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Canadian Nuclear Safety Commission  
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SENT VIA EMAIL TO: [interventions@cnsccsn.gc.ca](mailto:interventions@cnsccsn.gc.ca)

To the Commission:

I am writing with two requests regarding Canadian Nuclear Laboratories' ("CNL") application to the Canadian Nuclear Safety Commission (the "**Commission**") regarding the Near Surface Disposal Facility ("**NSDF**") adjacent to the Kichi Sibi (Ottawa River) in Ottawa, Ontario.

**Request for an extension of time to submit documents**

As you are aware, the Commission held a two-part public hearing on this matter on February 22, 2022 and from May 30 to June 3, 2022 in Pembroke, Ontario. At this hearing, Kebaowek First Nation ("**KFN**") submitted that staff at the Canadian Nuclear Safety Commission ("**Staff**") – as agents of the Crown – had not adequately consulted with us regarding the NSDF project. On July 5, 2022, the Commission issued a procedural direction allowing KFN to file additional evidence and submissions "in respect of further consultative efforts respecting the NSDF project" by January 31, 2023 ("**Procedural Direction Deadline**"). The Commission stated it was "leaving the record open in order to accommodate the information that Kebaowek First Nation and the Kitigan Zibi Anishinabeg were not adequately consulted... This additional time is to allow for the Commission to receive further evidence and/or for more engagement and consultation to take place".

Since the procedural direction, KFN has been engaging in good faith with Staff and CNL regarding the NSDF. KFN and Staff have entered into a long-term relationship arrangement regarding consultation, and are finalizing terms of reference for multiple nuclear projects that Staff are involved in. KFN and CNL are also finalizing a long-term relationship agreement with CNL.

KFN has also engaged various experts to gather and analyse the information necessary to inform Staff's Rights Impact Assessment. Our preliminary reviews have revealed gaps in the baseline information underlying the Environmental Impact Statement, such as the NSDF's impact on certain species at risk. We cannot assess the impact to the exercise of our rights without this baseline information. Our experts are working on filling these gaps, as well as identifying which rights are being impacted; how they are being impacted (e.g. where, to what extent); and how mitigation measures might affect the NSDF's impact on rights.

However, the NSDF is a very large nuclear project that is nearing the end of the licensing application process. Six months is a relatively short period to ensure meaningful consultation takes place on such a complex project. It has taken several months to draft appropriate consultation frameworks; secure capacity funding; identify and engage the appropriate experts; establish appropriate research and fieldwork methodology; and conduct community consultation and fieldwork. KFN staff also encountered or will encounter delays due to seasonal and environmental constraints (e.g. scheduling conflicts; hunting season preventing reliable access to community members; presence of ticks preventing completion of fieldwork; holiday closures etc.).

However, Staff has informed KFN they require KFN's final comments on the Rights Impact Assessment by December 16, 2022, to allow time for internal approvals. This effectively shortens the Procedural Direction Deadline by more than a month.

KFN wants Staff and the Commission to have all the required information to complete the Rights Impact Assessment, and to assess whether the duty to consult has been fulfilled. KFN cannot provide this information until the requisite studies are completed. Without information from the community consultations and fieldwork, the Rights Impact Assessment will be deficient and it will not be possible to accurately assess whether the duty to consult has been fulfilled. As such, KFN requests an extension of the Procedural Direction Deadline to March 31, 2023, based on the following workplan:

- February 28, 2023: KFN studies completed. KFN provides comments on severity conclusions
- March 15, 2023: Staff provides revisions on severity conclusions
- March 31, 2023: KFN and Staff finalize the RIA.
- April 30, 2023: KFN, CNSC, and Kitigan Zibi submission deadline

KFN has informed Staff of our intention to request an extension of the Procedural Direction Deadline. Staff did not raise any opposition to our proposed request.

### **Request for an oral hearing**

As indicated earlier, the NSDF is a big project. There are many moving pieces that are difficult to effectively address in written submissions alone, especially given the additional work that has been occurring since the Procedural Direction. More importantly, we are a people of oral traditions and storytelling. An oral hearing to present our final submissions for the NSDF would ensure KFN's meaningful participation in CNSC's regulatory process. It would show that the CNSC understands and respect KFN's culture.

Such respect is necessary given the CNSC's commitment to building long-term relationships with Indigenous people. The nuclear sector is one that invokes fear and skepticism amongst our community members. Holding an in-person hearing will provide the transparency and education necessary for such a large, contentious project that is occurring on unceded Algonquin territory. KFN also anticipates that Elders will have a presentation regarding the NSDF project's impacts, which is best delivered at an oral hearing.

We look forward to your response on this.

A handwritten signature in black ink, appearing to read "Lance Haymond". The signature is fluid and cursive, with the first name "Lance" and last name "Haymond" clearly distinguishable.

Chief Lance Haymond  
Kebaowek First Nation

CC:

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