to help them write letters and respond to correspondence.

So I want to just say that all that you've heard today about the overload of -- lack of capacity and the overload, and the whole process of, you know, just not knowing how to cope with the onslaught of, you know, we want to talk to you about this, we want to talk to you about that. But it's a lot of time wasting. And we actually had a standard seven-point thing that I would just pick up and paste and copy into the letters. We worked on an overhead projector, and I would work with the group, and I would say -- and they'd say put in the seven points, right? And one of them was the need for an even playing field, okay? There were others. You know, to be informed at the beginning. Not to be informed halfway through. There were seven points all together. If you want, I can send you the points.

So where was I? I'm in between all my notes.

Okay. So free, prior, and informed consent. Each word is significant. Free, prior, and informed consent. There are four different words there. Don't get hung up on the consent, because if you meet the other three, you might not need to worry so much about the consent, okay? You may actually find a win-win situation. It's possible, right?

So Canada fully endorsed the concept of the UNDRIP Declaration, which includes free, prior, and informed consent, in 2016. And you've already heard today from Renee about UNDRIP's Article 9 about "States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of Indigenous people without free, prior, and informed consent."

These two points, they're kind of out of order, but I couldn't figure out how to order them.

But on June 21st, '21, the *Federal UNDRIP Act* came into force, and in its wake, Osler, a business-oriented law firm, commented: "At a minimum, FPIC is likely to trigger a more robust and proactive consultation process." I'm wondering if you guys got the memo, and you'll hear why in a minute.

I want to take a step back historically, though, first and say that in 2018 Justice Canada published

a document called "Ten Principles Respecting the Government of Canada's Relationship with Indigenous Peoples". And principle 6 in this federal document endorses a genuine FPIC approach. So we have a history of Canada saying, yes, we like FPIC and we want to do it, but we have a situation where that hasn't happened. So there's an issue here, right?

I like to dig into things, so I started looking around on your website, and I found out -- I was just absolutely flabbergasted in a very negative way, in a very depressing way, that you're relying on a document from 2011 that was drafted during the time of Prime Minister Harper's government, and he was notoriously anti-Indigenous rights and not very concerned about the environment. And you're relying on that in your REGDOC 3.2.2 as your guidelines for how to do consultation. And you gave that document to CNL, I'm sure, because it's on your website, and CNL used that document as guidelines for how to do consultation.

But these other two documents, the 10 principles document and also the *UNDRIP Act*, passed by Canada in 2021, are very, very different in tone and in content, in approach, in the way that it's said to go about things. They're as different as the 2019 Impact Assessment and the 2012 Environmental Assessment that was passed also

during the Harper regime.

So we're dealing with a retrograde policy here, which for whatever reason, is still being promoted by the Commission as being the appropriate way to do consultation. Those 2011 guidelines promote, tick the boxes, log the attempts at consultation approach. They don't anywhere say the kind of stuff that people were saying today they need to have in terms of consultation. That material is available, and you've heard a lot of it today, but it doesn't seem, as I said, it seems like the memo didn't get to CNSC yet.

Okay. So the worst thing about the 2011 guidelines is that time has marched on and there's new case law, and there's new policies, different levels, and new practices that set precedents that expand the scope of consultation within Canada. But those 2011 guidelines almost restrict consultation, because they don't say -- they don't tell you how to do it the right way, they tell you, make sure you contact this person, contact that person.

Okay. So what I've come to is that somehow you've abrogated your responsibility to uphold the honour of the Crown as a result of using these out-of-date, invalid guidelines. And I say that because I've tried to look at it every possible way and I don't see how -- how

come the Commission hasn't modernized itself in terms of its consultation approach over these 11 years, when so much has changed in the real world of consultation.

We know that consultation and engagement is your responsibility. You can devolve some of it to CNL. But it's your responsibility. There are other derelictions of duty that have not -- things that haven't been met by the Commission. Inadequate analysis of cumulative impact is something that you heard a lot about today, but I actually already had it in my notes. Shocking reliance on engagement with the flimsy non-status Algonquins of Ontario, and a sleight of hand -- and I don't know where this came from, I have no idea how this happened, but it's almost like a sleight of hand in reviewing CNL's radically different second proposal, the one that is now before you, as compared to the first one, under the repealed 2012 *Environmental Assessment Act*, rather than using the new *Impact Assessment Act* which would have solved a lot of your problems around consultation.

The Crown, which is in this case you, must demonstrate true honour in all dealings with Indigenous Peoples. Your Commission's disingenuousness regarding respect for Indigenous People and the federal policy of reconciliation is really hard for us to take in the Council, and very hard for me to take in particular, having

spent 30 years -- 30-plus years working on Indigenous people's human rights.

It's no wonder that to a certain extent the outreach ticked the boxes formal, like send emails and that kind of thing, that this approach got totally cold-shouldered when this is the environment where people are expected to walk into, where there aren't the resources, there isn't the genuine keeping up with the times in terms of changes in how consultation should be done and that sort of thing.

A well-informed non-Indigenous Valley resident said it best, that the CNSC appears to be a marionette manipulated by the nuclear industry. This view is supported by a 2017 federal discussion paper called "Building Common Ground". That was a discussion paper that was done to try to start to build the new *Impact Assessment Act* that was passed in 2019.

The report's expert panel of environmental assessment researchers also commented that the, "erosion of public trust in the CNSC" means:

"...a higher likelihood of protests and court challenges, longer timeframes to get to decisions, and less certainty that the decision will be actually

realized. In short, the absence of social licence."

The good news is you have the opportunity to shed your -- you know, this past that's bothering everybody. You can send the proposal back to the drawing board.

Required are -- some required elements are a genuine consultation process with all Algonquin First Nations that must also address imported materials and transportation issues, an accurate inventory -- demanding an accurate inventory from CNL of the waste intended for the NSDF because it's pretty clear that there's middle-level waste and some, you know, very hazardous stuff that's not going to be inert after 300 years planned to go into there. So an accurate inventory of the waste intended for the NSDF and a design that fully complies -- fully complies -- with the International Atomic Energy Agency's standards for the inventory that CNL truthfully fully, transparently acknowledges is going into the disposal facility. A location that better protects the water, human health, wetlands and forest, and a review under the *Impact Assessment Act*.

And those are the steps that are needed to actually clear the air, open the process and make it work.

With these requirements met, there will be

a solid threshold of social licence and construction could proceed -- can proceed with no hiccups. I promise. Based on my 30-plus years of doing Indigenous solidarity work, you meet those four requirements, you'll be good.

A couple other things that came up. I was interested in your comment, sir, about this being, you know, all new to you. And I was actually sitting next to somebody from the AECL who also said the same thing to me in conversation in one of our breaks.

The Truth and Reconciliation Commission report strongly recommends organizations such as yourselves to do cultural awareness training and to take it seriously, and I would bet that Vernon McGregor would be a perfect person to do it with. But obviously you have to source somebody, but you want to source somebody who's actually going to be honest, forthright, kind -- maybe kinder than I've been today. That would be good. And you know, you really want -- you want to get cultural awareness training, not just for you guys, but for all your staff and offer it to your proponents and that sort of thing. Set it up as a program.

And the other thing that I was going to mention was somebody was talking about -- I think it was actually one of the Indigenous communities' representatives was talking about putting the two together, how we put --

and maybe it was one of you. I can't remember.

But somebody was talking about how we put Western science together with traditional knowledge and we respect both of them and we work with both of them.

The Mi'kmaq Elder, Albert Marshall from Eskasoni, has done an enormous amount of work on this from a science perspective. It's called "Two-Eyed Seeing" and it's easy to find online.

He is associated with Cape Breton University, but there's a lot of information on two-eyed seeing and how you can start to work them both together and they can complement each other.

So I'm done. I don't know how long I took, but the clock wasn't running, thank you, and I want to say miigwech wendam, which means I am grateful for this opportunity to be here.

And I'm particularly grateful for the fact that you showed respect to all of the First Nations that came here today and gave them the opportunity to speak as long as they wanted to and just the way today was handled. I really appreciated that. Thank you for that.

THE PRESIDENT: Miigwech. Thank you, Ms. Pohl.

And we'll turn to Ms. Maharaj first, please.

MEMBER MAHARAJ: Thank you, Madam Velshi, and thank you for your presentation.

My question is probably writ large in your notes, and it's to CNSC. Can you provide us with a little bit of the history of REGDOC 3.3.2, and is it sitting in a 2011 context? Has it been updated since then?

MS. CATTRYSSÉ: Hello. Clare Cattrysse, from CNSC, on the record.

So REGDOC 3.2.2, Indigenous Engagement, is a document meant for proponents and it is a document about Indigenous engagement. And it does rely on -- provide some guidance about why we've created this document, which is to let them know that CNSC has a duty as the Crown and it gives explanations around duty to consult from that federal guidance, and that document was from 2011.

Now, we have updated the REGDOC with some administrative changes as recently as, I believe, a year or so ago. I can get the number.

But our approach at CNSC for Indigenous consultation is far beyond the duty to consult and we have a reconciliation strategy within the CNSC that is built upon all best practices and getting -- and moving far beyond duty to consult into reconciliation, building relationships and building trust.

I do take the point, though, that our

website externally doesn't reflect our internal policy approach to reconciliation. We haven't updated it. So there's a take-away in there that we have as an action -- we have had that as an action. We just haven't updated our external website regarding our approach to consultation.

But that REGDOC is about engagement and it's for proponents. And it's just -- there's their requirements for engagement and it's also got some guidance in there that's based off of the federal guidance.

Does that help?

MEMBER MAHARAJ: It does.

And just for one point of clarification, would that REGDOC be a minimum or a maximum performance standard that you would be -- is it expressing minimums, like baseline "You must do these kinds of things", at least, or is it saying, "You're good if you only do this"?

MR. LEVINE: Adam Levine, for the record.

So it's a baseline. So it would say you need to identify the appropriate communities to engage with and the critical thing is get out there early, even before you come to the CNSC, to start building relationships and even talk about the need for the project before you come into the regulatory process.

But it's a baseline. You need to, at a minimum, do this but we expect more and we ensure that's

done.

And just to the previous point about our current approach to consultation and the guidelines for federal officials, that is still the policy of the federal government. It's still -- legally is valid, but the government has gone way beyond that and Crown and Indigenous Affairs is actually in the process of updating those guidelines. And we're part of these working groups on the policy front to ensure that we're in line with those changes in best practices and, in many cases, we're setting the best practices, including the REGDOC. We're talking about our funding for Indigenous knowledge studies, and everything you see in our EA report in section 9.

If you actually look at and read what we've done for this particular project, it goes way beyond what's articulated in those 2011 guidelines.

MEMBER MAHARAJ: Thank you.

THE PRESIDENT: Dr. Lacroix.

Oh, sorry. Ms. Murthy?

MS. CATTRYSSÉ: Sorry. I was just going to add. And REGDOC 3.2.2 was actually recognized as a best -- like no other organizations, government departments have put out documents like that that make those requirements on a licensee. So it was a very strong document, and it was approved by the Commission.

THE PRESIDENT: Dr. Lacroix?

MEMBER LACROIX: Thank you very much, Mrs. Pohl, for your presentation. Quite interesting.

Who does the Kitchissippi Ottawa Valley chapter represent?

MS. POHL: We're a chapter of the Council of Canadians. Are you familiar with the Council of Canadians?

MEMBER LACROIX: I am.

MS. POHL: So it's a national NGO that's concerned with -- perhaps you've heard at some point of Maude Barlow?

Well, Maude Barlow is Mrs. Save the Water and she's written lots of books on it and she's -- you know, we're right across Canada. We have chapters right across Canada.

We also have a national headquarters and we do policy work and mobilizing and organizing on the issues that are priorities to us. And they are -- the first and foremost is protection of freshwater for future generations because water is life because -- and the second is protection of all aspects of the common good, but we're also active on public -- publicly funded health care.

We're also active on democracy and transparency in government, on trade issues, fair trade.

Right now we have a campaign running to promote the COVID vaccine into countries that are -- through the TRIPS waiver.

So we do a lot of different things. We're involved in both social justice and environmental things.

And it's -- the main campaigns are run from the head office with paid staff and, you know, all the doodads. But the chapters like ours pick up local issues that fit within those umbrellas and we work on those. So there's -- in Ontario, I think there are 20 -- maybe 20 chapters in different locations.

MEMBER LACROIX: Okay. So when you speak, you do not -- you don't necessarily speak on behalf of the Indigenous people.

MR. POHL: No, no. I'm not Indigenous. I'm non-Indigenous. I'm a Canadian.

But I should mention that we have, I think, three people. Well, I'm here with Deanne, who's part of our chapter, and there are three people on Zoom.

If you're more interested in more information about the national organization, there's a Board member on Zoom right now to support this, and there are two other members of our chapter on Zoom as well.

MEMBER LACROIX: You've answered my question. Thank you very much.

THE PRESIDENT: And I'll turn to CNL in case you wanted to comment on anything that Ms. Pohl has said.

MR. QUINN: Pat Quinn, for the record.

One comment that we will make is how we worked through REGDOC 3.2.2 and actually looked for opportunities to exceed the expectations. It wasn't an exercise of just meeting the bare minimum. We looked at our opportunities, of course, to build the capacity of Indigenous communities that were engaging with us, so diet and harvest studies, traditional knowledge and land use studies. Also looking at rights studies as well.

And going beyond the scope of the project, we've heard a lot of -- we've mentioned several times discussions around the long-term relationship agreements and that -- and leading into our support of guardian programs and monitoring activities. So this is, you know, we used it as a starting point, but continue to grow and expand our extent of engagement.

THE PRESIDENT: Thank you. So, Ms. Pohl, anything you wish -- Staff, did you have anything you wanted to say?

MS. MURTHY: Kavita Murthy, for the record.

Yeah. I can say it. I think Peter Elder

was trying to get attention, but I can say it.

So thank you very much for identifying the REGDOC that you landed on. I do want to point the Commission and the intervenor to the information that we also have on our public website related to Indigenous consultation, engagement and reconciliation, which really lays out the entire framework that we are operating on today. And while we agree that REGDOC is due for an update, we have taken extensive steps with respect to the Indigenous -- Indigenous consultation, engagement, and reconciliation, in lock-step with the changes that have come in general to the Canadian landscape. Thank you.

THE PRESIDENT: Thank you. So Ms. Pohl, first of all, thank you for reminding Staff that our website needs updating, and I'm sure they will pay great urgency for that. Thank you for that. Thank you for your reference to the two-eye seeing. I made a note of that, and I'm very interested in looking into that.

So I'll turn to you for any final comments you wish to make.

MR. POHL: I spent a lot of time looking at REGDOC 3.2.2. I also read the CNL report, the part that had to do with consultation. There's a lot of -- in the CNL report, there's a lot of documentation of ticking the boxes, and a lot of documentation of attempts at

communication that obviously were not returned.

Without the -- apparently, without the diligence of trying to figure out why those outreach efforts didn't work. I don't -- I really -- I've worked with Indigenous People now for more than 30 years and, yes, there's a lot of cultural stuff that needs to be understood, and that's why I'm recommending following the TRC recommendations. And this is actually in our written submission we sent in, about to actually get some cultural awareness training, some cultural -- happening in the CNSC.

But with all due respect, I don't feel that it is more than just basically a baseline thing, and if it's on your website and it's being recommended to proponents, then there's a problem here, and it's not something that is -- you can just brush away and say, you know, like we need to update our website. There's some thinking that needs to be updated. There's some training that needs to be updated, and some sensitivity awareness and cultural awareness that needs to be updated and then probably there will be a better result.

And I also, with due respect, would like to say that, yes, perhaps that policy still is considered an active policy by the Trudeau government. I seriously doubt it. But the 10 principles statement is very clear, and it is very different, and it has a lot of elaboration

of what's involved with following these 10 principles for a new relationship, and it's all about consultation, and coming together, and conversation, and reconciliation.

So in my mind, I look at that and I see it as an update of the policy of the government. I don't see -- it's totally different from the tone and the content of the 2011 guidelines, which really are from a previous era.

THE PRESIDENT: Thank you. And I see your colleague, Ms. Hay, wants to say a few words. So, Ms. Hay, over to you, please.

MS. HAY: Thank you very much. For the record, Marilyn Hay.

I'm on the Board of the Council of Canadians. And I just want to underscore that I appreciate all the good intentions I hear from industry and the Commission. I think people come to this with good intention. But clearly having listened to hours of testimony and presentations, there's severe and serious cognitive dissonance between what is intended and what is being actualized, in terms of how it's perceived by Indigenous peoples finding their way through this process and trying to protect the interests of their land, of their people, of the generations to come.

This is an opportunity to step back and

take another look at how this business is undertaken and how communication is undertaken and building these relationships and trust.

I had an occasion to also listen in on the Parliamentary Commission on Nuclear Waste and listen to a Chief who talked about an individual who had come to have these conversations with the council, and when they asked for more information, he very disparagingly told them, "Well, I can give you lots of information, but you'll never understand it."

So I submit there are differences between what is intended and what is often actualized. And if you have a Chief here saying that they haven't heard anything for years, never received anything, then intentions to communicate and so on are failing.

So I urge you to listen and take the step back and take the opportunity, as Ann has stressed, to take the cultural awareness training, to engage -- to learn to engage in different ways that make sense for the people that you're trying to engage with. Thank you.

THE PRESIDENT: Thank you very much.
Thank you for your intervention.

Yes, CNL?

MR. QUINN: President Velshi, if I may, just one comment. Pat Quinn, for the record.

With respect to Regulatory Document 3.2.2 and our Indigenous Engagement Report, I believe the report is indicative of a significant amount of work and as I mentioned in my comments earlier this morning, this has been a learning curve for the Lab. CNL had a significant increase in its engagement activities. The number of communities, for instance that we were engaging with has increased again greatly, and we welcome that opportunity.

However, I'd just like to, if we may have one moment with our Director of Indigenous Relations who can further add how -- the dimension of how the organization has seized this important responsibility and has grown it.

I would like Ms. Patricia Stirbys is our Director of Indigenous Relations, to talk about the reconciliation action plan.

MS. STIRBYS: Thank you, Mr. Quinn.

Patricia Stirbys, for the record. I'm a citizen of Cowessess First Nation and the Director of Indigenous Relations.

You know, reconciliation -- we talked about reconciliation. I heard that being mentioned in this presentation and, you know, it's not one or two of us within the company or within this room, it really is all of us. And so CNL is actively developing a reconciliation

action plan, or calling it a RAP, which reaches across every department and action that CNL takes. And it really is intended as a foundation that guides CNL's decision-making and helps to actively promote the national reconciliation movement through a number of commitments, and as well through our leadership, and reconciliation is about strengthening those relationships.

The Truth and Reconciliation Commission report, which does include a number of calls to action, states that reconciliation is about establishing and maintaining mutually respectful relationship between Indigenous and non-Indigenous peoples in this country. And that includes to your point, Madame Pohl, awareness of the past and action to change behaviour.

So our RAP is an example of how we are incorporating these principles in our work, and it undertakes to use the TRC call to action number 92 to guide its development. And that call to action calls upon corporate Canada to adopt the principles of the United Nations Declaration on the Rights of Indigenous Peoples, and to apply it to our corporate policies and our core operational activities involving Indigenous Peoples, lands, and resources.

Mr. Quinn had mentioned some of these things this morning, some of the things that the RAP

includes, which is a commitment to meaningful consultation; building respectful relationships; and seeking the free, prior, and informed consent about Indigenous Peoples. And it really is about listening. We respect Indigenous knowledge and we've incorporated that into our work wherever possible, and we do work closely with Indigenous Elders and other community members in inventory-taking, for example, of plants and animals, as well as Indigenous peoples working alongside our teams during environmental monitoring. And we're also looking at ways to help Nations re-establish connections to the land within the Chalk River site.

And we are taking measures to hire more Indigenous Peoples and break barriers to Indigenous access to jobs, training, and educational opportunities in the corporate sector. And we're also actively working with Indigenous Nations and organizations to promote Indigenous hiring, which has resulted really in more Indigenous applicants. If I may, my own hiring as Director of Indigenous Relations is one clear example of how CNL is committed to hiring more Indigenous People in more of the leadership positions within CNL.

Another objective of the RAP, and I think it's really important, is ensuring that CNL staff and management are provided training on the history of

Indigenous peoples. And we learn a lot from the communities that we -- who we work with.

They provide us with some of their history. We incorporate, you know, their knowledge across a number of parts of the work that we do. And you know, by better understanding each other, we can continue to move toward reconciliation.

Thank you.

THE PRESIDENT: Thank you for sharing that with us.

I'll turn to Mr. Elder.

You're on mute.

MR. ELDER: Are you okay now? Yes.

THE PRESIDENT: Yes, you are.

MR. ELDER: My name is Peter Elder. I'm the Vice-President of Technical Support and Chief Science Officer.

The point I want to add is, you know, certainly we recognize that the information in that REGDOC, I don't think it reflects our current practices.

You heard earlier today when we were talking about the APFN about working together on sections of CMDs -- clearly, we'll continue this one. We also have Indigenous knowledge policy framework that we have jointly developed with Indigenous groups and we will continue to

use that.

So I just wanted to come back in. I'm not saying that we're already there. I'm just saying that certainly we are continuing to take steps and the REGDOC would not reflect our current policy or mode of working.

Thank you.

THE PRESIDENT: Thank you.

Short response, please.

MS. POHL: Yeah. Short response.

I'm just going to repeat it. I've read the REGDOC and I've read the CNL submission about their approach and I've heard what was said today, and I don't think you've evolved past it yet. And I really hope that you do.

THE PRESIDENT: Thank you.

So this brings us to the close of the hearing for today. The hearing will resume tomorrow morning at 9:00 a.m. I thank you all for your participation and attendance today.

Have a pleasant evening. Thank you.

--- Whereupon the hearing adjourned at 6:15 p.m., to
resume on Friday, June 3, 2022 at 9:00 a.m. /
L'audience est ajournée à 18 h 15 pour reprendre
le vendredi 3 juin 202 à 9 h 00