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Supplementary Information

Presentation from the Kebaowek First Nation

In the Matter of the

BWXT Medical Ltd.

Application for a Class IB nuclear substance
processing facility operating licence

Commission Public Hearing

June 9-10, 2021

Renseignements supplémentaires

Présentation de la Première nation de Kebaowek

À l'égard de

BWXT Medical Ltd.

Demande pour un permis d'exploitation d'une
installation de traitement de substances
nucléaires de catégorie IB

Audience publique de la Commission

9 et 10 juin 2021

**Application for a Class 1B Licence
BWXT Medical Ltd.
CNSC Licence Renewal (Ref. 2021-H-05)**

Kebaowek First Nation

June 9, 2021

An Introduction to Kebaowek First Nation

Kebaowek First Nation is one of eleven distinct First Nations that make up the Algonquin Nation. Nine are located in Quebec and two, in Ontario.

KFN's traditional territory lies on either side of the Ottawa River Basin and 1,000 members live, work and exercise Aboriginal rights, including Aboriginal title, in both Ontario and Quebec. As an Algonquin First Nation Government who represents the Algonquin rights & title holders to the area of the BWXT Medical Ltd. Project and to areas that may be affected by the Project, our duty is to protect our lands, waters and environment for our present and future generations.

The BWXT Licensing Project is located within, and has the potential to significantly affect, the shared traditional territories of the Algonquin Anishinaabeg Nation.

I. Duty to Consult

Summary of Comments

Duty to Consult

Kebaowek First Nation and the Algonquin Anishinaabeg Tribal Council are currently petitioning the Minister of Natural Resources Canada (NRCAN) to try to resolve the ongoing consultation crisis between CNSC and the Algonquin Nation on various nuclear project proposals on Algonquin lands. Keboawek First Nation does not endorse, accept, nor acknowledge any claims to any Aboriginal or Treaty Rights made by the Algonquins of Ontario or any members of AOO. Kebaowek First Nation does not recognize the AOO as an entity entitled to consultation or accommodation.

1. Before making the BWXT Medical Ltd. license decision CNSC must demonstrate how it has contributed to meeting the obligations for the Duty to Consult as per Section 35 of the constitution, and the extent to which it has met requirements of the UN Declaration on the Rights of Indigenous Peoples, including Article 32 regarding obtaining the Free Prior Informed Consent of Indigenous Peoples *"prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources."*

Without the duty to consult being fulfilled, there isn't the requisite constitutional basis to proceed with this license.

Summary of Comments

Duty to Consult

2. If the CNSC is to discharge its duty to consult, the CNSC must demonstrate that Indigenous communities, including Kebaowek, were engaged in making a licensing decision, and it must be clear what was heard and how it factored into the license decision. Indeed, BWXT's Indigenous engagement plan was among the documents to which Kebaowek was denied access. **To date, there has not been meaningful consultation with KFN necessary to allow the license to be granted.**

3. UNDRIP must be a minimum framework for the relationship between Aboriginal peoples and the Canadian State and nuclear development decisions across Canada.

4. Reforming licensing assessment and the role of the Algonquin Anishinaabeg Nation in such assessment requires CNSC understanding that mutuality, respect and consultation are integral to Algonquin social and political organization on a number of levels.

Integrating Indigenous Knowledge

- Indigenous knowledge, is rooted in the traditional life of Algonquin Peoples and has an important contribution to make to decision making. Indigenous knowledge refers to the broad base of knowledge held by individuals and collectively by communities that may be based on spiritual teachings, personal observation and experience or passed on from one generation to another through oral and/or written traditions.
- Indigenous knowledge provides necessary perspective, knowledge and values for the IA process. Traditional knowledge may, for example, contribute to the description of the existing physical, biological and human environments, natural cycles, resource distribution and abundance, long and short-term trends, and the use of lands and land and water resources. It may also contribute to project siting and design, identification of issues, the evaluation of potential effects and their significance, the effectiveness of proposed mitigation, cumulative impacts and the consideration of independent Indigenous follow-up and monitoring programs

II. Nuclear History on Algonquin Anishinaabeg Lands

Summary of Comments

Nuclear History of Algonquin Anishinaabeg Lands

It is important for our community to note that before the Government of Canada completed construction of the Chalk River Laboratories (CRL) in 1944, no assessment or license approval was undertaken with the Algonquin Anishinaabeg Nation to determine how the nuclear complex might affect upstream or downstream areas of the Kitchi sibi.

No thought was given to how the nuclear complex might affect the members of the Algonquin Anishinaabeg Nation, our dependence on the then plentiful watershed resources of the Kitchi sibi, or our multi-generational socio-cultural connection to the places and customs associated with the Kitchi-sibi

Kebaowek First Nation and the Algonquin Anishinaabeg Nation was never consulted on the nuclear developments and relicensing of Chalk River Nuclear operations

III. Access Denied

Summary of Comments

Access Denied

Kebaowek sought copies of all documents referenced in CNSC Staff CMD. However, references 5, 9, 13, 17, 18, 19 and 40 were all deemed internal and not provided. This includes the Environmental Protection Program, Environmental Management System and Indigenous Engagement Program.

Kebaowek First Nation asks the CNSC to provide a response in writing explaining how the federal Crown sought to address concerns which have been raised by Kebaowek. We have outstanding concerns and a minimum, request the CNSC to make any document referenced by CNSC and Staff publicly available.

IV. Licence Specific Deficiencies

Summary of Comments

Licence Deficiencies

Environmental Reporting and Health There has been no outreach with Kebaowek to discuss our role in environmental monitoring or oversight. We request the following licence specific changes be made and new conditions added:

- a. Participation by Kebaowek and other interested First Nations should be provided through an Independent environmental committee, where participating First Nations will have full and equal participatory rights to technical, monitoring and oversight matters. The terms of reference for such a committee, with capacity funding, shall be established within 12-months of any licence being granted.
- b. BWXT Medical shall prepare and provide quarterly reports to Kebaowek with costs related to Kebaowek's understanding and responding to such reporting being covered by BWXT Medical

Summary of Comments

Licence Deficiencies

Independent Environmental Monitoring Program Indigenous involvement within the development of the IEMP should not be *a post hoc* licensing requirement. The CNSC should have provided opportunities for Kebaowek to provide input on the IEMP and provide meaningful results to our community. Further, we do not accept CNSC's approach to engagement wherein commitment for involvement comes after rather than precedes the licensing hearing.

Radioactive Wastes The CNSC should set out in writing how it considered and complied with UNDRIP, in making the recommendation that this licence be granted for a period of 10 years and, expressly require that the FPIC principle be upheld:

UNDRIP Article 29.2 "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 peoples without their free, prior and informed consent."

V. Order Requested

Order Requested

Deny BWXT Medical's request for 10-year licence.

For over 7000 years the forest and waterways have provided Algonquin Anishinaabeg people their livelihood -food, energy and materials, landscapes, spiritual grounds, economic trade and peace of mind. The past 300 years Algonquins have witnessed the results of an exploitive management regime. Much of their traditional territory and livelihoods have been significantly degraded and many ecosystems have permanent or severe damage - all the while Algonquin people have suffered disproportionate cultural destruction displacement and poverty.

KFN is working with other Algonquin community partners to develop new models and legal institutions of decision making federally and provincially that respect meaningful interaction between proponents, authorities and affected Algonquin communities in the environmental reviews and project licensing process.

Contact us:

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