



Deep Geological Repository for Canada's Used Nuclear Fuel Project
Impact Assessment Agency of Canada
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RE: FRIENDS OF THE ATTAWAPISKAT RIVER
Comments on the Initial Project Description – Deep Geological Repository (IAAC Reference No. 88774)

This comment is submitted by the Friends of the Attawapiskat River in response to the call for feedback by the Impact Assessment Agency of Canada's ("Agency") on the Nuclear Waste Management Organization's ("NWMO") Initial Project Description ("IPD") for the Deep Geological Repository ("DGR").¹

I. BACKGROUND

a. The Friends of the Attawapiskat River

The Friends of the Attawapiskat River (the "Friends") are an Indigenous-led coalition of impacted community members and allies dedicated to stewarding and protecting the health of the Attawapiskat River and its watersheds, people and communities.² As Treaty 9 people, the Friends have a shared responsibility to protect Treaty lands from exploitation and degradation. This means safeguarding the integrity of the boreal and muskeg of the Hudson Bay-James Bay lowlands, its significant contribution to mitigating climate change, and the health of their grandchildren and those not yet born.

In making these comments to the Agency, the Friends note they are not speaking on behalf of the First Nation leadership where its members are based (including Attawapiskat, Neskantaga, Peawanuck, Kashechewan and Fort Albany First Nations), but rather providing these comments as Treaty 9 rights holders and community members. Furthermore, these comments do not constitute consultation nor discharge the Crown's obligations per section 35 of the *Constitution Act, 1982*.

¹ Nuclear Waste Management Organization, [Initial Project Description](#): Deep Geological Repository (DGR) for Canada's Used Nuclear Fuel Project (December 2025) [IPD].

² Friends of the Attawapiskat River, online: <friendsoftheattawapiskatriver.ca/>.

b. The Proposed Deep Geological Repository and Downstream Impacts

The NWMO has proposed the “preparation, construction, operation, decommissioning and closure, and post-closure monitoring”³ of a DGR intended to receive and hold “all of Canada’s used nuclear fuel.”⁴ This proposed site would be located “approximately 21 km southeast of Wabigoon Lake Ojibway Nation and 43 km northwest of the Township of Ignace, along Highway 17,”⁵ and the project is expected to span approximately 160 years.⁶

The NWMO characterizes the DGR as a “safe, permanent, and responsible solution” for the management of nuclear waste. However, the scope, longevity, and scale of the project raise significant concerns for the Friends, who are worried about unprecedented and irreversible changes to this ecosystem and its people in the years to come. Michel Koostachin, founder of the Friends, has expressed fear and uncertainty regarding the impacts of nuclear waste transportation, disposition, and monitoring, explaining:

“We are worried – I worry for future generations. If the worst-case scenario happens, we have nothing in place to protect us, our lands, our waters. We won’t have time to prepare or escape. They won’t tell us anything until the moment something goes wrong – and our communities will not be equipped to handle it. Who will be responsible if the land, water, animals, and people are harmed? No amount of compensation could ever make up for that. It could wipe out a community.”

The IPD confirms that the proposed DGR site is located within the “Wabigoon River watershed, which drains from Raleigh Lake northwest to Wabigoon Lake. Wabigoon Lake, in turn, drains towards the Winnipeg River and the Nelson River, which outlets at Hudson Bay,” and into the arctic watershed.⁷ This entire region forms part of a vast, interconnected water system that sustains the livelihoods and well-being of numerous Indigenous Nations across northern Ontario and Manitoba – including the Friends – who live downstream and would be among the most affected by any nuclear contamination.

Michel Koostachin describes the significance of these waters, explaining:

“The watersheds tell us where the water flows – into the lakes, the rivers, the peatlands, and eventually the ocean. Water has a purpose. It shapes the land, and it travels. That’s what we know. The repository [and the transportation routes] sit in a place where everything flows north. Attawapiskat is downstream.”

He further emphasizes:

³ [IPD](#), v.

⁴ [IPD](#), 41.

⁵ [IPD](#), v.

⁶ [IPD](#), v.

⁷ [IPD](#), v.

“Water goes everywhere. Whatever goes into the water will move with it. There is aquatic life to sustain, there is food there, and natural law teaches us that everything in the water is shared. Whatever migrates up or down the river affects all of us.”

Given the interconnected nature of this watershed system, any spill, transportation accident, containment breach, or long-term system failure would not remain localized. The contamination could rapidly spread through surface water, groundwater, and peatlands, impacting wildlife, medicines, drinking water and food sources, and the livelihoods and well-being of Indigenous peoples. The consequences of a project of this nature would be felt across multiple Nations, territories, and Treaty lands, engaging the rights of Indigenous people far beyond any single host community.

These risks must also be understood in light of Indigenous laws and worldviews. Indigenous rights holder, Michel Koostachin, explains:

“Our teachings tell us not to trust the material world, because everything man-made will break down. As Natural Law people, we fear the devastation that will follow when these teachings are ignored.”

He further explains that Natural Law imposes responsibilities to protect the land, water, and future generations, and that those responsibilities have been violated from the very beginning of the nuclear industry:

“Natural Law teaches us responsibility: if you destroy or poison the water, the environment, the animals, or the people, you must be accountable. Everything about this project violates Natural Law. Extracting uranium in the first place went against Natural Law because these lands, waters, animals, and spirits were never meant to be disturbed.”

Notably, no DGR for high-level nuclear fuel waste has ever been successfully approved, constructed, and operated anywhere in the world. The absence of proven, long-term precedent raises significant concerns for the potential impacts on Indigenous peoples – such as the Friends – whose lands, waters, and deep cultural relationships are most at risk from design failures, transportation accidents, containment breaches, spills, and long-term geological uncertainties.

The unprecedented nature of this project underscores the critical need for a full and comprehensive impact assessment that meaningfully considers transportation, long-term cultural and ecological risks, cumulative impacts, and Indigenous rights.

II. THE AGENCY OUGHT TO REQUIRE AN IMPACT ASSESSMENT

The *Impact Assessment Act* (“IAA”) establishes a mandatory, evidence-based, participatory, and precautionary framework governing federal impact assessments and decision-making. This framework is specifically designed to identify, assess, and prevent adverse effects of proposed projects prior to their construction or development. Done well, an impact assessment can provide a forum for Indigenous grassroots to exercise their rights and participate in environmental decision-making for projects that will adversely affect their air, land, water, and future generations.

The Friends understand that pursuant to section 16(1) of the *IAA*, the Agency must decide whether an impact assessment of the designated project is required. We submit that there is ample support— in keeping with the factors set out in 16(2)— that merits this project proceeding for an impact assessment. An impact assessment is the best available mechanism capable of ensuring that the proposed DGR moves forward in a manner that fosters sustainability, respects the rights of Indigenous peoples, takes into account Indigenous knowledge, considers cumulative effects, applies the precautionary principle, and promotes cooperation with Indigenous peoples, while adhering to the principles of scientific integrity, honesty, objectivity, thoroughness and accuracy.⁸

As detailed below, the Friends submit that an impact assessment is the best available tool to:

- Assess the project’s adverse effects,⁹ as other review processes – such as licensing processes – are not a sufficient equivalent and do not provide meaningful consideration of the Friends’ rights and interests;
- Assess the project’s adverse effects within federal jurisdiction, including lands in multiple provinces, to fish and fish habitat, species at risk and migratory birds;¹⁰ and
- Assess the impacts on the rights of Indigenous Peoples whose rights are recognized and affirmed by section 35 of the *Constitution Act, 1982*.¹¹

In the absence of an impact assessment, critical information gaps in the IPD will remain unaddressed. In these circumstances, an impact is necessary to ensure that Indigenous rights and the requirements under the *IAA* are meaningfully considered and satisfied.

III. GAPS IN INITIAL PROJECT DESCRIPTION

The Friends provide the following comments and recommendations on the proponents’ IPD. Since the IPD sets the stage for the detailed project description that will follow, should an impact assessment be required, it is particularly crucial that the IPD reflect broader perspectives, not just those of the proponents with vested interests.

⁸ *IAA*, s 6(2)-(3).

⁹ *IAA*, s 16(2)(f.1)

¹⁰ *IAA*, s 16(2)(b)

¹¹ *IAA*, s 16(2)(c)

As detailed below, the Friends have significant concerns about the proponent-centric framing of the project’s purpose and need, the incomplete description of the project scope, the approach to consultation and engagement, and the failure to consider Indigenous rights and environmental justice.

1. Unsubstantiated “Purpose” and “Need” for the Project

The Friends oppose the proponent’s framing of the “purpose” of the Project, which states that “[t]he purpose of the Project is to ensure used nuclear fuel is safely managed over the long term so that it does not pose a risk to human health or the environment.”¹² The Friends also oppose the depiction of the project as being “needed” to:

- “provide a permanent and safe disposal solution for used nuclear fuel;
- support Canada’s commitments to climate action and achieving net-zero by 2050 by ensuring nuclear energy remains a sustainable and socially responsible energy source; and
- eliminate the need for future generations to actively manage used nuclear fuel, thereby reducing long-term environmental risks and advancing intergenerational equity in managing Canada’s nuclear legacy.”¹³

This framing is misleading and does not reflect the wide range of adverse effects that arise from a project of this nature. Section 22(d) of the *IAA* requires that “the purpose of and need for the designated project.”¹⁴ This assessment must be in light of the project’s potential adverse effects, not defined in a manner that minimizes or obscures them. As set out below, this framing is problematic in at least three respects.

First, describing the DGR as a “permanent and safe disposal solution” presupposes long-term safety and stability that have never been demonstrated anywhere in the world for high-level radioactive waste. While two existing package designs exist (i.e. Used Fuel Transportation Package and Dry Storage Container Transportation Package) for used fuel from sites owned by Ontario Power Generation (i.e. Bruce, Pickering and Darlington), the transportation packages for the used nuclear fuel coming from the other sites (i.e. Point Lepreau, Gentilly, Chalk River, Whiteshell and Douglas Point) were still under development as of 2021.¹⁵ This uncertainty underscores the unresolved risks associated with spills, containment failures, and long-term geological performance – risks that would fall disproportionately on Indigenous Nations and their territories – including Indigenous grassroots. In the absence of finalized transportation package designs, the NWMO unreasonably characterizes the project as a “permanent and safe disposal solution.”

¹² [IPD](#), viii.

¹³ [IPD](#), v and vi.

¹⁴ *IAA*, s 22(d)

¹⁵ Preliminary Transportation Plan, p 6-7; Deep Geological Repository Transportation System Conceptual Design Report, p 19. We have not been able to confirm whether this package design has been finalized or whether it is still under development as of January 2026.

Second, nuclear waste disposal is not a climate mitigation activity, and framing it as such is misleading and a form of “greenwashing”, as it dismisses the project’s actual environmental risks. The transportation, construction, and operation of the DGR pose threats to ecosystems, water quality, and wildlife – particularly in watersheds and lands that sustain Indigenous livelihoods and ways of life, and while Indigenous peoples carry the responsibilities as true stewards and protectors of the land.

Third, the assertion that the Project will “eliminate the need for future generations” to manage nuclear fuel is inaccurate. The lifespan of high-level nuclear waste far exceeds the project timeline, and any failure would leave future generations – including Indigenous grassroots – with the burden of irreversible contamination. Moreover, framing the project as “advancing intergenerational equity” is particularly inappropriate when Indigenous peoples are being forced to accept permanent and disproportionate risks to their lands, waters, and culture.

Recommendation No. 1: The purpose and “need” for this project must be ascertained through meaningful consultation with First Nations, including the Indigenous grassroots, and not simply the Proponents, who have a vested self-interest in the project. The purpose must also take full account of the significant and cumulative environmental and human health risks associated with the transportation, handling, and disposition of highly radioactive nuclear fuel waste, including impacts on Indigenous lands, waters, and communities along and downstream transport corridors.

2. Incomplete Description of the Project Scope: Exclusion of Transportation

The Friends oppose the description of the project’s scope, which explicitly excludes transportation of used fuel from nuclear sites to the project site, asserting that the Canadian Nuclear Safety Commission (“**CNSC**”) will regulate this activity separately. As the NWMO states in the IPD:

“[T]ransportation activities along the new access roads, site roads, and rail spur constructed for the Project, and activities related to the Project within broader transportation networks remain outside the Project’s scope.”¹⁶

The Friends submit that this framing is narrow, and creates a misleading picture of the project’s true impacts, shielding core decisions about transport routes, accident risks, and emergency preparedness from public scrutiny, effectively excluding the choices of communities who live along or rely on these routes from the federal impact assessment process.

As proposed, this project would require transporting 5.9 million bundles of used nuclear fuel across thousands of kilometres – from facilities in New Brunswick, Ontario, Québec, and Manitoba – with approximately two to three trucks (roughly the same size and weight as a logging truck)¹⁷ of used nuclear

¹⁶ [IPD](#), 26

¹⁷ [IPD](#), Appendix B, What We Heard - IPD Engagement Report: Ignace Information Session (July 24, 2025), p 5.

fuel arriving at the Project site per day (for 6 days per week and 9 months of the year).¹⁸ The transportation corridors required to transport this volume of fuel bundles pass directly through unceded and Treaty territories of numerous Indigenous First Nations, whose lands, waters, food, medicines, as well as cultural and sacred spaces for traditional practices and ceremonies are at risk. The scale of this movement magnifies the probability and consequences of spills, accidents, and environmental contamination.

Without an impact assessment that includes transportation, the transportation effects would not be meaningfully assessed, and the information available to affected Indigenous communities and groups would be limited. Accordingly, an impact assessment that is inclusive of transportation is necessary to ensure that these effects are properly identified and assessed, as contemplated by the *IAA*.

a. The CNSC licensing framework is not an adequate substitute for a federal impact assessment

Among the factors the Agency must take into account when deciding whether or not an IA is required for the project are:

16(2)(f.1) whether a means other than an impact assessment exists that would permit a jurisdiction to address the adverse effects within federal jurisdiction — and the direct or incidental adverse effects — that may be caused by the carrying out of the designated project; - three arguments in EN submission

The Friends submit that an impact assessment is the best available tool (besides an Indigenous-led assessment) to ensure a thorough, independent, and robust review of the project's adverse effects. The NWMO references "specific CNSC licence conditions" and "licensing"¹⁹ as a mechanism for ensuring environmental protection for transportation-related activities. However, the Friends submit that the regulatory licensing regime conducted by the CNSC is neither equivalent nor a sufficient substitute for an impact assessment under the *IAA*.

An impact assessment evaluates the full lifecycle of a project and considers both its direct and incidental effects before a decision is made. In particular, this process reviews all activities within the lifespan of the project, from development through to decommissioning, including impacts of projects which are 'direct or incidental' to the project, prior to any decision being made regarding its development.²⁰ By contrast, the CNSC's licensing regime addresses a far more narrow range of factors, adopting an individualized or a stage-specific approach to engagement with licensing narrowly defined by the stage of activity being licensed and the life-cycle, which is divided into five licence categories for: (1) site preparation, (2) construction, (3) operations, (4) decommissioning; and (5) abandonment.

¹⁸ [IPD](#), 73

¹⁹ [IPD](#), 52 and 69.

²⁰ R v Ramana & Kerrie Blaise, "Regulation vs promotion: Small modular nuclear reactors in Canada" (September 2024): online, <[sciencedirect.com/science/article/pii/S0301421524002489](https://www.sciencedirect.com/science/article/pii/S0301421524002489)>.

Reliance on the CNSC's licensing process does not provide an equivalent framework for understanding the full scope of potential adverse effects. The piecemeal licensing offers no upfront review of all stages of the project's life, ultimately limiting a full understanding and assessment of cumulative and long-term impacts.²¹

b. The Nuclear Fuel Waste Act requires the inclusion of handling and transportation activities within this impact assessment

The *Nuclear Fuel Waste Act* ("**NFWA**") establishes a comprehensive legislative framework for the long-term management of nuclear fuel waste in Canada.²² The purpose of *NFWA* is to:

"provide a framework to enable the Governor in Council to make, from the proposals of the waste management organization, a decision on the management of nuclear fuel waste that is based on a comprehensive, integrated and economically sound approach for Canada."²³

Consistent with this purpose, the *NFWA* defines "management" as:

management, in relation to nuclear fuel waste, means long-term management by means of storage or disposal, including handling, treatment, conditioning or transport for the purpose of storage or disposal (emphasis added).²⁴

The *NFWA* created the NWMO and specified that within 3 years of the Act coming into force, the NWMO would recommend to the Minister of Natural Resources one of three possible approaches for the management of nuclear fuel waste: (1) a deep geological disposal in the Canadian Shield, (2) storage at nuclear sites; or (3) a centralized storage, either above or below ground.²⁵

In 2005, after the legislated three-year study, the NWMO recommended an approach they named "Adaptive Phased Management," which had as its end point a deep geological repository. In 2007, the federal cabinet selected Adaptive Phased Management ("**APM**") based on the NWMO's recommendation as a plan for storing and managing high-level radioactive waste (e.g., used nuclear fuel).²⁶ Notably, the APM includes transporting the waste produced by Canada's existing reactors from reactor sites to a centralized location, transferring the wastes from transportation packages to a specialized container, and emplacing the wastes in a deep geological repository.²⁷

²¹ *Ibid*

²² *Nuclear Fuel Waste Act* (S.C. 2002, c. 23) [**NFWA**]

²³ *NFWA*, s 3

²⁴ *NFWA*, s 3

²⁵ *NFWA*, s 12

²⁶ Nuclear Waste Management Organization, "APM DGR Preliminary Description" (December 2016) at 2, online (pdf): <acee-ceaa.gc.ca/050/documents/p17520/116734E.pdf>.

²⁷ Kerrie Blaise & Shawn-Patrick Stensil, "Small Modular Reactors in Canada: Eroding Public Oversight and Canada's Transition to Sustainable Development" (2020).

The NWMO has recognized that “[t]ransportation of used nuclear fuel to a centralized facility is a necessary component of implementing Adaptive Phased Management (APM) for the long-term management of Canada’s used nuclear fuel” (emphasis added).²⁸ The same sentiment is also reflected in the NWMO’s final study, named “Choosing a Way Forward - The Future Management of Canada’s Used Fuel Waste,” and within it, the phases to implement the preferred management approach.²⁹ Accordingly, we now find ourselves at Phase 1: Preparing for Central Used Fuel Management, which, among the activities, necessarily includes:

Undertake site characterization, safety analyses and an environmental assessment for the shallow underground storage facility, underground characterization facility and deep geological repository at the central site, and to transport used fuel from the reactor site (emphasis added).³⁰

For the NWMO to now exclude transportation from the impact assessment despite it being inherent to the management of nuclear fuel waste, would be incongruous with the intent of the *NFWA*, its purposes, definitions and processes, that reflect the direction and intent of Parliament, and undermine the public’s trust in the process that has predated this IA.

The Friends submit that the impact assessment process must be conducted in a manner that is harmonious with the broader legislative scheme established by the *NFWA*, and should reflect the intent of the legislation, the supporting studies, and the consultation and planning that led to the project now under review by the Integrated Review Team.³¹

c. The *Impact Assessment Act* regulations require the inclusion of all project phases and associated activities.

The Friends do not accept the NWMO’s contention that transport is excluded by virtue of not being independently listed in the *Physical Activities Regulations*.³² As the NWMO states in their IPD:

This NWMO Project is not part of a larger project listed on the *IAA*’s project list. Its scope includes lifecycle phases associated with the construction and operation of the DGR, while site characterization, decommissioning, closure, and post-closure monitoring phases will remain under the regulatory oversight of the CNSC pursuant to the NSCA. These phases do not independently trigger the *IAA*, as they are not listed in the *Physical Activities Regulations* (emphasis added).³³

²⁸ Nuclear Waste Management Organization, [“Backgrounder - Transportation”](#) (2009) at 1.

²⁹ Nuclear Waste Management Organization, Final Study: Choosing a Way Forward — The Future Management of Canada’s Used Nuclear Fuel (Report, November 2005), Table 1-1.

³⁰ *Ibid.*

³¹ *Rizzo & Rizzo Shoes Ltd (Re)*, [1998] 1 SCR 27; *Bell ExpressVu Limited Partnership v Rex*, 2002 SCC 42; *ATCO Gas & Pipelines Ltd v Alberta (Energy & Utilities Board)*, 2006 SCC 4.

³² *Physical Activities Regulations*, SOR/2019-285.

³³ [IPD](#), 19.

This statement is incompatible with the *IAA* and not supported by the language used in it or its regulations. The *Physical Activities Regulation* exists by virtue of the regulation-making power set out in section 109 of the *IAA*. Per s 2 of the *IAA*, a *designated project* means one or more physical activities that

- (a) are carried out in Canada or on federal lands; and
- (b) are designated by regulations made under paragraph 109(b) or designated in an order made by the Minister under subsection 9(1). It includes any physical activity that is incidental to those physical activities (emphasis added)

This project accordingly requires an impact assessment by virtue of s 28(b) listing this project as a physical activity:

- 28** The construction and operation of either of the following:
- (b) a new facility for the long-term management or disposal of irradiated nuclear fuel or nuclear waste.

The requirements, including activities that must be set out in the IPD, are then prescribed in the *Information and Management of Time Limits Regulations*, which require the NWMO to:

- List of all activities, infrastructure, permanent or temporary structures and physical works to be included in and associated with the construction, operation and decommissioning of the project;³⁴
- Include site maps produced at an appropriate scale in order to determine the project's proposed general location and the spatial relationship of the project components.³⁵

The Friends therefore submits that the NWMO's vision for the project, as set out in the IPD, cannot override statutory requirements as set out in the *IAA* and its regulations.

Recommendation No. 2: The Agency should explicitly require that all transportation-related activities associated with the movement of used nuclear fuel from nuclear reactor sites to the DGR site be included within the project scope for the purposes of the federal impact assessment, including transportation routes, modes of transport, accident and spill risks, and emergency preparedness and response capacity for potentially impacted communities along or downstream of transportation routes.

3. Failure to Respect Indigenous Rights

In determining whether an impact assessment is required, the Agency must consider the following factors under section 16 of the *IAA*:

³⁴ Information and Management of Time Limits Regulations, SOR/2019-283, Schedule 1 Information Required in Initial Description of Designated Project, Part A General Information, s 9.

³⁵ *Ibid*, s 13(b)

16(2)(b) the adverse effects within federal jurisdiction — or the direct or incidental adverse effects — that may be caused by the carrying out of the designated project;

16(2)(c) any adverse impact that the designated project may have on the rights of the Indigenous peoples of Canada recognized and affirmed by section 35 of the *Constitution Act, 1982*;

The Friends submit that the proposed DGR has the potential to cause adverse effects within federal jurisdiction. In particular, the effects include but are not limited to:

1. Impacts on the health, social or economic conditions of Indigenous people;
2. Impacts (caused by any change to the environment) on physical and cultural heritage, current use of lands and resources for traditional purposes, or any structure, site or thing that is of historical, archaeological, paleontological or architectural significance; and
3. Impacts on migratory birds, fish and fish habitat, and aquatic species.

In addition, the disposal and transportation of high-level nuclear waste across multiple provinces and Indigenous lands and territories will unequivocally have a potential impact on the rights of Indigenous peoples. These impacts include potential effects on Indigenous rights to lands, waters, resources, and the exercise of cultural and spiritual practices protected by section 35 of the *Constitution Act, 1982*.

These effects cannot meaningfully be assessed or mitigated in the absence of a full federal impact assessment, which is therefore necessary in order to satisfy the requirements under the *IAA*.

a. The failure to consider UNDRIP and reconciliation principles

The Friends are deeply concerned by the NWMO's failure to mention the United Nations Declaration on the Rights of Indigenous Peoples ("**UNDRIP**") and the *United Nations Declaration on the Rights of Indigenous Peoples Act ("**UN Declaration Act**")* in the IPD, and this failure represents a significant omission that undermines the integrity of the *IAA* process.

UNDRIP affirms minimum international standards for the survival, dignity, and well-being of Indigenous peoples and directly informs the interpretation and application of the *IAA*, as evidenced by the *IAA* preamble. Among other things, UNDRIP provides:

Article 26

[...]

2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

Article 32

[...]

2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent 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.

Article 37

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

The IAA was written with UNDRIP in mind, as evidenced by the preamble, which states how the “Government of Canada is committed to implementing the United Nations Declaration on the Rights of Indigenous Peoples,”³⁶ including through impact assessment processes.

By virtue of the *UN Declaration Act*, UNDRIP has been enshrined into Canada’s positive law³⁷ and the federal government is required to act in a manner consistent with UNDRIP, recognizing that Indigenous peoples have suffered historic injustices as a result of colonization and dispossession of their lands, territories and resources, and that all relations with Indigenous peoples must be based on the recognition and implementation of the inherent right to self-determination.³⁸

This commitment to reconciliation is reinforced by the Truth and Reconciliation Commission of Canada’s Calls to Action, which affirm UNDRIP as the foundational framework for reconciliation in Canada:

Call to Action 43

We call upon federal, provincial, territorial, and municipal governments to fully adopt and implement the United Nations Declaration on the Rights of Indigenous Peoples as the framework for reconciliation.

Call to Action 44

We call upon the Government of Canada to develop a national action plan, strategies, and other concrete measures to achieve the goals of the United Nations Declaration on the Rights of Indigenous Peoples.

³⁶ IAA, preamble.

³⁷ *Kebaowek First Nation v Canadian Nuclear Laboratories*, [2025 FC 319](#) at para 78.

³⁸ UNDRIP Act, preamble.

UNDRIP provides the foundational framework for reconciliation. Since it now forms part of domestic law, UNDRIP must be used to interpret Canadian law and legal obligations,³⁹ including the *IAA* and the Agency's responsibility to uphold Indigenous rights. These rights are protected by section 35 of the *Constitution Act, 1982*. They "are not frozen and are capable of evolution and growth," and that there is "an urgent need to respect and promote the rights of Indigenous peoples affirmed in treaties, agreements, and other constructive arrangements".⁴⁰ This demonstrates that Indigenous rights under UNDRIP are protected by section 35 and creates a corresponding duty to respect these rights.

b. The consultation process has excluded potentially adversely affected communities.

The Friends submit that meaningful consultation has not extended to the full scope of Indigenous communities – including grassroots rights holders – who may be at risk of downstream effects from a project of this nature.

The NWMO has not disclosed the specific transportation routes; however, it has indicated that transport will occur by rail along major Class 1 lines or along major provincial highways.⁴¹ Based on a review of the location of the DGR in relation to the locations of the interim storage facilities, it is highly likely that the transportation routes would cross multiple Treaty areas (including various Numbered Treaties and the Robinson Treaties). In this context, the transportation and disposal of high-level nuclear waste has the potential to adversely affect Indigenous rights across a wide geographic area (including downstream the transportation routes), whose lands, waters, and resources are integral to the exercise of Indigenous rights.

Despite this, the NWMO's proposal positions a single "host community" as the primary focus of impact and engagement, and has not demonstrated meaningful consultation with other potentially affected communities, including grassroots rights holders along transportation corridors and downstream. As Michel Koostachin explains:

"The spirit of intent under the Treaty requires that all who may be affected are approached with honesty and truth, yet only one Nation was funded and consulted." Three hundred people making decisions on behalf of over a million Indigenous peoples is not consultation."

While the NWMO has acknowledged the need "to be mindful of potential burdens which result from its Project on potentially affected Indigenous groups,"⁴² the IPD does not demonstrate how those burdens have been meaningfully identified, avoided, or addressed with impacted Indigenous rights holders. Accordingly, the Friends submit that the IPD falls short of what is required under the *IAA*, as well as Canada's commitment to "achieving reconciliation with Indigenous peoples through a renewed,

³⁹ *Kebaowek* at para 76-77, 80.

⁴⁰ *UNDA*, preamble.

⁴¹ NWMO, "[Preliminary Transportation Plan](#)" (December 2021), at 23.

⁴² [IPD](#), i.

nation-to-nation, government-to-government relationship based on the recognition of rights, respect, co-operation, and partnership.’⁴³

c. Meaningful consultation is constitutionally required and a core purpose of an impact assessment.

The Friends submit that meaningful engagement and consultation cannot be limited to information sessions or engagement with Band Councils, as permitted under the colonial *Indian Act*. Instead, it must include community members, such as grassroots rights holders, particularly those living along or downstream the transportation routes and the proposed site. This will ensure that their respective legal traditions equally inform governance structures, the identification of decision-makers, processes, and decision-making criteria.

Ensuring opportunities are provided for meaningful public participation for Indigenous peoples during the impact assessment process is among the core purposes of the *IAA*.⁴⁴ This includes ensuring that Indigenous peoples whose rights may be affected are provided early, ongoing, and appropriate opportunities to participate in the impact assessment process. This is reflected in part by the proponents’ statement in the IPD that “Indigenous and public participation is an integral part of this process.”⁴⁵

Meaningful engagement must also create space for Indigenous legal traditions, worldviews, and natural laws to inform the assessment of a project’s impacts. In Indigenous cultures, these lands are considered to have capacity, conscience, and are a sacred element in Indigenous spirituality.⁴⁶ Indigenous worldviews also place a responsibility on each member of the nation to maintain a good relationship with other beings that provide for them. In this sense, the land is seen as a ‘being’ or having a spirit, and therefore is in a relationship with Indigenous peoples. As such, the land cannot be owned, and it has its own capacity and standing in the eyes of the Creator.

Without a federal impact assessment, there is no clear pathway to ensure Indigenous peoples’ constitutional and Treaty rights will be respected, nor any credible forum for impacted rights holders to be consulted and engaged in accordance with their own laws, protocols, and decision-making structures.

Recommendation No. 3: The Agency must require the Proponent to revise the IPD to explicitly identify and incorporate Canada’s international and domestic obligations under UNDRIP and the *UN Declaration Act*, and to explain how the project will be developed in a manner consistent with those obligations, including obtaining free, prior, and informed consent of all potentially affected Indigenous peoples.

⁴³ Canada, “Principles respecting the Government of Canada’s relationship with Indigenous peoples,” online: <www.justice.gc.ca/eng/csj-sjc/principles-principes.html>.

⁴⁴ *IAA*, s 6(2) and 11.

⁴⁵ *IPD*, 193.

⁴⁶ Leroy Little Bear, “Jagged Worldviews Colliding,” *Reclaiming Indigenous Voice and Vision* (2000).

Recommendation No. 4: Engagement processes must enable the full and fair participation of Indigenous community members, and any decision-making must be undertaken with their consent, in keeping with their customs, worldviews and inherent laws.

Recommendation No. 5: All engagement activities, including open houses hosted by the Agency, must be conducted in both English and Cree, and in the community chosen by the Indigenous organization or nation. For instance, recognizing that many community members live off-reserve, efforts must be made to ensure that all community members have an opportunity to be informed and aware, to participate, and to influence IA outcomes.

4. Infringement of Treaty Rights

The lands where the proposed DGR site is located are subject to Treaty 3. However, any contamination arising from the project would not remain confined to Treaty 3 territory. The interconnected watershed systems in this region flow north into areas governed by Treaty 9, where Indigenous Nations rely on clean lands and waters to exercise constitutionally protected Treaty rights, including the rights to hunt, fish, trap, and maintain cultural practices. Despite this, the IPD fails to address the inter-Treaty ecological and hydrological connections or how any contamination would be prevented or managed on other Treaty lands.

Treaty 9, signed in 1905, represents a solemn agreement to peacefully coexist on the lands as two equals. For more than a century, the spirit and intent of the Treaty have been repeatedly undermined by residential schools, assimilationist practices, and the lack of clean drinking water and health services provided to Indigenous communities, all of which are essential in settler areas in Canada. These violations continue in the context of the proposed DGR, where the permanent disposal of high-level nuclear waste threatens Indigenous lands and waters, and is being advanced without the broad Indigenous consent of Treaty 9 holders.

This approach stands in contrast to the principles enshrined in UNDRIP, which safeguard the individual and collective rights of Indigenous people and require Canada to obtain the free, prior, and informed consent of Treaty 9 members before approving developments that may adversely affect their rights or lands. The Friends are among the Indigenous grassroots who have been wrongfully denied their inherent and Treaty rights promised by Treaty 9, “for as long as the sun shines, the grass is green, the water flows and the Anishinaabe are here.”

The Friends note that Canada’s failure to honour and respect the Treaty are contrary to Article 37 of UNDRIP which states “Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements” (emphasis added).

Recommendation No. 6: The Agency must require that no discussions, plans and decisions concerning the proposed DGR proceed without the early, ongoing, and meaningful involvement of Treaty 9 rights holders, whose Treaty rights may be adversely impacted by this project.

5. The Failure to Recognize International Biodiversity Commitments

In December 2022, Canada, along with 195 nations, adopted the *Kunming-Montreal Global Biodiversity Framework*.⁴⁷ The preamble to the Framework notes that the parties are:

“[a]larmed by the continued loss of biodiversity and the threat that this poses to nature and human well-being;” and

“[r]eaffirms its expectation that Parties and other Governments will ensure that the rights of indigenous peoples and local communities are respected and given effect to in the implementation of the Kunming-Montreal global biodiversity framework.”

Target 22 is of primary significance as it ensures Indigenous Peoples’ participation in decision-making. More specifically, it is designed to:

“Ensure the full, equitable, inclusive, effective and gender-responsive representation and participation in decision-making, and access to justice and information related to biodiversity by indigenous peoples and local communities, respecting their cultures and their rights over lands, territories, resources, and traditional knowledge, as well as by women and girls, children and youth, and persons with disabilities and ensure the full protection of environmental human rights defenders.”

The IPD fails to acknowledge or engage with Canada’s commitments under the *Kunming-Montreal Global Biodiversity Framework*. This framework emphasizes the urgent need to halt and reverse biodiversity loss and requires equitable decision-making that respects Indigenous peoples’ rights, cultures, and traditional knowledge. The Friends submit that the Framework is directly relevant to the transportation and long-term management of high-level nuclear waste, particularly given the interconnected nature of ecosystems and watersheds potentially affected by the project.

Recommendation No. 7: The Agency must require the Proponent to revise the IPD to identify and incorporate the *Kunming-Montreal Global Biodiversity Framework*,⁴⁸ and to explain how this framework will inform the scope, conduct, and decision-making of an impact assessment, particularly

⁴⁷ Convention on Biological Diversity. *Kunming-Montreal Global Biodiversity Framework* — [Target 22: Ensure Participation in Decision-Making and Access to Justice and Information Related to Biodiversity for All](#)

⁴⁸ United Nations (General Assembly), “Declaration on the Rights of Indigenous People” (2007).

in light of the management of high-level nuclear waste and the potential harms to ecosystems, species, and ecological integrity.

6. Environmental Justice and Environmental Racism Concerns

The Agency has a duty to act in a manner that advances environmental justice, consistent with the obligations under the *National Strategy Respecting Environmental Racism and Environmental Justice Act*. The Act requires the federal government to “assess, prevent and address environmental racism,” and to advance environmental justice.⁴⁹ It also recognizes that “a disproportionate number of people who live in environmentally hazardous areas are members of an Indigenous, racialized or other marginalized community” and a failure to meaningfully involve members of those communities in the development of environmental policy constitutes environmental racism.⁵⁰

Northern and remote Indigenous communities are disproportionately burdened by the environmental risks associated with nuclear waste management. In the context of the proposed DGR, Indigenous communities located along the transportation route and downstream are being forced to bear the long-term risks of the transportation and permanent disposition of Canada’s highly radioactive nuclear fuel bundles, without having been meaningfully engaged or afforded an opportunity to fully understand, assess, and respond to those risks. Despite this disproportionate risk burden, the IPD contains no analysis of how project-related risks will be distributed across Indigenous communities – particularly Indigenous nations downstream or located along transportation routes.

Environmental justice requires the fair treatment and meaningful involvement of Indigenous peoples in environmental decision-making, particularly where decisions may affect Indigenous rights, health, safety, lands, waters, and the well-being of present and future generations. A full federal impact assessment is therefore required to assess and address the cumulative social, cultural, and health impacts of this project – and the disproportionate effects on Indigenous peoples.

The inclusion of transportation routes and the associated risks within the scope of a federal impact assessment is necessary to advancing environmental justice because it is the only way that the many communities along the transportation routes will be able to be informed, heard, and meaningfully involved in the decision-making process.

Recommendation No. 8: The Agency must require that the impact assessment for this project apply an environmental justice lens throughout the IAA process, including an analysis of how the project’s risks and burdens are distributed and whether the project is consistent with Canada’s obligations under the *National Strategy Respecting Environmental Racism and Environmental Justice Act*.

⁴⁹[National Strategy Respecting Environmental Racism and Environmental Justice Act](#), SC 2024, c 11 [*Environmental Justice Act*] at s 3(1).

⁵⁰ *Environmental Justice Act*, preamble.

7. Insufficient Response to Public and Indigenous Concerns Raised in Previous Engagement Sessions

Appendix B of the IPD contains an Engagement Appendix that summarizes comments raised at NWMO information sessions. The Friends are concerned that, despite transportation-related concerns being raised repeatedly across multiple sessions (including on July 24, 2025; August 12, 2025; and August 13, 2025), the NWMO offered the same boilerplate response in each instance.

In all cases, the NWMO responded with the following:

“The transportation of used nuclear fuel is a highly regulated process which must follow specific regulatory requirements. Used fuel must be transported in certified packages designed to withstand severe accident conditions without breach. A unique license to transport issued by the regulator is required for each shipment. Real-time tracking, security escorts, a transportation security plan, driver training, and emergency preparedness are also required by regulation. For security reasons, regulatory requirements dictate that the transport routes be kept confidential.

A truck carrying used fuel is roughly the same size and weight as a logging truck, well within the existing design capacity of the highway. During operations, the NWMO anticipates two to three used fuel shipments arriving at the repository site per day, six days per week, nine months per year. This represents a fraction of a per cent increase in traffic volumes on the TransCanada Highway. The one to three months of transportation downtime allows accommodation for weather conditions, and other road closures.”

Repeating standardized language in response to distinct and recurring concerns does not meet the standard of meaningful engagement under the *IAA*. Instead, it provides a generalized, proponent-centric assurance of regulatory compliance and fails to address critical issues – including transportation risks, emergency preparedness, and the unique vulnerabilities of potentially impacted communities.

Recommendation No. 9. The Agency must require the NWMO to demonstrate, through a revised project description and engagement framework, how Indigenous and public feedback will meaningfully inform the transportation planning, risk assessment, emergency preparedness, and mitigation measures in order to satisfy the *IAA*'s requirements for meaningful participation and responsive decision-making.

IV. CONCLUDING REMARKS

We hope that our comments and our continued invitation to engage with the Agency provide a voice to communities who stand to be directly affected and those not yet born. We look forward to further engagement on this project and ask to be notified of any future steps in the impact assessment process.

Sincerely,



Michel Koostachin
Founder
Friends of the Attawapiskat River



Jenna Brunt
Legal Counsel
Legal Advocates for Nature's Defence