



2023 June 06

J. Denis Saumure
Commission Registrar
Legal and Commission Affairs Branch
Canadian Nuclear Safety Commission
280 Slater Street
P.O. Box 1046, Station B
OTTAWA, Ontario K1P 5S9

Dear Mr. Saumure,

Canadian Nuclear Laboratories Response to the Registrar – Kitigan Zibi Anishinabeg Request for Adjournment

The purpose of this letter is to respond to the request from the Canadian Nuclear Safety Commission (CNSC) Registrar with Canadian Nuclear Laboratories (CNL) viewpoint regarding the request for a 6-week delay to the 2023 June 27 Commission hearing proceedings from Kitigan Zibi Anishinabeg (KZA), as outlined in your email [1].

Canadian Nuclear Laboratories is sorry to hear about the health of Elder McGregor and wishes her blessings for a recovery to good health. Further to your email request of 2023 May 31 [1], we submit the following information for the Commission to consider in respect of the KZA request for an adjournment of the 2023 June 27 hearing, including, without limitation, whether in CNL's view there is potential prejudice associated with granting the request to CNL as the applicant and proponent of the Near Surface Disposal Facility (NSDF) Project.

CNL remains committed to advancing environmental protection and remediation of the Chalk River site. CNL has sought to demonstrate that the proposed NSDF Project is the most appropriate solution to meet all applicable regulatory requirements for the permanent disposal of low-level radioactive waste, as well as considering the input of the public and Indigenous Nations, organizations and communities. CNL believes that the NSDF is also the most appropriate solution to manage the Government of Canada's obligations with respect to low-level radioactive waste. Assuming approval of the KZA's request, this will further delay receipt of a potentially positive licensing decision for the NSDF, resulting in a 9-12 month delay in construction starting due to environmental restrictions in timing of activities to protect wildlife and birds. CNL's ability to deliver its clean up mission as mandated by the Government of Canada in order to support the protection of the people and environment and greater public interest will be further impacted by the delay of an adjournment.

Chalk River Laboratories
28 Plant Road
Chalk River, Ontario
Canada K0J 1J0
Telephone: 613-584-3311
Toll Free: 1-866-513-2325

Laboratoires de Chalk River
286, chemin Plant
Chalk River (Ontario) K0J 1J0
Canada
Téléphone: 613-584-3311
Sans frais: 1-866-513-2325



2023 JUNE 06

232-CNNO-23-0013-L

In addition, CNL is concerned that the request, if granted, may set a precedent in this hearing specifically but also for the Commission in the broader context of its proceedings and decision-making processes. The Rules of Procedure in respect of a hearing consider the interests of fairness, informality and expeditiousness. We appreciate that this applies to CNL, the KZA and all of the participants in the matter. While a granting of a request for adjournment may be fair to one participant, it may be prejudicing one participant's right to a hearing and a decision in an expeditious manner and potentially prejudicing the rights of the other participants to participate in the final hearing. An adjournment may also raise a multitude of scheduling issues for the Indigenous Nations and communities and other participants, as the date has been established and known to all parties for at least four (4) months. To change the date now, approximately three (3) weeks from the chosen hearing date, without certainty of the ability of others to participate on the new proposed date, may prejudice the ability of the Indigenous Nations and communities to participate on the new date. This opportunity was meant for all Indigenous Nations and communities who made an oral intervention at the Part 2 hearing to make their final oral submissions at a hearing should they wish to do so, and was provided by the Commission specifically in response to the request of certain Indigenous Nations and communities.

For these reasons, it is CNL's view that a decision to grant an adjournment of the June 27th Commission hearing for final oral submissions will have the potential to prejudice CNL, as well as the other participants, particularly other Indigenous Nations.

Notwithstanding CNL's views set forth above, should the Commission determine that an adjournment is appropriate, we are supportive of scheduling the hearing for the final oral submissions at the earliest opportunity in order to ensure that a fair, timely and transparent hearing process occurs for all participants.

While we firmly believe in regulatory procedural certainty, we would also encourage the CNSC to determine a fair and practical approach to ensure that the KZA is able to expeditiously participate in the final hearing process. This may include utilizing the flexibility provided in the CNSC's Rules of Procedure to consider a method by which the KZA may be able to participate in a hearing as part of a parallel process with the 2023 June 27th hearing.

Sincerely,

A handwritten signature in cursive script that reads "Sandra Faught".

Sandra Faught
Manager, ERM Licensing Support
SF/jm



References:

[1] Email, D. Saumure (CNSC) to J. McBrearty, S. Brewer, S. Faught (CNL), *Subject: CNL's application to amend CRL licence to authorize construction of NSDF - June 27th, 2023 Oral Hearing for Final Submissions - KZA's Request for an Adjournment, 232-NOCN-23-0012-E, 2023 May 31.*

- c. K. Campbell (CNSC) forms-formulaires@cnsccsn-gc.ca
 - S. Brewer
 - K. Lundie
 - U. Senaratne
 - A. Tisler
 - >CR CNSC Site Office
- C. Gallagher
- J. McBrearty
- G. Snell
- M. Vickerd
- >CR Licensing
- M. Herod (CNSC)
- registry-greffe@cnsccsn-gc.ca
- S. Innes
- D. McIntyre
- P. Stalker
- D. Waldman
- >ERM Correspondence
- M.C. Gacem (CNSC)
- K. Leroux
- K. Schruder
- M. Steedman
- J. Willman