



February 18, 2022

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Sent by email

Chief Lance Haymond, Kebaowek First Nation
Kebaowek First Nation
110 Ogima Street,
Kebaowek (Quebec)
J0Z 3R1

SUBJECT: Request for Adjournment of the NSDF Public Hearing

Dear Chief Lance Haymond:

My name is Denis Saumure, and I am the Commission Registrar at the Canadian Nuclear Safety Commission. This letter is to inform you of the Commission's decision on your request, as stated in your letter of January 31, 2022, that the Commission suspend the hearing on CNL's application to amend its Chalk River Laboratories site licence to authorize the construction of a near surface disposal facility (NSDF).

The Commission has considered the request under section 14 of the Canadian Nuclear Safety Commission Rules of Procedure (Rules). Section 14 gives the Commission the authority to adjourn a proceeding, on such terms and conditions as the Commission considers necessary in the interests of a fair, informal and expeditious consideration of the matter.

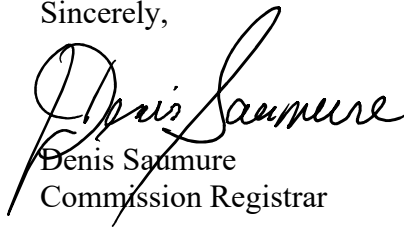
The request notes several reasons for it, including "unresolved issue of the CNSC Commission decision to accept the NSDF EIS as complete and proceed to hearings without the required Indigenous engagement with KFN", CNSC processes that have impaired your ability to fully participate in a meaningful way and the fact that the CNSC "as yet, has not discharged its duty to consult nor undertaken consultation with Kebaowek before deciding to proceed with the licensing and EA hearing for the NSDF." You also refer to the confusion on the role and the mandate of the Algonquin Anishinaabeg Nation Tribal Council (AANTC) to represent its member communities in the NSDF consultation and the absence of a final overarching Consultation Framework Agreement between CNSC and KFN.

As an agent of the Crown, the Commission recognizes its role and obligations in fulfilling its constitutional obligations and upholding the honour of the Crown, along with advancing reconciliation with Indigenous Nations and communities. Where the Commission's decision may adversely impact Aboriginal and treaty rights, the Commission must be satisfied that it has met the duty prior to making relevant environmental assessment and licensing decision.

The Commission is aware of challenges and complexities associated with consultation and engagement activities together with the various role and responsibilities of the CNSC staff, the proponent and Indigenous Nations and communities in consultation activities and in bringing and presenting all of this evidence in the public hearing forum. At this time, the Commission has determined that it would be premature to adjourn the proceeding. It will have the opportunity to review and assess all of the evidence with regard to consultation. The hearing is the appropriate forum to consider, in a fair and transparent manner, all of the information and determine whether the consultation and engagement activities undertaken for the project under review meet the Commission's obligations to uphold the honour of the Crown and consider Indigenous Nations and communities' potential or established Indigenous and/or treaty rights pursuant to section 35 of the Constitution Act, 1982. The Commission also notes that Part 2 of the proceeding is scheduled for May 31st, 2022, which provides all of the interested parties and KFN additional time to further address the issues raised in the January 31, 2022, letter.

As a result, the Commission has determined to not adjourn the NSDF hearing at this time, and it will commence on February 22, 2022.

Sincerely,



Denis Saumure
Commission Registrar