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**Written submission from the
Wolastoqey Nation in
New Brunswick**

**Mémoire de la
Nation Wolastoqey au
Nouveau-Brunswick**

**Regulatory Oversight Report for
Canadian Nuclear Power Generating
Sites in Canada: 2021**

**Rapport de surveillance
réglementaire des sites de centrales
nucléaires au Canada : 2021**

Commission Meeting

Réunion de la Commission

November 3, 2022

Le 3 novembre 2022



WOLASTOQEY NATION IN NEW BRUNSWICK

Matawaskiye • Neqotkuk • Wotstak • Pilick • Sitansisk • Welamoktok

[DELIVERED VIA EMAIL]

Ref: WNNB [036-22]

September 20, 2022

Ms. Louise Levert

Senior Tribunal Officer, Commission Registry
Canadian Nuclear Safety Commission

Re: Regulatory Oversight Report for Canadian Nuclear Power Generating Sites for 2021

Dear Ms. Levert and members of the Commission:

The Wolastoqey Nation in New Brunswick (“WNNB”) provides technical assistance, advice and support to New Brunswick’s six Wolastoqey (Maliseet) communities¹ on matters pertaining to their Aboriginal and Treaty Rights and Title. We work to protect the lands and waters upon which these rights are based, and promote the practice of Wolastoqey rights, language, and culture. The WNNB is not the rightsholder or the body to which the Duty to Consult is owed. However, where directed to do so, we will prepare responses on behalf of our member communities.

The WNNB undertook a review of the Canadian Nuclear Safety Commission’s (“CNSC”) *Regulatory Oversight Report for Canadian Nuclear Power Generating Sites for 2021*. Our review focused specifically on the components of the report pertaining to the Point Lepreau Nuclear Generating Station (“PLNGS”) in New Brunswick. New Brunswick Power (“NBP”) operates PLNGS on unceded, unsurrendered land and water along the Fundy Coast in southwest New Brunswick and is subject to an Aboriginal Title Claim filed by the Wolastoqey Nation on December 1, 2020.

Overall, CNSC staff feel that NBP is meeting its regulatory requirements regarding the PLNGS, however, it is apparent that there are several areas where NBP could improve its performance. Although these areas are often rated as “low” or “negligible” safety significance by the CNSC, we are concerned that small issues will become large issues over time if they are allowed to propagate. Therefore, we provide comments and recommendations where we feel that NBP can reach a higher standard of safety at PLNGS.

WNNB would also like to comment on the overall development of the report. Nuclear Generating Facilities are graded on many areas, and the inspections conducted by CNSC staff generate a

¹ Matawaskiye (Madawaska), Neqotkuk (Tobique), Wotstak (Woodstock), Pilick (Kingsclear), Sitansisk (St. Mary’s), Welamukotuk (Oromocto)

considerable volume of data that must be interpreted. However, relatively little data are summarized in tables or detailed in the report. Further use of tables and graphics could increase the accessibility of this report to our members. In addition to this, the rubric that is used to define safety significance as “negligible”, “low”, “moderate” etc. is not clearly defined in the report. The WNNB would welcome an opportunity to discuss how to make the Regulatory Oversight Report more accessible to our members.

Our comments related to the 2021 Regulatory Oversight Report are detailed below. Please be advised that the WNNB will not be making an oral presentation to the Commission for this report.

2.2 Human Performance: Certified Personnel

Although PLNGS meets the CNSC’s minimum requirements for certified personnel, we note that the ratio of available personnel to required personnel is low compared to other Nuclear Generating Stations (“NGS”) in Canada. This discrepancy is most pronounced with Shift Supervisors, where PLNGS has a ratio of 1.5:1 Available to minimum staff. All other NGS in Canada have a higher ratio, in many cases approaching a 3:1 ratio (e.g. Darlington, Bruce NGS A and B, Pickering NGS).

The report does not explain why the minimum shift complement (“MSC”) at PLNGS is lower than other facilities in Canada.

The WNNB would like to know more about why minimum shift complements are lower at PLNGS.

The report cites two minimum shift complement violations at PLNGS in 2021 that were of short duration and addressed appropriately in the opinion of the CNSC. However, the low staffing ratios could leave PLNGS vulnerable to more events like this in the future. As detailed later in the report, these violations were related to the Emergency Response Team. In each case, it was the absence of a single ERT team member that resulted in the violation.

The size of the ERT should be increased to ensure that the unavailability of a single member does not result in a minimum shift complement violation.

Though there were no MSC violations for certified personnel, we feel they are equally vulnerable. For example, if illness or another chance event were to leave one senior health physicist unable to work, there would be just a single senior health physicist available for the entire station, which could compromise employee and public safety.

We feel that NBP should work toward certifying and/or employing a greater number of certified personnel at PLNGS, particularly shift supervisors, to ensure the safety of staff and the safe operation of PLNGS.

Implementation of REGDOC-2.2.4: Fitness for Duty: Managing Worker Fatigue

The report does not detail what gaps remain in NBP’s implementation of the document, or whether these gaps were addressed in 2022 as promised.

The WNNB would like clarification as to whether NBP is presently in compliance with REGDOC-2.2.4.

2.3 Operating Performance



The WNNB was satisfied to see that just two unplanned transients occurred at PLNGS in 2021.

Details of these events and the conditions that led to them should be shared with Wolastoqey communities.

2.6 Safety System Test Performance

While the number of missed Safety System Tests at PLNGS is well within regulatory requirements, we note that PLNGS, alongside Bruce A, had the highest number of missed tests among Canadian facilities. Additionally, there appears to be an increasing trend in the number of missed tests over time.

PLNGS performance in this area should be monitored more closely.

Fisheries Act Authorization

While the Wolastoqey Nation in New Brunswick did not object to the offsetting project associated with the PLNGS Fisheries Act Authorization (“**FAA**”), our submissions to Fisheries and Oceans Canada (“**DFO**”) and NBP did note our discomfort with the idea that NBP could decommission a declining and cost-inefficient hydro-electric generating station (Milltown) as an offset for the death of fish at PLNGS and other thermal generating stations. Our view is that NB Power was likely to decommission this declining asset anyway, and if Milltown Generating Station had been kept operational, it would have eventually required its FAA. In addition to this, the WNNB also noted that the fisheries productivity benefits would likely extend to diadromous, migratory fish species, while the species impacted by PLNGS operations are largely marine pelagic fish. Given this discrepancy, the WNNB has requested that additional measures be implemented to accommodate the impact of PLNGS’ operations on Wolastoqey Aboriginal and Treaty Rights and Title, specifically their Food-Social-Ceremonial and Livelihood fishing rights. These discussions have been dormant while NBP and DFO representatives await direction from their leadership.

We have also raised concerns with the relative paucity of data regarding impingement and entrainment of fish at PLNGS. We have requested that further studies be conducted to better understand temporal variability in the number and types of fish killed at PLNGS.

NB Power and DFO need to clarify whether they are open to discussing additional measures to accommodate impacts to Wolastoqey Aboriginal and Treaty Rights.

WNNB would like to see further monitoring conducted at PLNGS to better understand the impact the facility has on local fish populations.

3.7.6 – Fitness for Service

The WNNB was concerned to hear that PLNGS’ critical deficient maintenance backlog has trended upward in the past 3 years and is above the industry average (despite improvement in that average). According to the report, NBP’s Deficient Maintenance Backlog (17 work orders) is more than 4 times the industry average (4). As we have seen with other non-nuclear infrastructure in Canada, ignoring maintenance can result in major safety issues. This is particularly concerning given the state of NBP’s finances and the age of the PLNGS facility



We were also concerned to hear that there were “several” deficiencies in NBP’s maintenance work planning and scheduling.

WNNB would like to see a more complete assessment of the deficient maintenance backlog, including what items are outstanding and an explanation of associated safety risks.

3.7.7, 3.7.8 – Radiation Protection and Conventional Health and Safety

The WNNB was satisfied that NBP satisfied all applicable standards with regarding Radiation Protection and Conventional Health and Safety, and that NBP showed improvement in these areas relative to 2020.

3.7.10 – Emergency Management and Fire Protection

The WNNB respectfully disagrees with the CNSC that the three recorded violations are considered of negligible safety significance. Particularly concerning is the presence of untrained/unqualified evaluators working as evaluators of safety exercises – this suggests either a lack of care or a lack of transparency. While there would be no immediate risk to the public, these untrained/unqualified evaluators may miss critical errors in the safety exercises, which could allow poor habits or incorrect information to propagate. In a real-world emergency, these errors could endanger the public.

Also concerning are “NB Power’s emergency procedures not being aligned with regulatory requirements”. It is difficult to comment on this violation further without details regarding where the non-alignment is occurring.

The WNNB requests further information as to why untrained/unqualified evaluators were in place during emergency/safety exercises, and what steps are being taken to prevent a re-occurrence.

The WNNB also requests further details regarding why NB Power’s emergency procedures at PLNGS are not aligned with regulatory requirements.

The WNNB requests further detail regarding the four low safety significance findings in the Fire Response Type II inspection.

Closing

Thank you for the opportunity to provide comment on the 2021 Regulatory Oversight Report for Nuclear Power Generating Sites. We look forward to receiving feedback from the CNSC and NB Power on our comments, and further opportunities to discuss safety at the Point Lepreau Nuclear Generating Station.



Woliwon / Wəliwən,



Gillian Paul
Wolastoqey Nation in New Brunswick
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cc: Louise Levert, Senior Tribunal Officer, Commission Registry, CNSC
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