

**Canadian Nuclear  
Safety Commission**

**Commission canadienne de  
sûreté nucléaire**

**Public hearing**

**Audience publique**

**October 3<sup>rd</sup>, 2019**

**Le 3 octobre 2019**

Lac du Bonnet Community Centre  
Lions Hall  
25 McArthur Avenue  
Lac du bonnet, Manitoba

Centre communautaire de Lac du Bonnet  
salle Lions Hall  
25, avenue McArthur,  
Lac du Bonnet (Manitoba)

**Commission Members present**

**Commissaires présents**

Ms Rumina Velshi  
Dr. Sandor Demeter  
Dr. Timothy Berube  
Dr. Marcel Lacroix

M<sup>me</sup> Rumina Velshi  
D<sup>r</sup> Sandor Demeter  
M. Timothy Berube  
M. Marcel Lacroix

**Secretary:**

**Secrétaire:**

Mr. Marc Leblanc

M<sup>e</sup> Marc Leblanc

**Senior Counsel:**

**Avocat principal :**

Mr. Denis Saumure

M<sup>e</sup> Denis Saumure

**TABLE OF CONTENTS**

	<b>PAGE</b>
Opening Remarks	1
CMD 19-H4.4/19-H4.4A Oral presentation by the Sagkeeng First Nation	5
CMD 19-H4.12/19-H4.12A/19-H4.12B Oral presentation by the Manitoba Metis Federation	66
CMD 19-H4.6/19-H4.6A Oral Presentation from the Concerned Citizens of Renfrew County and Area	97
CMD 19-H4.8 Oral Presentation by the Local Government District of Pinawa	128
CMD 19-H4.11/19-H4.11A Oral Presentation by Northwatch	135

Lac du Bonnet, Manitoba / Lac du Bonnet (Manitoba)

--- Upon resuming on Thursday, October 3, 2019  
at 8:57 a.m. / L'audience reprend le jeudi  
3 octobre 2019 à 08 h 57

### **Opening Remarks**

**THE PRESIDENT:** Good morning and welcome to the continuation of the public hearings of the Canadian Nuclear Safety Commission.

Welcome also to those joining us via webcast and videoconference.

My name is Rumina Velshi and I am the President of the Canadian Nuclear Safety Commission.

We would like to begin by acknowledging that we are in the Treaty 1 territory and the land on which we are gathered is the traditional territory of the Anishinaabe and the traditional homeland of the Métis people.

For those of you who were not here yesterday, I will begin by introducing the Members of the Commission that are with us for this public hearing.

On my right is Dr. Sandor Demeter; to my left are Dr. Marcel Lacroix and Dr. Timothy Berube.

Mr. Denis Saumure, Senior Counsel to the Commission, and Mr. Marc Leblanc, Secretary of the Commission, are also joining us on the podium today.

I will turn the floor to Mr. Leblanc for a few opening remarks.

Marc.

**MR. LEBLANC:** Thank you.

Please note that the emergency exits are located at each corner of this facility and also on the right side. The bathrooms are located at the entrance. There are also some within the room.

During today's business, we have simultaneous interpretation. The Ojibwe version is on channel 3, la version française est au poste 2, and the English version is on channel 1.

We would please ask that you keep the pace of your speech relatively slow so that the interpreters have a chance to keep up.

L'audience est enregistrée et transcrite textuellement. So the transcripts will be available in about a week and a half to two weeks.

I would also like to note that this hearing is being video webcast live and that the hearing is also archived on our website for a three-month period after

the close of the hearing.

To make the transcripts as meaningful as possible, we would ask everyone to identify themselves before speaking.

Also, as a courtesy to others in the room, please silence your cell phones and other electronic devices.

**THE PRESIDENT:** Before we begin the hearing, I will turn the floor to Chief Derrick Henderson from the Sagkeeng First Nation. Chief Henderson will be offering a prayer. I request all of you to please stand up.

--- Prayer by Chief Henderson in Ojibwe

**CHIEF HENDERSON:** Thank you.

**THE PRESIDENT:** Thank you, Chief Henderson, for your welcome and insightful learnings.

We will now proceed with the public hearings.

Marc, over to you.

**MR. LEBLANC:** Thank you.

Yesterday we heard the presentations by CNL, by CNSC staff and by one intervenor.

We also dealt with and addressed the written interventions that have been filed.

So today we have four interventions that are scheduled and intervenors will be presenting orally.

Ten minutes are allocated for each presentation, with the Commission Members having the opportunity to ask questions after each presentation.

To help you in managing your time, a timer system is being used today. The light will turn yellow when there is one minute left and turn red at the 10-minute mark. There is no time limit ascribed to the question period.

The Sagkeeng First Nation will be provided with final words on this particular matter.

We also have Ms Nardia Ali and Mr. Duck Kim from Environment and Climate Change Canada that are available for questions via Webex.

Your key contact persons will be Ms Louise Levert and Ms Dominique Ouellette from the Secretariat staff and you will see them going around. They will also be assisting you and they are available to answer questions. They are at the reception desk at the entrance.

We anticipate breaking for lunch around 12:00-12:30 today and we will take health breaks as appropriate.

Madame la Présidente...?

**THE PRESIDENT:** Thank you.

The first presentation is by the Sagkeeng First Nation, as outlined in CMDs 19-H4.4 and 19-H4.4A.

Mr. Shefman, the floor is yours.

**CMD 19-H4.4/19-H4.4A**

**Oral presentation by the Sagkeeng First Nation**

**MR. SHEFMAN:** Thank you, Madam President.

Before I begin, can I confirm that Mr. Alistair Macdonald has been connected by phone?

**THE PRESIDENT:** Mr. Macdonald, have you joined us?

--- Pause

**MR. SHEFMAN:** It appears not.

**THE PRESIDENT:** I guess not.

**MR. SHEFMAN:** Okay. I will attempt to contact him. In the meantime, Chief Henderson will be opening our presentation for Sagkeeng.

**CHIEF HENDERSON:** Good morning. Chief Derrick Henderson, Sagkeeng First Nation.

Our community is about 40 minutes west of where we are sitting today. Our population is over 8,000 people, approximately 4,000 on and 4,000 off.

Thank you, Madam Chair, for allowing me to speak this morning.

I am the Chief of our community and we have some concerns. Thank you for being in our territory, our ancestral lands, unceded territory Treaty 1 and also part of Treaty 3. Welcome to our territory; welcome to our lands. And thank you for the Panel to hear our story.

We have a lot of history and our story and our territory and our responsibility to be good stewards of the land and the water. Our people are hunters, trappers, fishers, rice pickers and they live off the land. The presence of the Whiteshell Lab in our territory has massive impacts to our people, the stigma of what's there. And it also impacts our treaty rights to our people.

We need to protect the land today, tomorrow, next seven generations and for the unborn. Our people have been impacted by many things and this is something that our people are concerned about. So I thank you for listening to our story.

I have to let Corey speak because we only have 10 minutes. I need to share with you, Madam Chair, 10 minutes is not a lot of time and I appreciate the opportunity here today. So I will ask Corey to do his presentation on behalf of our community.

Miigwech.

**THE PRESIDENT:** Thank you, Chief Henderson.

**MR. SHEFMAN:** Miigwech, Chief Henderson.

I also want to recognize that Councillor Swampy from Sagkeeng is also in the gallery today.

Alistair Macdonald, who is the technical consultant who has been assisting Sagkeeng, is I'm told connected by the teleconference, although his microphone is having some challenges and so if there are questions during the question period for Mr. Macdonald, then either we will get his microphone fixed or I will hold my phone up to the microphone.

I want to acknowledge, as Chief Henderson did, that we are in today Treaty 1 territory and just across the river from Treaty 3. This area is the traditional and ancestral territory of Sagkeeng.

It is important to understand that just across the river from here, the Treaty 3 territory, which includes the land on which the Whiteshell Lab sits, is Sagkeeng's territory, which it never surrendered in any treaty and to which it continues to hold unextinguished aboriginal title.

As Chief Henderson mentioned, we had asked

for a longer period of time to present. Frankly, even that hour that we requested would have been insufficient to say everything that needed to be said, but we would have made it work. Ten minutes is not enough for a submission on this important issue. We can't have a substantive discussion on the technical aspects of CNL's submission or the legal aspects of the duty to consult in 10 minutes, let alone try to do both. We urge the Commission to reconsider this practice.

In the interest of time, I am going to try to address four important topics this morning.

First, I am going to point the Commission to some key sections of our written submissions for later review.

Second, I am going to address a few important issues which arose from the submissions made by other intervenors yesterday and supplementary submissions made in writing by CNSC staff.

Third, I am going to address the Commission's authority to address Sagkeeng's concerns as a corollary to the duty to consult and accommodate.

And fourth, I will discuss the nature of the duty to consult and accommodate in the context of the hearing and the Commission's role in fulfilling that duty.

Underlying many of Sagkeeng's submissions in this hearing are the psychosocial impacts, the fear and stigma caused by CNL's operations on the people of Sagkeeng. That fear and stigma which arise out of CNL's activities are real, significant and have a demonstrable impact on the ability of Sagkeeng members to exercise their constitutionally guaranteed aboriginal and treaty rights.

And concerningly, it is also perhaps one of the most understudied aspects of the Whiteshell Lab's presence in Sagkeeng's territory. Neither CNL, nor CNSC staff have addressed the issue at all in their submissions. Not once.

In addition to the conditions that we have proposed in our written submissions, we also propose that the Commission should order CNL to conduct a psychosocial impact study which should be overseen and the terms of reference set by Sagkeeng or by an Indigenous-led steering committee.

We are hopeful that in this and in the other issues that we have raised here the Commission will acknowledge Sagkeeng's concerns and take steps to address those concerns, such as the steps that we have proposed.

Part of the duty to consult and accommodate is demonstrating that the Crown has in fact

understood and substantially addressed the concerns of the aboriginal people who are affected by the decision. If you do not choose to adopt our proposed conditions or if you adopt only some of them, the licensing decision from this Commission must still demonstrate that you understood Sagkeeng's concerns and how you addressed those concerns, despite rejecting -- if that's what you do -- Sagkeeng's own proposed methods of addressing them. Simply doing as CNSC staff have done, indicating in a chart that they disagree with our submissions, does not fulfil the duty.

And I want to be very clear here. You have all the authority you need, Commissioners, to order CNL, whether through licence conditions or Commission orders, to follow through with each of the recommendations made in Sagkeeng's submissions. Section 24(5) of the *Nuclear Safety and Control Act* gives the Commission the authority to include any licence condition it considers necessary in order to give effect to the Act.

But those last few words, "in order to give effect to the Act", can't limit your authority, because the authority doesn't -- it can't -- stop at the Act, because the duty is constitutional. The duty to consult is constitutional, not statutory. It lies upstream of statute. I would point you to *West Moberly*, the B.C.

Court of Appeal case, paragraph 106 for that authority.

Or, as the Federal Court said in *Yellowknives Dene*, 2010 FC 1139:

"...the Crown's duty to consult  
cannot be boxed in by legislation."

The Commission, as we understand it, has taken the position that it is, that you are the Crown for the purposes of fulfilling the duty to consult and accommodate. Therefore, the Commission must, by definition, have the ability to fulfil that duty in any way that it needs fulfilling, as we suggest, to order each of the conditions that we have proposed, even if the Act does not provide for a particular decision or topic. There can't be statutory limits on that authority because, as I mentioned, the duty arises from section 35 of the *Constitution*.

I would also point you to section 31(2) of the *Canada Interpretation Act*, which makes it clear that the Commission is deemed to have all the authority it needs in order to do its job.

And finally, to *Gitxaala Nation v. Canada*, 2016 FCA 187 at paragraph 168, where the Federal Court of Appeal applied this principle. In the interest of time I am just going to provide you with the references, I am not

going to actually read the quotes.

In terms of highlights of our submissions that we think you should turn your attention to when you commence your deliberations after this hearing, obviously the entirety of our written submissions are important, but in terms of the highlights I would point you to paragraphs 26 to 31, 41 to 46, 58 to 60, and 69 to 75. Those paragraphs contain some of the key messages in our submissions.

Before continuing, I also want to indicate that Sagkeeng supports all of the recommendations which CELA made in their submissions, both orally and in writing, particularly recommendations numbers 4 and 5 from CELA relating to the proposed in situ decommissioning of the low-level waste trenches.

Regardless of how CNL and CNSC proceed regarding those trenches, as discussed in Sagkeeng recommendation 87, Sagkeeng must be involved in the preparation of the safety assessment for those trenches.

Before discussing the duty to consult, I am going to take a few minutes to respond to CNSC staff's comments that were made about Sagkeeng's submissions. These comments from staff are contained in CMD 19-H4.B starting at page 26. I am not going to go through all of

them but simply highlight some that require responding.

First, CNSC response 31 is not only incorrect, it appears to simply ignore the submissions made by Sagkeeng. I would direct the Commission to Annex 1 of Sagkeeng's submissions and paragraphs 32 to 42 of our submissions. CNSC response 31 must be read together with those sections of Sagkeeng's submissions.

Second, in CNSC staff's responses, staff continuously refer to "standard text used in Class I licences". Quite frankly, the existence of standard text is not an acceptable reason to refuse to accommodate Sagkeeng. Drafting custom text for each licence may be a bit more work, but if that is what is required in order to accommodate Sagkeeng's constitutionally guaranteed rights, then that is what must happen.

The duty to consult and accommodate is not met by simply referring to standard clause language. The Crown must demonstrate its understanding of the affected aboriginal group's concerns and must substantially accommodate those concerns. While there may be, we acknowledge, some situations in which those concerns can't be addressed, or not all of those concerns can be addressed, the idea that "But that isn't how we usually do things" isn't one of those situations. That is not a

reason to not address Sagkeeng's concerns.

As the Supreme Court explained in *Haida* at paragraph 46, the Crown must be prepared to change its plans.

We do want to recognize that CNSC staff have, to put it colloquially, talked the talk. Staff, including Kavita Murthy, Adam Levine and Candida Cianci, among others, have been present and have engaged in ongoing and meaningful discussions with Sagkeeng. There is no question that Sagkeeng has had more opportunities to contribute its viewpoints to CNSC in the last two years than it has had in the past 50 years -- in the previous 50 years combined.

But talking is not enough. The Supreme Court and Federal Court of Appeal have said over and over again that the duty to consult is not and cannot be simply an opportunity for the First Nation to "blow off steam". Yet, when it came time for CNSC staff to demonstrate that they could also walk the walk, Sagkeeng was left disappointed. CNSC staff have recommended that all of Sagkeeng's recommendations in our submissions either be outright rejected or be simply left to CNL to discuss with us out of the goodness of their hearts. This is not consultation. This is not a nation-to-nation relationship

and it is not the honour of the Crown.

Finally, we want to briefly address issues arising out of CNL's presentation yesterday. They told the Commission that if their application is granted and their environmental assessment for in situ decommissioning of WR-1 is approved, they will then apply for amendments to this licence to reflect the new ISD reality. Sagkeeng echoes CELA's concerns about the precautionary principle and in light of that principle we urge the Commission to adopt a further licence condition or order that is not reflected in our written submissions which would state that further revisions to the licence under review today would only be approved if:

- number one, the revisions are equally or more in adherence with the as low as reasonably achievable principle;

- second, that those revisions are equally or more reversible in the event that something goes wrong, as compared to the currently proposed or -- yes, the currently proposed licence plan; and

- third, that those revisions show evidence that better adherence to the willing host principle as compared to the currently licensed plan.

In case there was any doubt, I want to be

clear that Sagkeeng is not a willing host.

Now, as for the duty to consult, you owe the duty. As an agent of the Crown, we are aware that the Commission views itself as the holder of the duty to consult on decisions that fall within your jurisdiction. In theory, we don't necessarily have an issue with the Commission fulfilling the duty. However, we do want to point out that the structure of the Commission makes that difficult. The only interaction that Sagkeeng gets with the Commission in the entire decision-making process -- and by "the Commission" I am referring to yourselves -- is this presentation. As the decision-makers, it's you, not your staff, who fulfil the duty.

The Federal Court of Appeal in *Tsleil-Waututh* was clear that the Crown's representatives who are engaging in the consultations must not be simply collecting information to report back to the actual decision-makers, what the Federal Court of Appeal referred to as "notetakers". Consultation must be with the decision-makers.

Yet, this 10-minute -- I acknowledge slightly more than 10 minutes at this point -- presentation in a quasi-judicial setting is clearly not sufficient to fulfil the duty.

Sagkeeng has been provided with few of the normal procedural fairness rights which are the hallmarks of regulatory federal tribunals to discharge the duty and our ability to engage in a meaningful dialogue with yourselves, with the Commissioners, is severely limited by those missing rights.

If, instead, the Commission has delegated the duty to its staff and is now simply fulfilling the role that the NEB has in the past played of confirming that the duty has been met, that still doesn't solve the problem, because while the Crown can delegate the duty, the affected aboriginal peoples must be advised of such a delegation on each occasion, in each case. We were not advised of any delegation in this case and in fact we were advised by CNSC staff the opposite, that the duty had not been delegated.

It also isn't clear to us that the Commission has conducted an actual assessment of the impacts of the proposed Crown conduct on Sagkeeng, the first step to determining if the duty is owed.

Instead, it seems that CNSC staff simply assumed that since this wasn't a new project per se there wouldn't be any new impacts and so the duty wouldn't be triggered. But this is not the same situation as in *Carrier Sekani* where the only thing that was going to

change was the name on the top of the licence. In *Rio Tinto v. Carrier Sekani*, the decision in question was the transfer of an old licence, an existing licence which was not going to be changed in any way, to a new holder. If there had been no approval by the Tribunal, everything would have stayed the same. The original impacts were permanent, they were irreversible.

In this case we are talking about the renewal, potentially with changes, of an expiring licence. If this Commission doesn't improve CNL's request, ostensibly they would have to stop their activities. The impacts which are triggering the duty are not the impacts from the construction of Whiteshell Lab, they are not the impacts from the previous operation of Whiteshell Lab, they are the potential impacts which will result from this Commission's decision. They are real and we have described them in great detail in our submissions and in the Traditional Land Use Study which was attached to our submissions.

I have already discussed that the duty to consult and accommodate is a substantive duty, not just procedure. In practical terms, it means that the Crown must consult with the intention of substantially addressing the concerns of the aboriginal peoples. In other words,

accommodation is required. Accommodation is part of the duty. This isn't a new or controversial position, it is not something that is in any doubt, it has been repeated by the Court over and over. It has been repeated by the court in the first *Mikisew* case in 2005, in *Kapp* in 2008, in *Carrier Sekani*, in *Yellowknives Dene*, in *Chippewas of the Thames*, in *Mikisew* again in 2018, and in the *Labrador Métis* case, and more.

This is a selection which, again, I'm not going to read through each quote, but I'll leave for you to review in your own time.

But as discussed at the outset, the mechanism of the Commission fulfilling the duty lacks clarity. What we do know is that, at this moment, right now, as we sit here today, the duty has not yet been fulfilled, and so we're left with a question.

If the duty to consult and accommodate isn't fulfilled by Commission Staff and it isn't fulfilled at this hearing, when is it fulfilled?

While our concerns with this process remain, substantively the duty can be fulfilled by addressing Sagkeeng's concerns, by adopting Sagkeeng's recommendations. Doing so will, as the Supreme Court requires, substantially address the concerns of Sagkeeng.

While it may be that there are other conditions, different conditions, compromise conditions which could equally meet the duty, that fact highlights the fact that we have not had an opportunity to have a dialogue as part of the fulfillment of the duty.

The lack of an opportunity for a dialogue here makes such conditions impossible to identify.

I want to conclude by reading from one paragraph of our written submissions.

Sagkeeng's larger number of recommended revisions to the licence does not embrace the status quo. We seek meaningful, yet entirely reasonable revisions to the way the site and impacts it causes on people and the environment is assessed, monitored, managed and planned for.

If the Commission is committed as an agent of the Crown to reconciliation with Indigenous peoples, our recommended measures must be implemented.

Migwech.

**THE PRESIDENT:** Thank you very much, Mr. Shefman. We'll open the floor up for questions.

We'll start with you, Dr. Demeter.

**MEMBER DEMETER:** Thank you very much, Chief Henderson, for your prayer this morning.

And I want to explore from CNL and CNSC Staff how we manage risk perception and psychosocial issues from a scenario where we're removing hazardous materials from a site that should, from an outside observer, make it less risk overall, but we still have to manage the perception of risk through the process, and how do we do that because it's something that you can't manage through a scientific publication. It's managed through different mechanisms.

So maybe from CNL and CNSC Staff, how do we do better at managing risk perception and the psychosocial issues related to the peoples that are on this land.

**MR. GILBERT:** Good morning, Madam President and Commissioners. Before we get started, I'd like to re-emphasize that CNL and Whiteshell have a proven record of safe operation that demonstrates that we protect our workers, the public and the environment.

Whiteshell has robust and mature programs that ensure safe operation as demonstrated by that performance.

In fact, our recent performance has shown and our presentation yesterday clearly demonstrates improvements in key areas such as conventional health and

safety, environmental emissions, while at the same time accelerating the pace of the decommissioning at Whiteshell.

Additionally, Whiteshell has presented a multi-year plan that we intend to safely execute under the proposed licence period.

Additionally, I would like to thank Chief Henderson and Corey for their input today.

We've had great success in the short period of time that I've been here engaging with the Sagkeeng First Nation. We've had a ceremony recently at the Whiteshell Laboratories that was very enriching experience for Whiteshell.

We are committed to meeting in early or middle October now with Sagkeeng to begin discussions on activities of interest to the First Nation.

We have taken some proactive steps to date per the requests from Sagkeeng to provide information such as the detailed decommissioning plan for WR-1.

We are open to any and all Indigenous advisory committee suggestions from Sagkeeng and other Indigenous communities, and we look forward to continuing broadening our relationship and understanding your concerns.

To address the question from the

Commissioner, I'd like to turn that over to Mr. Mike Gull, Vice-President.

**MR. GULL:** Thank you, John. For the record, Mike Gull.

It's true to say that, you know, people do fear what they don't necessarily understand, and you can't judge whether that fear is real or not real because you come from a different perspective. You have to respect that that fear is there and try and take whatever measures you can to allay that fear.

As a general approach -- and I have responsibility for the clean-up programs across CNL, of which Whiteshell is one of the sites, so this is common to other areas of the -- of the program -- is to try and explain in simple terms rather than with deep scientific arguments the basic premise of what the clean-up program is about, which is about trying to reduce the uncertainty associated with the legacy waste by retrieving and characterizing that waste, by improving the control you have over that waste, by repackaging it in a way which people can understand and people can see that you're doing something and people can try and understand that you're kind of taking actions for the right reasons for -- as with our opening remarks, for the benefits of the people, the

environment to make things better and protect the future for future generations.

So this is not a kind of a quick stand-up presentation one off. This is a series of engagements where, you know, repeatedly you can try and explain kind of your understanding of the world.

But I think there's two parts to this. The part is to try and listen and understand, you know, the kind of perspective from the First Nations.

And in one of the meetings with the Sagkeeng, and it was Elder Dave Courchene, who was there, there's a very poignant kind of personal thing for me where, you know, the true appreciation of the feeling of the damage that had been done to the earth by our historical operations and starting to feel, in the context of what we could do, to help kind of repair that impact to the earth.

And it's those kind of perspectives and trying to understand where -- the lens that each of them looks at the world through and to say whether you can come to a mutual kind of understanding in the middle is really where we're trying to get with this.

So this is not a -- you know, CNL recognizes that there is a fear. CNL recognizes a

different perspective. We are working very hard to try and explain the good that we think we are doing with the understanding that we have for the benefits of -- benefits of future generations.

And that's not going to -- that message and that understanding is not going to come overnight. It's going to be a process that we're committed to continuing with for as -- for as long as the clean-up mission pervades.

So thank you.

**MEMBER DEMETER:** Staff, I'm also looking for some -- we've got the status quo, which doesn't seem to be working, so I'm also looking for some concrete examples of how we go further to further address issues of risk perception.

Staff?

**MS TADROS:** Haidy Tadros, for the record.

So I would like to echo the objective here is to, one, recognize that there needs to be an understanding by the regulator of how the Sagkeeng community feels with regards to the work that we do and the importance and the role that we have in this file and how we, by legislation, use our activities to ensure safety to people and the environment.

Specifically to the mechanisms, we have participated in engagement activities in schools to share a better understanding of what is radiation, what is background radiation, how does this activity differ, how does this activity add to -- we have colleagues here who have been in the community and had asked them to speak to their own experiences as what we are currently doing in the community to ensure that the regulatory role and what we do on a day-to-day basis is better understood, but also for us to understand the needs of the community.

**MR. LEVINE:** Adam Levine, Team Lead, Indigenous Relations and Participant Funding.

Just to echo what Ms. Tadros is saying, we have deep respect for Sagkeeng, their community, their rights and their concerns. And over the past number of years, we've been building a strong, meaningful relationship in open dialogue with Chief Henderson, the representatives and community.

And just two weeks ago, a number of us were in Sagkeeng's community. We were in their high school where we gave a presentation on radiation 101, health impacts, et cetera from the regulator's perspective to over 40 students packed into a small room and a number of community members that as well, and an excellent dialogue

with a lot of practical demonstrations of how radiation is detected and protected and then, just following that, at the request of Chief Henderson, we had a community meeting with his leadership and community members and talked about our role as a regulator to ensure safety for people, health and the environment with relation to the activities at Whiteshell and also to talk about health issues because this is one of the key issues that have come out of our meaningful dialogue over the last number of years.

It came out clearly in Sagkeeng's Indigenous knowledge study which was conducted as part of the ongoing environmental assessment for the *in situ* WR-1 project, and it's something that we're committed to working with them on.

We're at the beginning of this journey. Just our activities over the last couple weeks is a big part of that.

But under the *Nuclear Safety and Control Act*, section 91(b), we have a responsibility to disseminate objective scientific and regulatory information to the public and, on top of that, have the responsibility to uphold the honour of the Crown and meet with communities to address their concerns in a meaningful way.

And we're really encouraged to see a lot

of the commitments that CNL, Whiteshell, is committing to. I think a lot of the different recommendations Sagkeeng has come forward with to the Commission as part of this process are quite -- are quite -- are very constructive and tangible and something that we can all work on together and we're committed to doing that in a meaningful way to help address these concerns, including the stigma and fear which is -- we understand is quite real in the community, and we have a responsibility to do so.

**THE PRESIDENT:** Mr. Jammal, you wanted to add something?

**MR. JAMMAL:** It's Ramzi Jammal, for the record.

As you heard from Mr. Levine, this is the start and it's an ongoing journey with respect to the future requirement fulfilling the needs of the community.

That is the -- what Mr. Levine has described is the role of the CNSC.

At the same time, there is an obligation under the Regulatory Document of the CNSC for the public information program that CNL has to establish communication with its community and address their needs with respect to the information to be disclosed and provided to the community itself.

So what you heard is the staff perspective and action taken now, but it's -- as was mentioned, it's a journey, so we'll continue to do so.

But at the same time, the licensee has a responsibility as the Regulatory Document to fulfil the requirements with respect to the information to the community.

**UNIDENTIFIED SPEAKER:** Commission, if I may.

**THE PRESIDENT:** Yes.

**MR. SHEFMAN:** If I may, Madam President, I'd like to respond to the question as well.

**THE PRESIDENT:** So we'll give you a moment.

So the question that Dr. Demeter started off with was around psychosocial impacts and I have not heard either CNL or staff talk about how are you -- how have you studied and assessed that or what are your plans for doing that rather than, you know, so we've met and we've discussed.

How is this being done?

**MR. GILBERT:** Thank you, Madam President. John Gilbert, for the record.

I want to echo the sentiment from the

Sagkeeng Nation that we need to continue our open and frank conversations, and I think that's the beginning of the psychosocial commitment to understand better how we move forward.

We have been very proactive in the last month, in fact, trying to pull together some of the concerns and address those concerns for Sagkeeng. And one of those -- one of the path forward there is the Indigenous Advisory Committee.

We're open to any and all communication with Sagkeeng and other Indigenous communities as to how to pull that together, so we --

**THE PRESIDENT:** Yes. So Mr. Gilbert, you did mention that already.

Has there ever been a psychosocial impact assessment study done anywhere, and is there one contemplated for Whiteshell?

I'll ask staff.

**MS CIANCI:** Candida Cianci, for the record.

So I'm not sure if there's -- if I can answer the question of whether there's one contemplated, but what I can speak to is that, as part of the environmental assessment for the WR-1 *in situ*

decommissioning project, that's where we -- in that context, we started to hear about the psychosocial and the fear. And so those are issues that we want to further explore and better understand and come up with the measures that we need to do so, so that, as Mr. Levine commented, is that we're at the early stages of that.

We are -- we want to meet with Sagkeeng about their case study on all the concerns that they've raised through that and also the comments they've submitted on the environmental impact statement and go through those together collaboratively on how those can be addressed.

So that's what Mr. Levine was speaking to, is that we're currently in the process of doing that, and psychosocial would be part of that.

**THE PRESIDENT:** Thank you.

Mr. Shefman.

**MR. SHEFMAN:** Thank you, Madam President.

I'm going to just briefly mention a few things and then I'd like to ask Mr. Macdonald to speak in more detail about this.

In particular in answer to your question, I can say without any hesitation that psychosocial impact studies are commonly done, particularly for First Nations. One has not been done here. We did request one, but it

didn't happen.

And I'll ask Mr. Macdonald to talk about that a little bit more.

But I want to also acknowledge that, of course, CNL does recognize the fear. Mr. Gull spoke eloquently, I think, about how this isn't -- addressing that fear is not a one-off quick fix. It's a process.

But the problem, Commissioners, is that the licence that CNL is now applying for is meant to take us to the end of decommissioning.

They've told us that by the end of this next licence, this 10-year licensing period, they're going to be done subject to, you know, institutional control, and so they intend to finish the job, but there's no plan to address the psychosocial impacts or the fear and stigma in that -- in that time.

I mean, they may have plans developing, but in terms of the licence and the documentation which they're asking you to base your decision to grant the renewed licence on, you don't have that information.

We think about things like the historic spill from the Whiteshell Lab into the Winnipeg River. Sagkeeng leadership was recently informed that the leaked material remains in the river to this day, yet all we seem

to get from CNSC Staff and CNL is the, you know, repeated *ad nauseum* comment that, "Oh, don't worry. It's safe. There's nothing to worry about".

Well, clearly that's not working, and so I think the lack of a detailed plan on addressing psychosocial impacts is of great concern to Sagkeeng.

I'd like to see if Mr. Macdonald is connected to the microphone at this point. I know he's listening.

**MR. MACDONALD:** Alistair Macdonald here.

MR. SHEFMAN: Excellent.

**MR. MACDONALD:** Can people hear me?

**MR. SHEFMAN:** Yes, we can hear you, Alistair. If you can continue on this issue, that'd be great.

**MR. MACDONALD:** Okay. Good morning, Chief and Councillors, Members of [indiscernible], Madam Chair and Commissioners.

My name is Alistair Macdonald. I'm [indiscernible - audio issues].

I wanted to add a couple things in response to the Commissioner's question.

One is that we would agree that the status quo in relation to risk perception, psychosocial effects in

Indigenous people is not adequate. One of the things that we've identified in our submission is that the provision of funding for a proper risk communication program related to people's concerns about radiation in the ground, impact pathways that result from that and effects on critical elements of Sagkeeng well-being like country food and water sources and their ability to enjoy their territory needs to be provided.

This is part of the solution.

What I would present to you is that additional study, as Corey mentioned, is necessary related to risk perception and the effects of that risk perception on people's everyday activities but, in addition to that, I think we can safely say that this stigma, as people have recognized, exists and that the priority moving forward will be not just to study it to get a better sense of the root causes of the psychosocial impacts, but to establish the type of systems that go to reduce these things over time.

There's a couple key elements of that.

One thing is that it becomes astronomically more difficult to remove fear and stigma in any scenario where the contaminants are not fully removed over time, and so that's one of the reasons, as I

understand it, that Sagkeeng supports the licence as currently proposed because it plans to remove all of the radioactive materials, possibly with the exception of some low level waste trenches.

Secondly, we need to look at the elements of the monitoring system that are proposed by Sagkeeng. It's critical to engage Indigenous people in all aspects of the project if you're looking to reduce fear and stigma.

Simply coming out to the community and having scientists report even in plain language that risks are low as calculated by western science does not create the sort of system of credibility that's required, and in cases where psychosocial risk has actively been reduced over time with Indigenous people, you look for examples where there's independent, community-led monitoring programs and reporting systems where if, in fact, country foods and waters are safe and the territory is safe to travel, word is getting back to the community from the most credible sources, Indigenous people themselves. And that's why the development of a proper risk communication program geared towards independent Indigenous monitoring is a critical element to this, as is including Sagkeeng members and leadership across all elements of planning and monitoring.

And if you look at the recommendations made by Sagkeeng, the vast majority of them are to increase the relationship of Sagkeeng to the sites.

So taking the materials out is great, but bringing Indigenous people back in to the site management monitoring and planning system is another critical element.

And I would echo Corey's sentiments, there are a ton of great examples of how psychosocial issues and risk perception can be built into project planning and assessment. I'd be happy to share some of those.

**THE PRESIDENT:** Okay. Thank you, Mr. Macdonald.

I'll turn to Dr. Berube.

**MEMBER BERUBE:** Well, thank you for your presentation and thank you for coming and sharing that with us.

I just want to back this off a bit to a contextual type of understanding.

What I heard Chief Henderson tell us is that your lifestyles are very much attached to the land in terms of generating your economic benefit as well as your long-term survivability, and your belief system is geared towards sustaining that as long as possible. Indefinitely is the ideal situation.

Is that correct, Chief?

**CHIEF HENDERSON:** Yes, it is correct.

**MEMBER BERUBE:** Okay. You also mentioned that you perceive your people as stewards of the land.

If you could, please describe to me what you believe that role to be and that responsibility over time.

**CHIEF HENDERSON:** Stewards of the land is looking after what is on the land, and part of it is the water, right, for our hunters that go hunting in the land, to live off the land. And if the land is contaminated, the animals are contaminated, right, so then we can't -- we can't live off the land, then.

And we noticed that in our territory, that a lot of our -- our wildlife is now being contaminated by whatever is happening within the environment.

You know, you talk about climate change. That's one of the biggest impacts it's having in our territory.

It affects the fish, affects the animals, the moose, the deer that we live off.

Also, the berries are being affected. Our traditional medicines are being affected.

So when we talk about living off the land,

it's all encompassing. It's not just one thing that we're talking about. We're talking about everything on the land. And if we are to protect our land and our livelihood that we live off, that's the road -- that's what it means to our people, you know, is that we need to protect the land. We need to protect what's in the ground and also in the water.

**MR. SHEFMAN:** I'd also add, if I may, the Anishinaabe obligation to be stewards of the land and to protect the land is reflected in their Onakonigawin, or their law. The Sagkeeng in particular has a conservation law which is a written version of their traditional oral law. It was passed according to the legislative process of Sagkeeng, and it's available for the Commission if the Commission is interested in receiving it.

The executive council, of which Chief Henderson is the chief, has also promulgated a consultation and accommodation framework under that law. And so there are multiple elements to that question.

**MEMBER BERUBE:** I'm just trying to characterize, you know, where most of the fear and anxiety is coming from. Because obviously, this is the brunt of your argument is that there's this anxiety and fear about, you know, is the land going to be fit for use when all of this is done.

So what I hear you saying, if this is correct, is that your people don't believe that the land is safe for use in its current state, and you're uncertain as to whether it's going to be when this is all finished.

**CHIEF HENDERSON:** Yes, that is correct. Right. I mean, people don't want to come in the area now, right. And just from past experience, I had one of my council members didn't even want to come onto the site two years ago just to take a tour of the site. Just a fear, right.

**MEMBER BERUBE:** Right.

**CHIEF HENDERSON:** So --

**MR. SHEFMAN:** And if I may, part of that fear is also the, you know, we'll call it a competition sometimes between western science and Indigenous knowledge. The federal government's various environmental tribunals have begun to recognize the value of Indigenous knowledge, and we're grateful to both CNL and CNSC for funding Sagkeeng's traditional land use and occupancy study, which -- it's not a traditional knowledge study, but does include elements of traditional knowledge.

And so in a way, when Chief Henderson talks about his members, his councillors, you know, remaining fearful despite the work of CNL and CNSC to

provide scientific information, part of the disconnect is the discrepancy between what the scientific information says, the western science says, and what the Indigenous science says.

Indigenous knowledge is not spirituality, it's a type of science. And I think that piece has perhaps not been given the sort of attention that it could have.

**THE PRESIDENT:** Dr. Lacroix?

**MEMBER LACROIX:** Thank you for the presentation and the submission.

When I read the submission, I felt sadness. I perceive resentment, conflict, mistrust, devaluation of the Sagkeeng rights. I also felt a -- some sort of a clash of cultures and also poor communication. And thus far, what I've heard is that people talking about information, communication, education, consultation, but I do not perceive the engagement.

What is the true engagement of the Sagkeeng Nation in the Whiteshell decommissioning process?

**MR. SHEFMAN:** Thank you, Commissioner. First of all, I'd like to say that the feelings that you described in reading our submissions are essentially what Sagkeeng feels. It's when I visit my client and I spend time in the community -- and the chief can add to my

comments as well -- this is what their members feel as well.

What does engagement look like?

Engagement looks like the sort of things that we've outlined in our submissions, in the requested conditions. It looks like a real and meaningful role for Sagkeeng, not simply as a bystander or a watcher or coming in to do ceremonies -- although I want to be clear, the ceremonies that CNL have invited Turtle Lodge to come and perform are extremely important, and we're very grateful to CNL for that opportunity and for -- frankly, I will say that that was -- that is probably the first real step towards a meaningful relationship besides simply Crown government relationships.

But it's more than that. It means a real and meaningful role in the government governance of the facility now and into the future. Because keep in mind that the CNL is planning to finish their decommissioning in the next 10 years. Their institutional control period is supposed to last another, what, 200 years after that. Sagkeeng has been in this territory, immediately downstream of the lab on the Winnipeg River, for thousands and thousands of years, since time immemorial, and they're going to be there for thousands and thousands of years.

And so after institutional control is over, when there's nobody watching that place except for Sagkeeng, it's Sagkeeng that will bear the brunt of any future accidents or unforeseen circumstances. But even if there aren't any, even if their decommissioning plan works perfectly, it's Sagkeeng that will continue to have to deal with the reality of what the chief described, that the fear and the stigma.

And so real engagement means that when we're talking about end-use planning and -- sorry, end-state planning, CNL put up that nice graphic showing what they hoped the facility or the property would look like in 10 years. Well, where was -- why wasn't Sagkeeng involved in that? It's Sagkeeng that's going to be using the facility when it's in that end-state or the property in its end-state, no one else. And so Sagkeeng having a role in that process is part of what engagement looks like.

Sagkeeng having a role in ongoing monitoring and control as a partner, not as a stakeholder. And I think that's the -- that's where the relationship can, you know, sometimes have challenges, is that Sagkeeng isn't a stakeholder. Sagkeeng is the property owner, to put -- for lack of a better term, and steward and partner.

I'd like to ask -- and Mr. Macdonald has

done further work in this sort of engagement, and so I'd like to ask Mr. Macdonald to chime in as well, if he has any other comments to add.

**MR. MACDONALD:** Alistair Macdonald here again in support of Sagkeeng.

I think Corey said it well.

I wanted to come back to what would meaningful engagement look like. And I'll link it back to the previous questions on perceived risks, because previous major projects and projects that involved contaminated sites have actually looked more closely and engaged communities more closely in remedial decision-making, even if those actual risks weren't tied in every case to the findings of science.

And I'll turn you to an CNSC-licensed uranium mine in the NWT, the Port Radium remediation project, and where the Canada-Déline Uranium Table identified that psychosocial risks, perceived risks were a huge factor. And the comprehensive remediation plan that was developed was developed jointly between the Crown and the Dené people there. And it included multiple elements driven by community concerns to reduce perceived risks over time, so that at some point in the future this remediated site could again become part of the cultural landscape.

And so meaningful engagement through all of these type of planning processes, including for this remediation project you're talking about here, and into the institutional era, it can be smaller things like end-states of the land, and it can be larger things like, How do you monitor for 200 years in the future? What does that look like?

Again, you'll see that the recommendations made by Sagkeeng were geared to try and get some definition to this relationship in a meaningful way.

**MEMBER LACROIX:** And what is the reaction of CNL to Mr. Shefman's statement?

**MR. GILBERT:** Thank you, Commissioner.  
John Gilbert, for the record.

Again, CNL is wide open to furthering our understanding of the Sagkeeng and Indigenous communities' requirements and requests as we move forward. So we're trying to be as proactive as we can. We appreciate the recent engagement with Chief Henderson and the Sagkeeng and we look forward to more.

Mr. Mike Gull would like to add a little bit to that.

**MR. GULL:** Yeah, thank you, John. Mike Gull, for the record.

I think just reflecting a little bit on yesterday's discussion and some of the comments today, the plan that we've submitted within our 10-year licence is a plan to achieve an end condition as illustrated by our photograph. But within that 10-year licence, you know, all of the activities, even though they're described in the what's called a detailed decommissioning plan, that is not an execution plan. And part of the scope of work within the detailed decommissioning plan is to develop the specific execution plan that's to execute the decommissioning project, which is a series of other projects.

So if you look at a high level at John's schedule for the Whiteshell cleanup program, at the start of every activity, there is a lengthy planning stage, during which the execution plans and the safety cases and all the things that need to change to enact that plan in accordance with the licence, you know, there is a lengthy planning stage for each activity.

So I'm saying this because I would like, you know, the, you know, the Sagkeeng and the -- how do you say, panel -- the Commission to understand that, you know, there is opportunity within this 10-year licence period and plenty of it for further engagement to enable us to

understand and interact with the Indigenous groups so that we can, you know, build not just kind of western science, but try and understand it and build understanding and see if there's any way that we can influence the final implementation of this plan to alleviate the fear.

So I'm saying this because it's not a *fait accompli*, you give us a 10-year licence, we've got every single piece laid out in front of us to the extent we're going to execute to that detailed plan. You know, the development of that detailed plan is a lengthy planning period before the execution of each stage of the project, and there is time within that planning phase to engage using the kind of vehicles that John is newly introducing, recognizing that maybe we've not been doing quite enough in the past.

So you know, there's opportunity within granting this 10-year licence for further engagement. It's not a *fait accompli*. You know, there are further options to consider, options to discuss, and detailed arrangements to determine before we actually execute each phase of the project.

**THE PRESIDENT:** Thank you for that, Mr. Gull.

I think what I'm hearing from the Sagkeeng

that they too see the opportunity. They want a firm commitment that that is indeed exactly what you will be doing. And they have made some very specific recommendations.

Have you gone through the recommendations and said, Well, how is it that we can address this? Whether it's the liaison committee, whether it's end-state, whether it's safety case assessments, I mean it is very specific. Have you addressed those?

**MR. GILBERT:** Thank you, Madam President, John Gilbert.

We have started to address those concerns. Recently I sent Chief Henderson a letter to try to be proactive prior to this Commission hearing to address some of their concerns right out of the gate. Obviously, the concerns are developing as we move forward here in recent time. We will continue to work with them face to face as needed to address all of their concerns.

**THE PRESIDENT:** Thank you.

Dr. Demeter?

**MEMBER DEMETER:** Thank you. It's a question for Chief Henderson.

Just give me a sense of what has happened, which is the proof of the pudding. So we talked about the

potential in-situ low-level waste trenches, and there was discussions yesterday that there's discussions going on since the early 2000s. I want to get a sense from you what your participation has been with regards to those discussions and the sense of safety or risk with those.

**MR. SHEFMAN:** I'm sorry, if we can just have a moment.

**CHIEF HENDERSON:** Chief Henderson, for the record.

Yes, thank you for your question. I think anything that's left in the territory is something that our members in the community are opposed to. I know that that's one of the biggest issues right now within our community, right, is having that whatever radioactive waste is left in the ground, whether it's for a hundred years, 200 years, there's no -- how do I say that? -- there's no certainty that something could happen, right. And that's the concern that the members in our community have.

**MEMBER DEMETER:** And do you feel you've had an opportunity to express that opinion for the last decade or so on this particular -- this is sort of a concrete example where you have a position where you're opposed to retention of any radioactive materials. But I want to get a sense of whether there's been an opportunity

for you to express that opinion from the start of this particular component.

**CHIEF HENDERSON:** We've had some discussions on that and our discussion has been that we are not -- we are opposed to having it left in the land.

As I said earlier, right, I mean, it's difficult for our people to come onto the land, even though we know that it may be secure, right. It's that whole stigma we talked about at the beginning of our conversation; right? And the people will be fearful.

And if the site now is going to be fenced off, what is that telling out people? Right? If it's an area where it's going to be fenced off, or it's going to be natural habitat there later, that's not going to give our people that certainty that there's nothing in there. There will always be that fear.

**MEMBER DEMETER:** Okay, thank you very much.

**MR. SHEFMAN:** If I can -- I'm sorry, if I can just supplement that answer as well, I should note that prior to the submission of the first EIS for WR-1's in-situ decommissioning two years ago, I guess, Sagkeeng had almost no interaction with CNL or CNSC. And so Commission Member, if you -- in answer to your question about what role

Sagkeeng has had in a discussion about the in-situ decommissioning of the low-level waste trenches, the answer is none. Like zero.

What Chief Henderson was talking about was in answer to the other part of your question, which was whether Sagkeeng's had an opportunity to discuss its general perception of leaving the waste in the ground, leaving anything in the ground. And that, as Chief Henderson said, that's been certainly communicated over the last two years.

And that lack of engagement on the low-level waste trenches is why one of the proposed conditions that Sagkeeng has made is that Sagkeeng must be involved in the preparation, not just a review of or comments on, but involved in the preparation of the safety case for that part of the project. And that goes back to your question earlier, Commission Member, as what does engagement look like. That's a great example of what engagement would look like.

In other environmental assessment type projects across Canada, First Nations are actually holding the pen on parts of environmental assessment reports and environmental impact statements for proponents. So that sort of engagement, that sort of collaboration, as I was

saying earlier, as a partner is what that looks like.

**MS MURTHY:** Commissioner Demeter, with your permission, staff would like to add to that, to respond to your question. I think Candida Cianci and Adam Levine are ready to provide some additional information if you give us permission.

**MEMBER DEMETER:** That's fine, yeah. I was specifically looking at it from their perspective, but sure.

**MR. LEVINE:** Thank you. Adam Levine, for the record.

So just to back up a little bit about the current plans and what the Commission's being asked to approve, the renewal of the decommissioning licence, which was originally assessed as part of the comprehensive study in the early 2000s.

So as you can see, if you look back at the comprehensive study report that was produced by AECL during that environmental assessment process, AECL did a significant amount of work with Sagkeeng on the entire plan and were involved throughout that process and engaged quite heavily on that, which included, as we talked about yesterday, discussions on the low-level trenches, and as we also discussed yesterday that it's still subject to a

safety analysis and safety case to be brought forward to staff when CNL is ready in order to demonstrate that they're able to leave the trenches in situ for long-term disposal. So that's still subject to an engagement process as well for future decisions. Thank you.

**MS CIANCI:** Candida Cianci, for the record.

I just wanted to respond to the discussion on engagement with Dr. Lacroix in terms of what does that look like. So I just want to reassure the Commission too that that is what we are exploring with Sagkeeng holding the pen in terms of the environmental assessment report for the WR-1 in-situ decommissioning. We're in the early stages of talking about what does that look like, but it's absolutely our interest and what we intend to do for that process.

**MR. JAMMAL:** If I may, Madam President, I would like to complement the answers that CNL is legally bound with respect to their plans. As they present to us the phases of the DDP, detailed decommissioning plan, they are required by our regulatory documents, our regulatory requirements that they will consult at these phases.

As a matter of fact, as we speak today, staff did reject some of the DDP plan due to the lack of

consultation. And they are obligated to address and disposition the comments through the consultation process.

So I want to conclude the fact that there is a legal hook for the Commission with respect to the DDP, detailed plan, that requires consultation.

**THE PRESIDENT:** Thank you.

Dr. Berube?

**MEMBER BERUBE:** Chief Henderson, if you could, please. I would like to get a sense for what you think is an acceptable state for the land once decommissioning is finished. How do your people intend to use this land? What is a satisfactory state from your perspective?

**CHIEF HENDERSON:** Chief Henderson, for the record.

That's a tough question to answer, because I'd have to go back to my people and consult with them and say, How would you like the land to be put back in a state where it would be usable for you?

**MR. SHEFMAN:** And that, Commission Member, is part of, again, the engagement that we were talking about as a real role for Sagkeeng and what that looks like.

What we do know is that from the traditional land use and occupancy study, which is attached

to our submissions, is that that part of their territory, the land that the facility sits on, was an integral part of where Sagkeeng members exercised their Aboriginal and Treaty rights, performed ceremonies. And so that's the context within which the chief would be engaging in that consultation.

**THE PRESIDENT:** Dr. Lacroix?

**MEMBER LACROIX:** I'll start off with a general observation or reflection. Information, the time scale of information is instantaneity. The time scale of communication is minutes. The time scale of consultation may be weeks, months. The time scale of education is years. But the time scale of engagement is forever.

Now, my question concerned article 110 of your submission. You mentioned that:

"The waste management approach of leaving behind [the low-level waste] on site is inconsistent with international standards ..."

Could you elaborate on this?

**MR. SHEFMAN:** I'll ask Mr. Macdonald to respond to that question.

**MR. MACDONALD:** Alistair Macdonald here, I'll just take a moment.

So on this particular project, we had an engineer, Mr. Tony Brown, support us on the technical aspects of the assessment. He is not here today, so and I will say that I'm not an expert on international standards of waste management practices.

But my understanding would be that there's a variety of elements related to waste management and in particular radiation management, including the As Low As Reasonably Achievable principle that Sagkeeng wants to see applied in relation to this project, where if you're leaving irradiated materials of any sorts on the site, that that is not the preferred option, if there is an option available where you can safely transport the materials to a purpose-built facility.

And we do understand that under the current decommission plan that there has been safe transport of high-level, intermediate-level, and low-level wastes to the Chalk River facility completely safely and without any incidents during the time period since the comprehensive study report. And so there's evidence that the removal of this material would be safe and that it should be going to a purpose-built facility and it should be leaving the site in preference to go to an area that is design-built for the storage of these materials, whether

that's interim or long term.

Sagkeeng also has large concerns about the proximity of the material to the Winnipeg River and the fact that there may be issues with groundwater leaching from the low-level waste as well as from any plans to use an in-situ decommissioning approach, which we're not discussing today.

But if the Commission would like further information from Sagkeeng on the international standards we're talking about, I'm happy to undertake to provide an additional filing to the Commission.

**MR. SHEFMAN:** We can follow up with the Commission in response to that question in writing to Mr. Leblanc.

**THE PRESIDENT:** Okay, thank you. So --

**MR. GULL:** If I may, Madam President.

**THE PRESIDENT:** Go ahead.

**MR. GULL:** Thank you.

I think this issue of international best practice, you know ...

**THE PRESIDENT:** Mr. Gull, I'm sorry to cut you off, that's not within the scope of what we're talking about, if it's about in-situ that you're talking about, right. Is it international best --

**MR. GULL:** It's in response to the trenches and whether we should transport them or not.

**THE PRESIDENT:** But even that, you know, you're still --

**MR. GULL:** Okay, I'll stand down.

**THE PRESIDENT:** -- developing a safety case assessment, so we haven't made a --

**MR. GULL:** No, no, we haven't, but --

**THE PRESIDENT:** That's correct.

**MR. GULL:** Okay, Madam President --

**THE PRESIDENT:** You will get an opportunity to discuss this --

**MR. GULL:** Thank you very much.

**THE PRESIDENT:** -- at a future time --

**MR. GULL:** I stand down. Apologies.

**THE PRESIDENT:** No, no, thank you.

So Commission Members, one last round. Nothing from Dr. Demeter. Dr. Berube? Dr. Lacroix?

I have one quick question for staff. One of the issues raised was that in the staff's environmental impact statement, the traditional knowledge land use study was not used. Can staff comment on that, please.

**MS TADROS:** Haidy Tadros, for the record. I'd like to pass this question to Ms Candida Cianci. She's

been heavily involved in the writing and the explanation of that intervention.

**MS CIANCI:** Candida Cianci, for the record.

So we received the IK study back in January of this year. And that was within the context of and within the scope of the WR-1 in-situ decommissioning project. However, it was staff's view that there was a lot of relevant information in there about interests, concerns from Sagkeeng around the Whiteshell laboratory site. And so our view was that it was relevant information to bring to the attention of the Commission.

So we sought permission from Sagkeeng to work together to come up with a section within our environmental protection review report to acknowledge that information but also to indicate to the Commission our commitment to Sagkeeng to work together towards addressing those issues and concerns as part of the EA process that were currently underway. But just to have that acknowledgement to the Commission. So we had been working with Sagkeeng on preparing that section of the report.

In further iterations, it came to Sagkeeng informing us that this really could not be used other than within the scope of WR-1 and could not be used for other

purposes. And so we felt that given that that is out of scope of this renewal, that it wasn't -- it wasn't best for us to do that.

And we didn't want to, out of respect for the knowledge holders, provide information that they thought was inaccurate. So we advised them that it would be best-placed for Sagkeeng to, as the knowledge holders, present the information to the Commission as they saw fit. We in no way wanted to disrespect or misuse that information. So I'm happy to see and pleased that they did provide that information to the Commission in the way that they saw fit.

**MR. SHEFMAN:** Madam President --

**THE PRESIDENT:** Thank you. So we'll get you to respond to that, and then maybe also give any last words and concluding comments.

**MR. SHEFMAN:** Thank you, Madam President.

I want to start by responding to that question. I have great respect for Ms Cianci. She has been a pivotal part of CNSC's engagement with Sagkeeng, and we appreciate her efforts. But unfortunately, her response was not correct. It was quite simply not correct.

Sagkeeng was concerned that the way in which CNSC staff were incorporating the traditional

knowledge study into the report lacked certain context and lacked certain caveats. Mr. Macdonald's proposed language that would have added those caveats and that context, all of this is contained in Annex 1 to our submissions, that is the proposed section that would have been in the Commission Member Document from staff.

We certainly did not say that they can't include it under any circumstances. We just said that there needs to be proper context. And so it's concerning to me that CNSC staff have said that here. They also said that in their written responses to our submissions. And again, I would point you to Annex 1 of our submissions.

**THE PRESIDENT:** Thank you.

**MR. SHEFMAN:** In closing, Madam President and Commission Members, first of all I want to thank you for your indulgence. I acknowledge that you've provided us with more time than we had originally expected. We're grateful for that.

There are a few issues that have arisen over the course of questioning that are important to address. We are very grateful to CNL for their renewed consultation with Sagkeeng, for their renewed interest and commitment. Clearly, CNL has made efforts in the last couple years, and I think even more so in the last few

months to try and build a meaningful relationship with Sagkeeng. Sagkeeng is excited about that and through Turtle Lodge and through chief and council are reciprocating. And we also acknowledge and appreciate CNL's offer to discuss some of the issues that we've raised in this hearing.

The challenge we have is that Sagkeeng is approaching this proceeding, is approaching the decommissioning of the Whiteshell lab with all of the baggage of its history, with all of the baggage of the Treaty promises that were broken, the theft of Sagkeeng's children to residential schools and continuing through the child protection system, the systemic racism facing Sagkeeng through government decisions, the systemic underfunding of Sagkeeng in nearly every aspect of its governance. And throughout that is a threat of broken promises. And the same is true for all Aboriginal peoples in Canada. Broken promises.

And so while, you know, we certainly don't suggest that CNL's coming to us in anything but good faith, we believe that they are, the issue is that it is not with CNL *per se*, necessarily, it's with too many broken promises over the 150 years of Sagkeeng's relationship with the Crown.

And so we require mandatory, binding conditions and orders from this Commission. Because without something that's enforceable, without something that Sagkeeng can, to put it colloquially, "take to the bank," in this case, you know, "take back to the Commission" or "take to court," there's no guarantee that -- you know, leadership changes at CNL and they decide that they're no longer interested. Or AECL decides that they don't want to have CNL be the contractor anymore. You know, like this isn't -- we're not talking about five years. Frankly, we're not talking about the 10 years of this licence. We're talking about forever.

And so Sagkeeng needs the certainty that comes with the Crown, you, saying, This is what you must do, CNL; this is our order. It isn't good enough for CNL to say, We'll talk to you. It isn't good enough for CNL to even say, We commit to doing this. Because that commitment's not binding. What's binding is an order. And the history of Sagkeeng's relationship with the Crown requires that we take these sorts of situations more seriously and we recognize that history when we make decisions going forward.

Again, I want to thank the Commission for their time today. This issue is of the greatest importance

to Sagkeeng. Sagkeeng looks forward to continuing to engage with both CNSC and CNL as this process continues as we move into the EA for WR-1's ISD proposal and with a continuing and ongoing relationship outside of the regulatory sphere with both CNSC staff and CNL.

[aboriginal language / langue autochtone]

**THE PRESIDENT:** Thank you.

**CHIEF HENDERSON:** Chief Henderson.

[aboriginal language / langue autochtone] Thank you, Commission, for hearing the concerns of my people and all people, all Indigenous people that are affected by this. Thank you to Corey and to Alistair for being here with me and also my council member that's sitting in the back.

This is such an important issue for my people. I've been in leadership for 10 years now, and this was -- there was a year that it was -- I think it was made mention that in 2000 you were engaging Sagkeeng, but I wasn't there at that time.

I'm here now today. I've been in this for -- now for 10 years, and this is the first time we've really had what I would say engagements with CNL and CNSC. They have come to my community numerous occasions now. And that's what we needed to have previously, which never happened. Right? I mean people were -- we always talk

about this, the check box consultation. That's not how Sagkeeng operates.

We have a consultation protocol, right, and we also have our own government in Sagkeeng. We are an independent nation and I am the government of Sagkeeng and I speak on behalf of my people. And when somebody comes to my territory, I need to protect those territories for the people, because it's what we live off is the land and the water.

And the water is very precious to all of us. It's about life. Water is life. If we didn't have water, we wouldn't be here. And that's what my people tell me every day. [aboriginal language / langue autochtone] Be careful, Chief, listen. Listen to your people.

So again, I thank you for listening. Thank you for allowing me to speak on behalf of all Indigenous people that are affected by whatever is happening in their territories. Because it's important that we say what we have to say and protect the land and the water. [aboriginal language / langue autochtone]

**THE PRESIDENT:** Thank you, Chief Henderson, and thank you for participating in our process today.

We'll take a 15-minute break and resume at

10:40 a.m. Thank you.

--- Upon recessing at 10:24 a.m. /

Suspension à 10 h 24

--- Upon resuming at 11:42 a.m. /

Reprise à 11 h 42

**THE PRESIDENT:** The next presentation is from the Manitoba Metis Federation as outlined in CMDs 19-H4.12, 19-H4.12A, and 19-H4.12B.

Before I turn the floor to Ms Riel for the presentation, Mr. Leblanc has a few updates to provide.

**MR. LEBLANC:** Thank you. So I would like to note that the Commission received and accepted a late supplementary submission from the Manitoba Metis Federation.

However, given the lateness of this submission and that participants, CNSC Staff and Commission Members have not yet had an opportunity to review this substantive submission. The Commission is requesting that CNL and CNSC Staff address this submission and submit, in turn, supplementary submissions, if any, specific to the MMF supplementary submission.

We would ask that this be filed within a

reasonable timeframe, and that timeframe is to be confirmed by the Commission Secretary after consultation with CNL and CNSC Staff.

This submission will be posted on the CNSC website and available to all who are interested. This submission will be addressed in the context of this proceeding, but in the coming weeks through written submissions. So, for example, if the members have questions for the MMF, then this will be sent in the written format, et cetera.

So the Secretariat will be coordinating the activities in this regard. Thank you.

**THE PRESIDENT:** Thank you, Marc.

Ms Riel, over to you.

**CMD 19-H4.12/19-H4.12A/19-H4.12B**

**Oral presentation by the**

**Manitoba Metis Federation**

**MS RIEL:** Thank you. Good morning, Madam, Chair and Commissioners. For the benefit of the record, I'm Marci Riel. I'm here today on behalf of the Manitoba Metis Federation, the Government of the Manitoba Métis Community.

I am the Senior Director of Energy & Infrastructure of the MMF. I am joined today by my colleague, Jasmine Langhan, who is the Director of Engagement & Consultation at the MMF.

The Manitoba Métis Community welcomes you to the homeland of the Métis Nation. I note that specifically, because it is of significant importance. This is not the homeland of the Métis, it is the homeland of a nation, specifically, the Métis Nation. Failing to recognize us as a nation is at least, in part, one of the fundamental issues at hand in this hearing.

For your reference, there is no hierarchy of rights. Métis rights and First Nation rights are fundamentally different, but they co-exist and are equal. A distinction-based approach is necessary to ensure the nation-to-nation relationship, the duty to consult and accommodate, and the full proper and meaningful process to consider, mitigate and, where not possible, accommodate impacts of the project on the rights, claims and interests of the citizens of the Métis Nation's Manitoba Métis Community.

For example, I note that in CNL's presentation yesterday, rather than recognizing the Métis-specific Traditional Knowledge, Land-Use and

Occupancy Study that was undertaken by the MMF, CNL chose to refer to it as an Indigenous study. This is wholly unacceptable, it is inappropriate and disrespectful to the citizens who participated in the study, and to the Government of the Manitoba Métis Community who represents them.

In addition, with all due respect to Chief Henderson of Sagkeeng First Nation, it is also important to note that although I recognize and appreciate that we are here today on Treaty 1, the traditional territory of Sagkeeng First Nation, the Manitoba Métis are the founders of Manitoba and Canada's negotiating partners in confederation.

For the record, Canada is celebrating 150 years as a country because of that role, and the *Manitoba Act* of 1870 was signed a full year before Treaty 1 in 1871.

The Manitoba Métis Community is a distinct Indigenous community that emerged in the Red River Valley in the early 1800s. Based on its emergence prior to the Crown's assertion of sovereignty or settler governments affecting political or legal control in the Red River Valley, the Manitoba Métis Community holds pre-existing and communal Aboriginal rights and interests throughout its traditional territory including, but not limited to, the

Whiteshell site and the surrounding area.

The Manitoba Metis Federation, the MMF, is a democratically-elected self-government representative of the Manitoba Métis Community. It is the modern day manifestation of the Métis Nation's inherent right to self-government and self-determination as an Indigenous people within Manitoba.

The MMF is authorized by the more than 120,000 of the Manitoba Métis Community to represent their collectively-held interests and rights and engage in consultation with the Crown regarding the same.

I note that similar to the statements made this morning by Sagkeeng the MMF was never consulted regarding the original licence for WR-1, the decision to locate it on Manitoba Métis Community's traditional territory, or the proposed decommissioning plan for the WR-1 nuclear reactor in Whiteshell.

Canadian Nuclear Laboratories is now applying to the CNSC for renewal of this licence so that it can continue to complete the decommissioning activities and prepare an alternative in-situ decommissioning plan, which the MMF understands will be reviewed in a separate hearing process.

The Commission is charged with determining

whether this renewal request should be granted and, if so, what conditions may be required in order to, among other things, ensure that the health and safety of people and of the environment are maintained, Canada's international commitment are honoured, and the constitutional duties owing to the Manitoba Métis are fulfilled.

The proposed activities associated with CNL's licence renewal application have the potential to adversely impact the Manitoba Métis Community's constitutionally protected rights, claims and interests.

MMF citizens have raised significant concerns regarding the potential for ongoing contamination of the lands and waters associated with the activities, both related to the existing licence and the proposed decommissioning plan that is still in development.

As the health of the land, water and resources are impacted, so too is the health of the Manitoba Métis Community that relies on these resources for sustenance and to maintain and pass on their distinct Métis practices, customs and traditions.

The duty to consult was designed to address such potential impacts. Consultation is required whenever the Crown has knowledge of an established or asserted Aboriginal right and contemplates conduct that may

adversely affect it.

As I noted earlier, Métis rights are distinct from the rights and interests of First Nations and must be specifically considered through meaningful consultation and engagement with the MMF, mitigation, minimization, and accommodation measures for any impacts must be identified, they must be considered, they must be implemented in coordination with the MMF.

The honour of the Crown and the constitutional duties owing to the Manitoba Métis Community cannot be forgotten in this process simply because a renewal, rather than a new licence, is being requested by CNL.

The activities that the renewed licence will permit are extensive and, while I won't outline them here, these activities would not occur but for renewal of that licence.

The Manitoba Métis Community has provided overwhelming evidence of the significance of this area to the exercise of Section 35 Métis rights and has provided extensive information on its specific outstanding questions and concerns.

The Commission is required to ensure that its decision on CNL's licence renewal application complies

with the constitution. This requires a meaningful consultation process to consider and address the MMF's outstanding concerns and potential impacts on those activities.

Contrary to the conclusions of the Commission Staff, the duty to consult is clearly triggered and requires that additional measures be imposed in order to ensure that it is fulfilled.

The MMF respectfully requests that the Commission include a licensing condition that requires ongoing consultation with the MMF to ensure that its outstanding questions and concerns continue to be addressed, that the rights, interests and claims of the Manitoba Métis Community are respected, and that any and all impacts to these rights are mitigated and accommodated as required by the honour of the Crown.

To be clear, the duty to consult is triggered by the licence renewal decision. The Commission's decision to renew the licence for the proposed decommissioning activities will have an impact. The nature of these activities contemplated by the licence renewal has the potential to adversely affect those rights, claims and interests.

The MMF's reports, which are currently on

the record before the Commission and before the Panel, provide significant evidence that the Whiteshell site falls within lands where the Manitoba Métis Community asserts and exercises their Aboriginal rights.

Among items specifically for your quick reference, I'll note that there were 424 locations of traditional land use information identified in the MMF's TK study specific to the CNL site. That is a tremendous number of locations given the small number of people that were interviewed for that process.

I won't go through all of the different stats related to where we're at and how we got here, however I will just draw to your attention that the MMF has provided a series of recommendations through the process that were intended for the Commission to consider as licensing recommendations.

I'll note, for example, that MMF citizens who participated in the TK study for the nuclear reactor decommissioning demonstrated deep familiarity with the lands and waters of the area and expressed significant concerns regarding impacts to human health, the environment and the exercise of their rights.

I will also note that this information is limited to the small number of people that were interviewed

for that process. Of the 120,000 citizens in the Manitoba Métis Community, less than 20 were interviewed for this process. That's 424 locations with less than 20 people.

The Manitoba Métis Community relies primarily on Crown lands to exercise their rights, maintain their distinct Métis traditions and maintain their connection to their traditional territory. Crown land and particularly federal Crown land is in short supply in Manitoba. Further disturbance to these already constrained lands used for the exercise of Métis rights, which the Whiteshell decommissioning and WR-1 nuclear reactor may do for countless generations will result in significant impacts of the harvesting rights of our citizens.

In addition, the limited amount of federal Crown lands in Manitoba engages the MMF's Canada Framework negotiations which, as noted above, include potential settlement lands as one of the matters for negotiation. Whether these lands have the potential to be remediated to a state where the MMF may be interested in considering them as part of any settlement reached regarding the MMF declaration is directly impacted by the licence renewal and how the decommissioning activities are undertaken.

As outlined in greater detail in the MMF reports, the Manitoba Métis Community continues to have

significant concerns about the environmental and safety impacts of the proposed decommissioning activities, and the impacts of these activities on their constitutionally-protected rights. These concerns must be resolved before the licence is renewed. At a minimum, a meaningful process that can address and resolve these concerns needs to be required and implemented as part of the licence renewal.

MMF citizens have asked questions regarding mediation plans for any existing contamination and raised concerns about health risks associated with workers on the site and other risks in general. Questions were posed about restrictions on access to the site, disposal, additional items such as health and safety of individuals of the Manitoba Métis Community living near and using the lands in the Whiteshell area. All of these questions require an answer from CNL prior to the decommissioning activities taking place.

MMF citizens have voiced concerns about the potential for contamination of wildlife, movement of these contaminated animals causing further contamination, issues around fishing in Lake Winnipeg, impacts of groundwater, including local access to drinking water. These concerns were particularly prevalent given the

Manitoba Métis Community's reliance on harvesting, including hunting, fishing, gathering and the use of lands and rivers to sustain themselves and their families.

I'm cognizant of my time, so I'm going to scroll through slightly. One of the items that I specifically wanted to identify is that the MMF has provided two specific draft licensing conditions among a series of recommendations. I'll note for the record that a series of recommendations are outlined in the MMF submissions as well as in the submission that I acknowledge was late, and I do appreciate the Panel's leniency in that regard.

With regard to the recommended licence renewal applications, I'll note for the record that Option 1 is:

"The Licensee shall prepare and implement a First Nation Manitoba Métis Community consultation and engagement strategy for approval by the Commission in order to ensure Indigenous Nations are meaningfully consulted in ongoing project planning, development and undertaking of licence activities." (As Read)

This strategy should include: economic, social and cultural management plans; communications plans; an updated environmental protection plan; human health and ecological risk assessment; consultation plans to establish an ongoing two-way dialogue between Indigenous Nations and the Licensee; as well as potentially a joint decision-making table for opportunities for those discussions.

In addition, Recommendation 2 for a draft licensing conditions is:

"That the Licensee shall prepare and implement the following management plans developed in consultation with the First Nations and the Manitoba Métis Community in order to ensure Canada's commitments to establishing a renewed relationship with Indigenous communities based on the recognition of rights, UN Declaration on the Rights of Indigenous Peoples, and the duty to consult are upheld and fulfilled." (As Read)

These plans include: economic, social and cultural management plans; communications plans; the

updated environmental protection plan and human health and ecological risk assessment; and consultation plans again outlining that two-way discussion and dialogue between CNL and the Nations.

In closing, the MMF has over the last two years admittedly developed a productive working relationship with CNL. I know, for example, that CNL has already widely distributed a photo take of the project team and President Chartrand from the MMF's recent annual general assembly.

I'm not trying to suggest that we haven't developed that relationship, what I am asking is that you consider the role of the engagement process and the spectrum of consultation as it relates to the potential impacts of this renewal.

The MMF is hopeful that many of its outstanding concerns regarding the potential impacts of the decommissioning activities can be addressed through further work with CNL. However, this cannot be left to corporate goodwill or chance. Consultation in this case is not optional. The Crown's duty to consult the Manitoba Métis Community is clearly triggered. The scope of the duty is deep and there remains significant unaddressed impacts on Métis rights, claims and interests that require an ongoing

consultation process to resolve.

While the courts have been clear, that Crown decisions or project authorizations that are made without discharging the duty to consult should be quashed as unconstitutional, the MMF understands that part of the motivation for CNL's licence renewal request is to allow for further time to plan for proposed in-situ decommissioning.

The MMF has significant concerns with such a plan. Requiring ongoing consultation as a licensing condition of the renewal would provide a process for the MMF and CNL to discuss both the MMF's concerns about the impacts of the proposed plan and activities and also establish a process where concerns about any future plans could be collaboratively discussed leading up to proposed application by CNL on that approach.

Licensing conditions that mandate this continued consultation, which align with the UN Declaration and Canada's commitments to advance reconciliation and work in partnership with Indigenous communities, are required.

Nothing less can uphold the honour of the Crown and fulfil a duty to consult, both of which fall squarely before the Commission related to this decision.

Thank you.

**THE PRESIDENT:** Thank you very much.  
We'll open the floor for question. I'll start with you,  
Dr. Lacroix please.

**MEMBER LACROIX:** Thank you for your  
presentation and the submission.

On page 31 of your submission, point 108,  
among your recommendations you recommend the creation of a  
Métis technical working group to assist with the design and  
oversight of the monitoring plan.

Isn't the MMF already involved in the  
monitoring of air, land, food and wild life?

**MS RIEL:** So I would say the MMF has  
been -- through an arrangement with CNL, the MMF has had  
the opportunity to have a Métis monitor on site undertaking  
work in cooperation with CNL, that is correct.

The idea behind the technical working  
group though is to take a series of people with the  
background and knowledge required to develop those plans,  
bring them together with a Métis-specific focus, to take  
that information and crystallize it into a process with CNL  
to ensure that the process moves outside of what happens  
when the Métis monitor is on site.

To use an example, the one thing about  
monitoring on a scheduled basis is that it's, by

definition, scheduled; everyone knows it's happening. People often say to me, "Well, how do you know that that's -- you know, the activities that are being undertaken that particular day are the same as they were the day before or the day after? " Our citizens often will say things like, "If I know somebody's coming for dinner, I'm going to clean my house."

The reality is that while the monitoring is valuable, certainly the citizens are pleased to hear that they have a Métis citizen out there on the land, that process currently is two times. So I would caution you that while we do have that agreement in place, it's not as extensive as it might seem on paper.

**MEMBER LACROIX:** Staff, would you like to react?

**MS SAUVE:** Kiza Sauve, I'm the Director of the Health, Science and Environmental Compliance Division.

So I'm going to speak both to CNL's regulatory requirements for monitoring, and one of those is the CSA Standard N288.4, which requires the licensee to consult with and get input from impacted Indigenous groups into its environmental monitoring program. So that's the regulatory side, and we know that CNL is working to do this.

We also know that the CNSC's independent environmental monitoring program we are out doing spot checks, and we include Indigenous communities. We were in the community in 2017. We do recognize that it's not an ongoing program. We will be back in the community in the near future, into the next licensing term and we'll be reaching out again to the Métis Community to include them in our monitoring program. That could include having them come with us while we're monitoring, it could include having them input into the monitoring program.

But we do recognize that it is a spot check program, and the CNL program that the Métis Community is involved in may be providing a little more oversight for them, but we are working to ensure that they are getting that involvement.

**THE PRESIDENT:** Ms Riel.

**MS RIEL:** Just on that particular note, I do appreciate the comment. But I would note that the MMF specifically requested having the opportunity to undertake a monitoring component with the CNSC Staff. Because we have been fortunate in other processes and in other projects to have had the opportunity to monitor as well as be on the project area with other regulators.

So, for example, the NEB, now the CER, has

an inspection process that has allowed temporary authorization for Métis citizens to participate in those inspections. So one of the items that the MMF had requested was to work with the CNSC to create a similar type of program.

I recognize and appreciate that there's a commitment to do that, but there's a long time between 2017 and when that might happen. The rationale of the regulator having that role is significant, and the citizens are asking like why doesn't the regulator get out there more often?

Why is it that, you know, the NEB or the CER, on a pipeline is out there, or on a transmission line, but when we're talking about, you know, nuclear projects there seems to be a significant gap between the timing of the monitoring?

**THE PRESIDENT:** Staff, do you want to comment on the point around inspections and inclusion of MNR in that, as opposed to the monitoring side?

**MS SAUVE:** Kiza Sauve, for the record. I do want to clarify that when I was speaking of monitoring it was the independent environmental monitoring program. In terms of inspections, I'll pass it back to Kavita Murthy.

**MS MURTHY:** Thank you. Kavita Murthy, for the record. It is true, we don't have a structured program of including Indigenous groups in the inspections.

There is a project afoot at the CNSC to look at the feasibility of this and determine what types of activities, what qualifications, and how we can make this an effective program across all regulated facilities. We don't have anything in place at this time.

**THE PRESIDENT:** Thank you. CNL, did you have any comments on what we've heard so far?

**MR. GILBERT:** Thank you, Madam President and Commissioners. John Gilbert, for the record. Again, CNL's committed to opening our dialogue with Manitoba Métis and all Indigenous groups. We look forward to sitting down with them face to face and understanding their concerns and developing a plan and a path forward.

I'm going to ask Karen Ross to assist me with some detailed answers about sampling.

**MS ROSS:** My name is Karen Ross and I am an Environmental Specialist for Whiteshell Nuclear Laboratories, for the record.

We have been very happy to have the opportunity to work with the MMF and have them as part of our environmental program. We are currently working on

aligning and implementing, fully implementing the CSA Standards and, as was mentioned, there is a requirement within those standards to include Indigenous people, including First Nations and MMF, in that process and it is our intention to welcome their input and arrangements meetings that are suitable for them -- in a manner suitable for them.

**THE PRESIDENT:** Thank you. Dr. Demeter.

**MEMBER DEMETER:** Thank you for your intervention and discussion. I understand and appreciate all the discussions you've put forth with regards to consultation and dialogue.

I want to move sort of one step up. At the end of the day, what is your vision of what you want this site to be? What is your endgame desire, which we can sort of try to measure staff and CNL's proposal? But what is your vision of what you want this to look like at end of the day for your people?

**MS RIEL:** Thank you for that question. So I would say that what -- President Chartrand's perspective has always been that having the right to harvest with no access to animals or fish or birds or any wildlife, plants, berries, medicinal items, cultural practices, all of those types of things is a struggle.

So one of the things that we would certainly would advocate on behalf of, similar to what Chief Henderson mentioned, is the stewardship of the land. The area in which the project is, has significant history for the Manitoba Métis Community.

I note, for example, that one of the citizens in the study said, and I'll quote:

"We've been here, we're not going anywhere, we'll be here until the end of time, and we're people of the land. If you care about Mother Nature, care about the earth, sit down and talk with us. Together we can make a difference. A lot of us still have the old knowledge in our heads and we'll share it with you, because a lot of the ideas that you have, if you don't know the land and you don't know the earth, how can you heal something?" (As Read)

So I'm very mindful of that process. Again, we've developed a working relationship with CNL. Truthfully, we've developed a working relationship with CNSC. The challenge though, and I appreciate Ms Ross's

comments, is that there seems to be a disconnect between the obligation of the proponent and what they tend to consider their kindness. She mentioned, for example, they welcome the opportunity. The reality is, they're required to do it. It's not about trying, it's about actually doing it.

So, you know, we often refer to the presentation -- we had the opportunity to have a community meeting in Lac du Bonnet with CNL and CNSC, and we brought our citizens together and we discussed the project. CNL had a bunch of lovely slides with green grass and deer standing on them.

The citizens were very concerned that their concerns weren't being taken seriously. That the idea that like the grass would just grow back and everyone would pretend that there wasn't something there before and that, in doing so, their ability to harvest, their ability to be out on the land would be impacted by the fact that people would forget that, you know, there were potential contaminants, or people would forget that the human health assessment is based on the average number of fish a person would eat, not the average number of fish a Métis citizen would eat.

Those types of things only come forward in

conversation. So I think from the MMF's perspective it's about reclamation, but reclamation by the definition of the MMF and its citizens, not by the definition of CNL and ensuring that the grass is growing back.

**MEMBER DEMETER:** Thank you very much.

**THE PRESIDENT:** Dr. Berube.

**MEMBER BERUBE:** Thank you very much for your presentation. I'm actually very -- I need to understand exactly how many people are being affected by this particular site. Do you have demographics on population of MMF in that area as well as the number of people that would be actually commuting to the area to harvest, any idea?

**MS RIEL:** So I don't have the numbers off the top of my head, I'd be happy to provide that information to the Panel.

What I would say is a couple of things. One, as I indicated, the MMF represents the more than 120,000 citizens across the Province of Manitoba. This particular project is located within what we didn't really talk about, the structure of the MMF, but suffice it to say that the Federation is created out of seven regions, each of those regions has up to 20 locals. So if you use that Matryoshka doll example, the 20 Locals feed into the

region, the region feeds into the Federation.

This particular project is located well within the recognized harvesting area, as well as within the southeast region.

Whether or not you could do the simple math and, you know, divide 120,000 adults between seven regions, I wouldn't recommend it. We could pull that information. The reality, though, is that the MMF has more than 15,000 harvester cards currently out in the community and those harvesters have a longstanding tradition of two things.

One, being highly mobile. Because it's the Métis, we used to -- I mean the Red River cart, all of those trails, all of those ways to get around were developed by the Métis and so we have a long history of being mobile. So what we find is, even when we are undertaking studies of this nature, it's not about who lives in the area but rather who uses the area, and in some scenarios, both. So you have situations where citizens will say, you know, "I grew up here, I now live in Winnipeg" or perhaps "I live in Thompson now, but when I harvest I come back to where I harvested with my grandparents" or "I plan to" -- you know, sometimes we will speak to older harvesters and they will say, "Well, yes,

but it's my intention to bring my grandchildren back to where I have always practised."

So I mean I can pull the numbers, but I think it's not necessarily about whether it's five people or 10 people or 50,000 people, it is more about the infringement on the rights and the potential impacts of the project. The access-related issues, the potential for contamination and other human-health-related concerns are of significance to the MMF on behalf of its citizens, whether it's one person or all 120,000.

**MEMBER BERUBE:** And just in that ilk, because, you know, people are commuting all the time back and forth, any idea what the traditional harvesting activities in this area were or what the intended harvesting activities are going to look like going forward?

**MS RIEL:** I'm sorry, I was just going back to my slide.

So just for reference, I mentioned the 424 locations of traditional land use and 75 of them were within 100 metres of the study area. We had a number of participants who identified that they consumed deer within 25 kilometres of Whiteshell; we had 80 percent of Métis participants who consumed fish from within 25 kilometres of the site; 60 percent of the participants interviewed

consumed berries or fruit from within 25 kilometres. And then just by virtue of in general, Métis participants demonstrated the familiarity with the land.

So what we found was -- in particular, I am thinking of one gentleman who said that he doesn't buy meat at the grocery store, like he only eats off the land. And so I found it very interesting when we interviewed people that a number of our harvesters had no idea that the project was being undertaken. They had this perception that, you know, because the grass is green that everything is fine.

And when you outline the project, even with everything that CNL has put in place, the potential impact on those harvesters, whether they are, you know, living in Lac du Bonnet and going out to harvest or whether they are living elsewhere and going out to harvest, the potential for that impact is significant.

So whether it's wildlife, whether it's fishing, my suggestion would be that of primary concern is the contamination of the water. We had a number of citizens who brought forward significant concerns related to their ability to eat the fish. And I am mindful of the conversation that took place yesterday, albeit in regard to a different hearing, but this idea of, you know, can you

drink the water, can you eat the fish. Yes, you can eat the fish as long as you don't eat more than X number of fish.

We had a number of citizens who kind of looked at that idea as being just unacceptable, you know, like not necessarily because they absolutely have to eat more fish than that, but this idea that like it's like a little bit okay or a little bit contaminated. There are a tremendous number of people who don't do anything else and who will have a significant impact on -- or will be significantly impacted by this process.

**THE PRESIDENT:** A point of clarification. Did you say that less than 20 people were interviewed as part of this study?

**MS RIEL:** I did and I was being generous.

**THE PRESIDENT:** So how many and why so few?

**MS RIEL:** If I -- hmmm. You know what, I don't know the number off -- I don't want to guess. If it suits you, I'm happy to take an undertaking and getting back to you in terms of that number. The answer to the question is because, while CNL was very interested in accessing the information, they only had so much money to provide and so the study only allowed for X number of

people.

**THE PRESIDENT:** Okay. But it would be helpful if you could let us know how many were interviewed as part of the study, please.

**MS RIEL:** For sure.

**THE PRESIDENT:** Thank you.

Dr. Lacroix...? Anything else?

**MS MURTHY:** Pardon me, Ms Velshi. This is Kavita Murthy, for the record. I believe Adam Levine has an answer to your question.

**MR. LEVINE:** Adam Levine, for the record.

Just to help Marci out, I have the study here in front of me and just to quote from it in section 7.1.1, study scope and value ecosystem components indicates that there were 10 Métis citizens and harvesters from the Manitoba Métis community that were interviewed between November 19th and 23rd, 2018 for the study.

**THE PRESIDENT:** Thank you, Mr. Levine.

So over to you for any final comments, please.

**MS RIEL:** Thank you.

So in closing, I would like to just quote one of our other citizens who left a comment to us to really give pause to this process.

The quote says:

"Well, that [decommissioning] would affect everything, won't it? Any kind of nuclear radiation ... if it got away, would affect the whole system all the way down. Like they said [it's] for 200 years. As soon as that leaks into the groundwater, it leaks out and it goes into your rivers because they cement those things over and then they keep them cemented over but if you ever had an earthquake or something and it cracked, you never know how the world's going. If they crack that, that thing that [the] radiation leaks out of there, look at all the trouble we're having. ... if [it] got into [Lake Winnipeg or into] the Winnipeg river system, it [would] affect everybody and that whole system ... [everyone] north of the lake."

And I note that because we have a tendency to focus on the study area and potential impacts of the

study area, and I recognize and understand the rationale for doing so, but because of the particular location of this project and because of the potential for it to expand outside of it and not just due to tragic circumstances but due to the smallest of concerns, all of the water in and around this area is part of that basin, it is part of the watershed, it all flows north, so anything that happens in the Winnipeg River is going all the way up to Churchill. Those impacts will be felt by every single Métis citizen throughout the Province of Manitoba. It is not just about what happens here in the albeit small community of Pinawa or the small community of Lac du Bonnet or those who are immediately adjacent to the actual site.

One of the reasons that we are recommending licensing conditions around processes specific to the role of the Métis government is to ensure that, as my friend from earlier mentioned, if CNL is not CNL, where is that level of commitment? If the CNSC, in the same way as the NEB became the CER, is not the CNSC anymore, who is monitoring that relationship? Those types of recommendations being made as licensing conditions will ensure that that level of communication takes place, regardless of who is in charge of what, because the reality is that the Métis government is not going anywhere.

So I would encourage the Panel to consider the licensing recommendations that have been put forward, as well obviously as the recommendations that we have made in our submissions.

And I would also encourage the Panel to remember that it's their duty to consult and accommodate and those licensing conditions are, by virtue of the nature, an accommodation measure, particularly when they are put in place in a way that ensures that the proponent is required to act in a certain way, is required to have a certain relationship, is required to do certain things in certain ways.

There needs to be processes and penalties for that and, with all due respect to the staff from this morning, not, you know, in 2017 and maybe in 2020, but rather a non-arbitrary process that ensures that there is constant monitoring, not just by the Métis but by everyone, that there isn't leaks happening or contamination occurring or environmental protection plans are in fact being followed. Those are all things that need to be crystallized in the licensing conditions so that they can be followed up upon. If it is not in the condition, in our experience, it never happens. So I would ask that you are mindful of that when you make your decision.

**THE PRESIDENT:** Okay. Thank you. Thank you very much for your intervention.

The next presentation is from the Concerned Citizens of Renfrew County and Area, as outlined in CMDs 19-H4.6 and 19-H4.6A.

I understand that Dr. Ole Hendrickson is joining us via videoconference from Ottawa to make his presentation.

Dr. Hendrickson, over to you.

**CMD 19-H4.6/19-H4.6A**

**Oral Presentation from the**

**Concerned Citizens of Renfrew County and Area**

**DR. HENDRICKSON:** Thank you, Madam Chair.

Ole Hendrickson, Concerned Citizens of Renfrew County and Area, for the record.

It is an honour to be speaking to the Indigenous and Métis participants in this hearing.

Could I please have the PowerPoint, if that's available?

**THE PRESIDENT:** It's on.

**MR. HENDRICKSON:** Okay. Next slide then, please. Next slide.

Our group is intervening in this hearing because the licence applicant CNL is sending thousands of shipments of Whiteshell radioactive waste to Chalk River Laboratories, as we heard yesterday. We work for an environment in the Ottawa Valley free from nuclear pollution.

Next slide, please.

CNL is transforming Chalk River into a de facto national facility for the long-term management of radioactive waste, most of it owned by the Government of Canada. To our knowledge, the Government of Canada, the primary waste owner, has not approved this. There have been no CNSC hearings. First Nations and the public have not been consulted.

Next slide, please.

CNL has already shipped thousands of tons of Whiteshell waste to Chalk River.

Next slide.

Over 2,000 shipments are planned in total, including 46 to 50 shipments of high-level waste.

Next slide, please.

The cesium pond waste -- and hopefully we are looking at the cesium pond. Thank you. The cesium pond waste has already been shipped. Were contaminants

fully removed? Is there a publicly accessible end-state report? What was the origin of this waste? What are the names and quantities of the nuclear substances in this waste? Does it include fission products other than Cesium-137? Does it contain uranium, neptunium, plutonium and other actinides? Where is this waste stored at Chalk River? Why was it shipped when the waste owner, the federal government, lacks the approved waste disposal plan required by the Radioactive Waste Policy Framework?

Next slide, please.

CNL is stacking intermodal containers of waste three high at waste management area H at Chalk River. CNL has confirmed that some containers are from Whiteshell.

Next slide.

CNL has confirmed that it plans to drive these containers into a proposed giant waste mound and eventually abandon them there. CNL has not provided information on their contents, but we did obtain some limited and partly redacted information through an access to information program request to AECL. Note that if the low bulk density of this shipped waste pertains to that that's in the containers, this would create risks of mound collapse unless a means, probably an expensive one, were found to stabilize the waste in the containers.

Next slide.

The Chalk River Laboratories are located on a geological fault line within a seismically active area right next to a major water body, the Ottawa River, source of drinking water for thousands -- millions of people downstream. This is not an appropriate place for long-term storage or disposal of radioactive waste. Leaking waste sites at Chalk River are already contaminating the Ottawa River.

Next slide.

CNL has dramatically reversed careful plans of previous AECL scientists, ignoring recommendations in the 2001 Comprehensive Study Report for Whiteshell. This report has a 60-year target to achieve the end-state for Whiteshell decommissioning. CNL's new proposed end-state target of 2027 would be 25 years after the release of the 2001 report. Given that CNL's accelerated decommissioning activities only began around 2015, this represents a very significant change in the Whiteshell Laboratories decommissioning project.

The 2002 Detailed Decommissioning Plan is timed to the availability of properly sited and formally approved waste disposal facilities.

Following a December 2002 hearing when

CNSC awarded the initial Whiteshell decommissioning licence based on the Comprehensive Study Report, the record of decision from that hearing stated:

"In the event the proposed project changes significantly, it is possible that the earlier environmental assessment of the project will need to be appropriately revisited."

Is it legal to disregard the results of a comprehensive study report?

Next slide.

Accelerated decommissioning means double handling and double transport of Whiteshell waste. This increases radiation exposures and accident risks and costs. Moving waste to a new location does not reduce the federal government's nuclear waste liabilities. There is not at present sufficient capacity at Chalk River to accommodate a major influx of Whiteshell waste. New shielded modular above ground storage facilities are being built. A new dry storage facility for irradiated Whiteshell fuel is being built. Depending upon how long fuel remains in this facility, it could be considered a new facility for long-term management of irradiated fuel as per section 28 of the *Physical Activities Regulations* under the new *Impact*

*Assessment Act.* What constitutes long-term management?  
Has CNSC discussed this with the Impact Assessment Agency?

Next slide.

Shipping high-level waste to Chalk River and then possibly shipping it again to an NWMO repository is highly questionable, particularly given that some of the NWMO candidate locations are much closer to Whiteshell than to Chalk River. Chalk River to Ignace is 1,500 kilometres. Pinawa to Ignace is 400 kilometres.

Next slide.

Dr. Krugmann's report recommends a halt to these waste shipments, a return to the current decommissioning plan and, importantly, immediate commencement of the siting and development process for an acceptable repository for low- and intermediate-level wastes.

Now, if you would please turn off the PowerPoint, I would like to make some general remarks.

Last week I was here in Ottawa to speak about decommissioning of the Saskatchewan Research Council's SLOWPOKE reactor. We learned during that hearing that the matter under discussion, which included approval of shipping the highly enriched uranium reactor core to South Carolina and remaining waste to Chalk River had

already been decided. In fact, the reactor core had already been removed and shipped to the United States the previous month. So there was no point in having a hearing. There was no decision to be made. There was no reason to hear the public's views. The process was a sham.

Today's hearing is similar. A decision was made in corporate boardrooms years ago that as much as possible of the radioactive waste at Whiteshell would be abandoned onsite, including the WR-1 reactor, and the remainder shipped to Chalk River, eventually to be abandoned alongside the Ottawa River. This decision is already being implemented.

Canada's nuclear waste industry is controlled by two corporations tied to the U.S. nuclear weapons establishment and Canada's own SNC-Lavalin. In the absence of federal nuclear waste policies and strategies, these corporations are making all the decisions about the federal government's multibillion-dollar radioactive waste legacy. If this continues, it may well lead to permanent radioactive contamination of the Winnipeg and Ottawa rivers.

Thank you.

**THE PRESIDENT:** Thank you,  
Dr. Hendrickson.

We will open the floor for questions.

Dr. Berube...?

**MEMBER BERUBE:** Just a question for CNL here. There was a comment by the intervenor here on the speed of decommissioning in terms of the acceleration. Would you mind describing the logic for that accelerated decommissioning path?

**MR. GULL:** Yes. Thank you, Commissioner. Mike Gull, for the record.

The nuclear industry has been facing the task of decommissioning and managing its liabilities for several decades. I think it is fair to say that a number of the original plans involved a safe store concept where, if you like, minimalist decommissioning activities take place and then at some point in the future, once national repositories are available for disposal, you perform the decommissioning work.

There are several kind of fundamental problems with that that the decommissioning industry has learned around the world. I think the first thing is that it kind of makes an assumption that while the waste is currently safe, which it is, you know, it remains safe and will continue to remain safe without any action and, it is a matter of fact that on a number of the legacy facilities,

you know, the waste is not ideally stored, it is not well characterized and there are uncertainties associated with that waste. We discussed some of those yesterday in respect of the standpipes and bunkers at Whiteshell.

So the industry has learned that actually it is beneficial to take some action in the near term, which can all be achieved safely within the arrangements that we have. And you have seen yesterday that the Whiteshell safety performance is, you know, acceptable according to the CNSC staff and is well below many of the thresholds and targets set in terms of regulation. So you can safely handle waste in the near term and the benefit you get by safely handling the waste in the near term is, first of all, you can retrieve it from its inadequate, you know, or less optimal current storage position, and in that retrieval you can sort the waste and characterize the waste so therefore your understanding of the waste that you have to deal with increases.

And then thirdly, you then are compelled to package the waste for temporary storage in such a way that it's the control of that waste and its -- if you like, the control of that waste and its separation from the environment is improved. So not only does your understanding improve, actually the environmental risk is

reduced because of the increased control that you impose upon the waste once it is removed.

So while that intervention kind of stated that there was no reduction in liability, therefore implied there was no benefit of prompter decommissioning, there is a near-term benefit of increased understanding and increased control that can be safely achieved, hence reducing environmental risk.

So that is what the industry has learned.

In terms of two steps, because waste exceptions criteria for disposal continue to evolve not just in Canada but in many countries in the world, the actual compilation of the final packages almost inevitably either requires some assessment or some repackaging and we fully anticipate at Chalk River, where we have, you know, more than 1 million cubic metres potentially of low-level waste and significantly more high-level waste than is at Whiteshell, is that we are going to have to perform some repackaging in order to package for final disposal in the NSDF, which is subject to of course a separate EA process and a separate hearing, or also any disposal site that becomes available in Canada for high-level, intermediate- or low-level wastes.

So for that reason, actually co-locating

the waste at Chalk River, along with a significantly higher volume of equivalent waste, actually is a method by which CNL can imply improved control over that waste by putting it all in one position. We can have a nucleus of staff who can kind of understand how to deal with that waste and if any repackaging or post-processing is required it could be done in a consistent manner, you know, once in one area, rather than attempting to have, you know, kind of administrative controls that drive consistency across geographies.

Having it all in one place where people understand what you have, can look at the inventories, manage the inventories, apply the controls and then process according to the requirements of not just the regulations but also the weight exceptions criteria for disposal is, in my view, a safer way forward and also is economically advantageous too. So we can -- prompt decommissioning or prompt retrieval provides benefits, it can be done safely, co-location provides benefits and it can be done safely and it is better, I believe, than to leave it where it is for 60 years.

So I believe we have an improved plan and that improved plan is based on international experience where you learn that you are better off doing something now

rather than leaving it for future generations.

**MEMBER BERUBE:** Staff, would you care to comment?

**MS TADROS:** Haidy Tadros, for the record. So yes, we would. We have a couple of staff to provide the Commission's considerations on two sort of specific terms, the prompt decommissioning schedule and I would also like to ask our staff in Ottawa to say a few words in their consideration on the double handling that was brought up by the intervenor as well.

So we will start with staff here.

**MS GREENCORN:** Nancy Greencorn, for the record. I am a Senior Project Officer in the Waste and Decommissioning Division.

As part of CNL's program overview DDP, they set out the decommissioning strategy as deferred decommissioning. In 2008 CNL came back before the Commission and requested to reduce the deferment period. At that time the reduced deferment period would have site closure in 2037. As part of this meeting, CNL is further reducing the deferment period to I think we heard 2027 yesterday. This is still in line with the decommissioning strategy that was outlined in their DDP.

As for the reduction or the changes to

dose, I will let staff in the Radiation Protection Division speak to this in the Ottawa office.

**MS PURVIS:** Caroline Purvis. I am the Director of the Radiation Protection Division, for the record.

I think I will start off by just stating that based on the performance of CNL and their activities at Whiteshell, we conclude that their Radiation Protection Program is comprehensive and the exposures to workers are low.

With respect to claims of double handling, certainly our expectation is that the application of ALARA measures for any handling of waste be done in a robust manner and there is no reason to believe that that is not the case now or will be into the future.

I think I will just leave it at that for now and we can answer other questions if necessary.

**THE PRESIDENT:** So I do have a follow-up question to that.

The original Comprehensive Environmental Assessment had as its basis deferred decommissioning. So with the accelerated decommissioning, is there a systematic assessment done on what the implications are? We just heard about dose and we have heard from CNL that they

expect this to be safer, but has that assessment been done in comparison with the original one to really give us reassurance that going with the accelerated one where intuitively it may seem safer, but has it really been demonstrated that it would be?

**MS GREENCORN:** Nancy Greencorn, for the record.

The decommissioning strategy and the intention of what they are intending to do as part of a decommissioning has remained unchanged from what is being proposed today. The activities of dismantling the buildings and remediating the site and the end-states proposed in the decommissioning strategies remain, it is just being done in a reduced deferment period.

**THE PRESIDENT:** Right. But what has changed is that presumably the dose rates are higher because you don't have as much decay, that there is double handling perhaps and what is the cumulative impact of that?

**MS GREENCORN:** We will ask our colleagues in the Radiation Protection Division to speak to the double handling and the dose reduction.

**MR. McMANUS:** John McManus, Radiation Protection Specialist, for the record.

I will speak to maybe the accelerated

decommissioning and what that would mean in terms of dose rates. Now, I can't give any specific answers because some of the characterization has yet to be done, but it is noted that for example for the standpipes, the emplacements were finished in the late 1990s, so we have more than two decades full of decay for there. The WR-1 reactor or components that were irradiated there and are now in waste areas, we are talking more than 30 years of decay.

So for your short-lived isotopes, which are your real drivers for external dose rates, those source trends would have been reduced many, many times by -- they would have gone through multiple half-lives, with the exception of Cesium-137 and Strontium-90, they have 30 year half-lives. So in that case, you know, another delay of 5 to 10 years wouldn't have any significant impact on those dose rates, but we can't really get into the specifics without characterization results.

**MS MURTHY:** Kavita Murthy, for the record.

I just want to close the line of answers on this.

I just want to stress the fact that any facility or any building that has been used for radioactive work when it is decommissioned, prior to decommissioning CNL is required to produce a detailed decommissioning plan

for that building. So there is an overall site-wide decommissioning plan, but there is also a DDP that is required for each individual building or facility. Part of that decommissioning plan is decommissioning end-state objectives and assessment of the doses to workers, as well as any assessment of any hazard that exists on that site. So when we get those reports from -- those requests from the licensee, we engage our specialists in all aspects as necessary. Occupational health and safety is looked at. Things like asbestos remediation, that's occupational health and safety obviously. Radiation protection is looked at. PPE required is looked at. Waste characterization, waste management, waste handling is looked at. Above all of that is the Radiation Protection Program, doses to workers, how they are monitoring and controlling doses to workers. All that is looked at.

So in answer to your question about has there been an assessment, there is an assessment at every point when they want to do that and DDPs have to be approved by the CNSC. So there is an approval granted, assuming that everything is done correctly.

**THE PRESIDENT:** Thank you.

Dr. Lacroix...?

**MEMBER LACROIX:** This is a question for

Dr. Hendrickson.

You mentioned in your presentation that leaking wastes are already contaminating the Ottawa River. Could you elaborate on this?

**DR. HENDRICKSON:** Yes, of course. Thank you.

Wastes have been placed into trenches at Chalk River since the late 1940s. The oldest Waste Management Area, Waste Management A, has plumes of Strontium-90, tritium and Carbon-14 which enter into streams and lakes that drain into the Ottawa River, specifically the Perch Lake Basin.

In fact, the wastes that arose from the 1952 NRX reactor partial meltdown accident were -- some of which were simply dumped in unlined sand trenches in Waste Management Area A.

Waste Management Area B, which is located very close, also in the Perch Lake Basin, also has plumes of Strontium-90, tritium and Carbon-14 that are in contact with streams which feed into Perch Lake, Perch Creek and the Ottawa River.

AECL and now CNL have installed facilities such as a pump and treat facility that capture some of the plumes, for example that are designed to remove

Strontium-90 from plumes before it gets into the Perch Lake.

There are also plumes from the former NRX fuel bay, which has been largely decommissioned/dewatered, and from the NRU fuel bay, plumes of strontium and tritium in the active area at Chalk River which are in contact with the Ottawa River and which have led to strontium and tritium contamination of vegetation on the margin of the river.

In addition, there are plumes from other historic facilities at Chalk River that were used for experimental separation of plutonium from fuel rods.

So there are actually numerous places where wastes are in contact with surface water and groundwater that is entering streams and lakes that feed into the Ottawa River at Chalk River Laboratories.

**MEMBER LACROIX:** I would like to -- so what do you think, CNL?

**MR. GULL:** Thank you, Commissioner.

Mike Gull, for the record.

I think it is a matter of fact and on the record that there are numerous areas of affected lands at Chalk River. It is one of the reasons why Chalk River is so focused on developing waste retrieval and processing and

treatment and disposal capabilities that allows us to manage that waste at Chalk River, which is entirely why it is a completely reasonable thing to send relatively small quantities of waste from Whiteshell to Chalk River where we will be able to manage -- safely manage and deal with that relatively small inventory compared to what is already there.

**THE PRESIDENT:** Dr. Demeter...?

**MEMBER LACROIX:** Staff, you would like to reply?

**MS TADROS:** Haidy Tadros, for the record.

Yes, thank you. So I will have our Environmental Risk Assessment Specialist speak to exactly what the conversation is today, noting that the Chalk River site is one of the more extensively studied and monitored areas that we have.

**THE PRESIDENT:** So I know Dr. Lacroix may want to hear that, but Chalk River is not part of our discussion today and I would like to just stay on what we are here to deliberate on. So maybe at a future time I'm sure you will get that opportunity, Dr. Lacroix, to hear that from staff.

Dr. Demeter...?

**MEMBER DEMETER:** Thank you.

My questions on accelerated timelines and double handling have been addressed. Just a specific question, because the intervenor brought it up, with regards to the cesium pond soil from CNL.

Is there anything unique with regard to source characterization of what's in the soil or is it a cesium pond or is it a mixed radionuclide and is there any particular issue with staff of how that is being handled?

**MR. GILBERT:** Thank you, Commissioner.  
John Gilbert, for the record.

I am going to turn that over to Ms Adriana Luke for a detailed answer.

**MS LUKE:** Thank you, Mr. Gilbert.

My name is Adriana Luke, for the record. I am the Section Head for Waste Programs, specializing in waste management as well as the transportation of dangerous goods.

So with respect to your question with the cesium pond, it was a man-made pond injected with Cesium-137 to study the effects of microorganisms to the natural environment.

**MEMBER DEMETER:** Thank you. So it's not a mixed source pond, it's a cesium pond?

**MS LUKE:** No, that's correct.

**MEMBER DEMETER:** Okay.

**MS LUKE:** It was strictly Cesium-137.

**MEMBER DEMETER:** Okay, thank you. I'm satisfied.

**THE PRESIDENT:** A question for CNL.

In the intervenor's slide deck on page 3 there is a statement: "With no formal governmental approval or consultation", the shipping is underway.

Do you have a comment on that?

--- Pause

**MR. GULL:** Yes. Thank you, Madam President.

Mike Gull, for the record.

Chalk River has been involved in a business where it ultimately has been acting as a laboratory and as part of that been receiving waste for a number of years from different parts of Canada. That waste is treated safely. I think we are acting in accordance with -- well, we are acting in accordance with our licence conditions. We have expanded our waste management areas to accommodate some of the Whiteshell waste in accordance with these licence conditions and are, you know, dealing with it safely.

There's pictures of sea cans that you saw

on the photograph. They are visible as you drive down the main plant road. It is within Waste Management Area H. Waste Management Area H is being managed in accordance with the Chalk River licence and compliantly so.

The soil waste that was talked about before is in Waste Management Area D, being managed in accordance with our arrangements.

In terms of kind of historical information, I don't know whether perhaps AECL would wish to comment.

--- Pause

**MS QUINN:** Thank you very much.

For the record, my name is Shannon Quinn, I am the Vice President of Science, Technology and Commercial Oversight for Atomic Energy of Canada Limited.

So with respect to the assertion that there has been no government involvement in this, that is incorrect.

Atomic Energy of Canada Limited is a federal Crown corporation, an agent of the Government of Canada. All of the radioactive waste liabilities that are under consideration today with respect to the Whiteshell Laboratories as well as those at the Chalk River Laboratories are the liabilities of AECL and as such they

are the liabilities of the Government of Canada.

Through the restructuring of AECL, the creation of CNL and the implementation of the GoCo Model, neither AECL nor the Government of Canada has ever changed its commitment to the safe disposal of these radioactive waste liabilities. They were, prior to the restructuring, the responsibilities of AECL as well as the Government of Canada and that has remained unchanged through the entirety of this process.

It is Atomic Energy of Canada Limited that wanted the reconsideration of its plans for the very reasons that Mr. Gull articulated earlier, that many of AECL's plans for waste and decommissioning were produced in the early 2000's and they were produced based on the best information that was available at that particular time.

Since the early 2000's there has been considerable work done internationally on remediation of radioactive wastes and decommissioning of other sites internationally and it is only prudent that AECL and the Government of Canada should take into consideration the lessons learned through all of that international experience and that is exactly why AECL wanted the reconsideration of its plans to take into account all of the lessons learned internationally.

So it is then AECL that has asked for new plans to be considered. We have asked CNL, under the agreement that we have with it under the GoCo Model, to propose plans and the plans that are being considered today as part of this licensing hearing, but also other plans at Chalk River Laboratories that may be associated, have all been brought to AECL as the owner of these liabilities. They have all been reviewed by AECL and they have all been accepted by AECL.

**THE PRESIDENT:** Thank you very much for that.

Dr. Berube...?

**MEMBER BERUBE:** The intervenor brought up a question with regard to access, public access to information in terms of what's in shipments leaving the site going to Chalk River and the availability of that, having to actually request information through formal means in order to get redacted information.

Understanding that there are some security issues with having immediate, you know, release of this information, is it possible to release it after a period of time to make that more available?

**MR. GULL:** Thank you, Commissioner.

Mike Gull, for the record.

I think we have a fairly open process at Chalk River where that information is available. There is a quarterly meeting with the Environmental Stewardship Council where some of those slides presented in that intervention were from.

I think in terms of some more details on this, maybe Mr. Mitch MacKay can provide an answer.

Over to Mitch, please.

**MR. MacKAY:** It's Mitch MacKay, for the record. I am Manager of Stakeholder Relations for Environmental Remediation Management at Canadian Nuclear Laboratories.

Specific to that slide actually, CNL has provided that information to Dr. Hendrickson and we do endeavour, as Mr. Gull had pointed out, to proactively make as many documents available, including on our website and, as Mr. Gull also pointed out, sometimes due to proprietary or commercial or security-sensitive reasons we have to consider some documents on a case-by-case basis, but we always offer to engage those individuals interested in detailed information to make sure that they better understand what they are looking for.

**MEMBER BERUBE:** Well, the question was: Is it easier -- is there a way to make this more publicly

available, is what I'm asking. Is that a viable thing or is it not?

**MR. MacKAY:** Mitch MacKay, for the record, again.

As I was stating, we are making -- we are actively trying to add more documents to our external web site, especially in relation to many of the projects that CNL has under way. We are making more and more of the reference documents available to those -- those environmental projects under way and we'll endeavour to do -- to do more in the future.

**THE PRESIDENT:** So Dr. Hendrickson, before I turn over to you, I do want to respond to your opening comment about the hearing last week on the SRC SLOWPOKE reactor because I take exception to you calling it a "sham" just because the reactor core, the highly-enriched uranium, had already been shipped to the States before the hearing date. You thought there was no value in the hearing.

That reactor core shipment was part -- is part of the regular operating licence that had already been approved and the hearing was really to address the decommissioning activities that are being contemplated.

And so maybe your expectations of it were different, but I do take exception to you calling the

hearing a "sham".

So I'll now turn it over to you for any final concluding comments you have on this particular hearing.

Thank you.

**DR. HENDRICKSON:** Thank you, Madam President. Ole Hendrickson, for the record.

Just to respond to a couple things that I just heard.

Our group is not calling for waste to be left at Whiteshell for 60 years. We recognize that the waste should be moved away from the Winnipeg River, but we also hope that participants in this hearing can accept our view that that waste should also be moved away from the Ottawa River.

With regard to waste characterization and packaging, that can and must be done at Whiteshell prior to waste transport, so to have waste packaging done a second time after it arrives at Chalk River seems to us to constitute double handling and to increase radiation exposures.

With regard to taking into account lessons learned internationally, the IAEA's guidance on decommissioning does at some length discuss the pros and

cons of prompt versus delayed decommissioning. It has -- the IAEA has commented on the possible advantages of delayed decommissioning in order to avoid double handling. You can wait until proper disposal facilities or long-term management facilities are available before -- before concluding decommissioning processes.

And that's in IAEA documents, and I quote that in my submission.

Our group have been intervening in these hearings for more than 20 years because we think it's important to do what we can to keep radioactive contaminants out of our land, air and water.

These hearings create an impression of openness and transparency in inviting the public to intervene, but our substantive concerns are almost never reflected in records of decision.

The CNSC and Commissioners risk becoming mere bystanders in a shell game of moving radioactive waste from place to place in the absence of any publicly acceptable means for managing it over the long term.

CNSC hearings do not allow Indigenous peoples, the public and scientists to engage in an informed, rational discussion. Indeed, they hide the serious challenge of long-term radioactive waste

management.

CNSC is not a decision-making body when it comes to waste. It is not a regulator. It is covering up practices that do not meet international standards.

The CNSC has never created standards or legally binding regulations for managing radioactive waste. It defers to industry in this matter.

The concerns of SNC Lavalin, Flor and Jacobs, the three corporations that manage Whiteshell and other federal nuclear facilities are short-term profits for shareholders and bonuses for senior executives. These concerns, along with a lucrative federal contract, compel these corporations to decommission Whiteshell as quickly as possible. Long-term health and welfare of Canadians are not primary considerations.

CNSC Staff is hiding this reality, and they are even ignoring existing regulations that do pertain to waste. Section 3 of the General Nuclear Safety and Control Regulations says that an application for licence shall have the name, quantity, form, origin and volume of any radioactive waste or hazardous waste that may result from the activity to be licensed, including waste that may be stored, managed, processed or disposed of at the site of the activity to be licensed and the proposed method for

managing and disposing of that waste.

The proposed method for managing and disposing of the bulk of Whiteshell waste, entombment of the WR-1 reactor, is off limits for discussion at this hearing.

The proposed method for disposing of Whiteshell waste shipped to Chalk River, dumping it in a giant mound, is off limits.

CNL's Whiteshell licence application has virtually no information on origins, names, quantities and forms of nuclear substances now at Whiteshell or that were shipped to Chalk River or may be shipped in future.

We hear about low, intermediate and high.

Waste origins matter. Canadians who wish to learn about the risks of the hundreds of radio nuclides found at Whiteshell, some with half lives of thousands or millions of years, have no access to information.

Does CNL know what these radio nuclides are with precision? Can they be safely managed over the long term? Which radio nuclides may leak from trenches in the Whiteshell waste management area? Why is -- are these details not provided and discussed?

Section 9 of the *Nuclear Safety and Control Act* states that an object of the Commission is "to

disseminate objective scientific, technical and regulatory information to the public".

When it comes to information on long-lived radio nuclides and long-term waste management, this hearing gets a failing grade.

Given CNSC's failings in this matter, our group will be calling on the federal government to create a new body independent of CNSC that can properly oversee decommissioning of nuclear facilities and management of radioactive waste and that will not let private corporations dictate Canada's radioactive waste policy and strategies.

Thank you.

**THE PRESIDENT:** Thank you, Dr. Hendrickson.

The next presentation is from the Local Government District of Pinawa as outlined in CMD 19-H4.8.

I understand that Mayor Blair Skinner will be presenting this submission.

Mayor Skinner, over to you.

**CMD 19-H4.8**

**Oral Presentation by the  
Local Government District of Pinawa**

**MAYOR SKINNER:** Thank you, Madam President and Members, and Staff of the Commission. For the record, I am Blair Skinner, Mayor of the Local Government District of Pinawa, the host community of the Whiteshell Laboratories.

I formerly was employed for 14 years as a research scientist at the Whiteshell Laboratories, and am very proud of the site's accomplishments. I have now been on the Council of the LGD of Pinawa for 21 years, including the last 13 years as Mayor.

I'd like to acknowledge that today we have the privilege to meet on the ancestral lands of the Treaty 1 and Treaty 3 peoples, and on the homeland of the Métis Nation. We respect the treaties that were made on these territories and we acknowledge the harms and mistakes of the past, and we dedicate ourselves to move forward in partnership with Indigenous communities in the spirit of reconciliation and collaboration.

In that regard, we had the opportunity to travel on a CNL organized trip to Nebraska with our First

Nations neighbours, and during that opportunity to speak with them, we learned very clearly that First Nations were not consulted when the site was built, but they most definitely wanted to be consulted on the future of the site.

And so I personally, and the LGD, are committed to working with Indigenous communities on the future of the site.

I've had the honour to meet with Chief Henderson and the Sagkeeng Council twice to discuss the possible future of the site, and in spring of 2018 we had a meeting with all our Indigenous neighbours and Pinawa to discuss possible development.

I found those discussions to be open and constructive and an awesome learning experience.

So with regards to the hearing today, the LGD of Pinawa supports the relicensing application. To date, the decommissioning has been consistent with the goals of the LGD of Pinawa while ensuring safety for people and the environment, and communications have been good. And in particular, as had been mentioned earlier today, it's been improving over the last few years, and I see that continuing to improve into the future.

We do have the support of CNL for future

development of economic activities at the site, including support for future nuclear -- and on nuclear development, surplus asset donations to the communities and annual support for North Forge East, an organization for regional entrepreneurs to start their businesses.

We note that the draft licence does not include socioeconomic benefits -- socioeconomic impacts. Since this is the first of a kind total decommissioning of a major site where all jobs will be lost, we ask that this impact be included.

We note that the environmental impact statement for the *in situ* decommissioning does consider socioeconomic impacts, and we feel that this licence process should also consider socioeconomic impacts.

Currently, AECL and CNL leadership are very supportive of the LGD of Pinawa and region initiatives. However, leadership will change, so be a positive development to have socioeconomic impacts included in the licence to ensure commitment.

In particular, the LGD have been working towards a small modular reactor demonstration and have developed a vision for Pinawa to become the demonstration remote community. Pinawa could become the first small

community to be powered by an SMR.

Our demonstration includes showing how a small remote community could grow their own fresh fruit and vegetables plus many other quality of life improvements. This will assist -- this will assist in encouraging small remote off-grid communities to embrace this technology, since it would greatly reduce cost of living, provide more reliable electricity and very significantly improve their quality of life.

We are committed to job creation for our Indigenous neighbours as part of this demonstration project and already have four letters of support from other organizations committed to education, training and job creation for Indigenous peoples.

And also, in response to a comment made by Chief Henderson this morning, this vision will also be a factor in reducing climate change, as he mentioned earlier today, because this will reduce greenhouse gas emissions in remote communities.

So we need to have the continued commitment for CNL to protect infrastructure that will support future development. This will not only lead to future regional economic development, but it will also reduce the cost to Canadian taxpayers for the

decommissioning project.

Infrastructure that would be important include, but is not limited to, electrical infrastructure, including on-site distribution line switches, transformers, et cetera, the transmission towers and lines connected to the Manitoba Hydro grid, the roads, parking lot, security and fire protection infrastructure and possibly the hot cells, which are a valuable Canadian asset that should not be simply demolished.

The hot cells could support the SMR demonstration and provide research opportunities for the University of Manitoba.

We respectfully request that the Canadian Nuclear Safety Commission add a condition to the licence to ensure commitments towards a healthy economy for the region. And I think that's very similar to the request of Sagkeeng First Nation and the Manitoba Metis Federation earlier today.

Thank you. I'd be very pleased to answer any questions about our vision to improve the quality of life for many people in Canada, many of whom are Indigenous peoples.

**THE PRESIDENT:** Thank you, Mayor Skinner, for your submission.

Before I open the floor to my fellow Commission Members for questions, again, you, yourself have recognized economic development is not part of our mandate and it's not something that we would or even could address.

So let me start with Dr. Berube.

Dr. Lacroix?

**MEMBER LACROIX:** Well, this is a theoretical question, but is it possible to retain the five fully functional hot cells on site from a safety point of view?

The question is to CNL.

**MR. GILBERT:** Thank you, Commissioner.  
The answer is yes, it's always possible.

Would it include some new work? It would.

**THE PRESIDENT:** Dr. Demeter.

**MEMBER DEMETER:** Thank you very much for your presentation.

This is a question I'll get into with CNL later, but I just want to get some sense of knowledge penetration.

As Mayor, do you have an understanding of, if there are injuries to workers at Pinawa that involve radiation exposure or contamination, where does those people go to get treated? As Mayor, do you have a sense of

the triage, any special training people have got to manage those injuries?

I want to see if that information's gotten to you.

**MAYOR SKINNER:** Blair Skinner, for the record.

We have had an ongoing dialogue with CNL since I was formerly employed there until now about -- about the radiation protection of employees, many of whom are my neighbours.

I have not only -- I am also aware that not only a radiation-related event on the site, but anywhere in Manitoba would actually be the responsibility of CNL to address those hazards and deal with them in a timely manner, so while I can't speak to the details of how that would be done, I'm aware that they definitely have the capability of managing those kinds of events.

**MEMBER DEMETER:** Thanks. I'll leave my other questions for CNL later, but thank you very much.

**THE PRESIDENT:** Thank you very much for your intervention.

We'll now break for lunch and reconvene at 1:15 p.m. with the presentation from Northwatch. Thank you.

--- Upon recessing at 12:17 p.m. /

Suspension à 12 h 17

--- Upon resuming at 1:15 p.m. /

Reprise à 13 h 15

**THE PRESIDENT:** Good afternoon. The next presentation is from Northwatch, as outlined in CMDs 19-H4.11 and 19-H4.11A.

Ms Lloyd, over to you.

**CMD 19-H4.11/19-H4.11A**

**Oral Presentation by Northwatch**

**MS LLOYD:** Thank you, President Velshi. My name is Brennain Lloyd and I'm the project coordinator with Northwatch. We're a regional NGO in Northeastern Ontario.

And I wanted to say first [aboriginal language / langue autochtone] to Sagkeeng First Nation, both for their hospitality as we convene here on their territory, and also thanks for their very good interventions this morning. And thank you to the Commission for your time today.

So the project is something that CNSC describes as routine, and the transportation within it is routine.

We see it as quite different from that. By our assessment, in an overall sense, the key issues in this project, which is to continue decommissioning of the Whiteshell site, key issues are both the deviation of the decommissioning plan with respect to Whiteshell Reactor 1 and also the acceleration of the decommissioning plan to a much shorter timeline. And there are myriad issues within that.

Northwatch's interests in this are primarily with respect to the transportation of radioactive waste through northern Ontario, through our region. We also have concerns about setting of precedents through your decision-making processes. But as with any of these projects, when we review the project, additional issues emerge as well, and we have included some comment on those additional issues.

With respect to radioactive waste management, CNL provides only very limited information on the volume and the characterization of the radioactive wastes which are on site at Whiteshell and which are -- many of which are intended for transportation through

northern Ontario.

CNL has said that they intend to complete all decommissioning work within the 10-year licence period rather than the much longer licence period in their approved plan. And so it's not only the Whiteshell Reactor 1 that is revised, but this acceleration is a significant revision.

While they still have a large amount of work to do to even characterize the site, there are 12 detailed decommissioning plans. Several of them are still to be written. And as we've -- you have discussed with many intervenors and staff and CNL earlier in this proceeding, the safety assessment has yet to be done for the low-level waste trenches. And I'm calling them "low-level" waste trenches, but actually at least two of those trenches, 6 and 16, have high-level waste, sometimes characterized as high, sometimes as intermediate.

So these are significant information gaps. And perhaps we'll return to that later. But I think that it makes impossible for you as a Commission to approve a 10-year decommissioning plan when you don't have the very basic information about the site and the intended activities within, activities that are to be carried out within that plan.

With respect to radioactive waste transport, we have concerns primarily with the transportation safety issues. We don't think that there's been adequate assessment of those transportation risks. We also, coupled with that, we have a concern about the readiness of first responders, particularly in rural and remote regions, both in Manitoba and in northern Ontario, to respond to that.

We also have flagged a concern with CNL's proposed use of the Nuclear Waste Management Organization's used fuel transportation package, which is actually Ontario Hydro's used fuel transportation package designed in the 1980s, recertified several years ago, and then recertified again.

The transportation issues. CNLC [sic] characterizes the shipment of the radioactive waste as routine. And that must be disputed. But the larger point is that the branding of activities as routine does not diminish the risk. It simply ignores it.

We have during the OPG DGR1 review, the Ministry of Transportation presented information about routine safety inspections that they had undertaken. So these are now, you know, five to seven years old, the numbers. But I have seen nothing that says they'll be any

different. And they reported to the panel during the DGR1 review on a 25 per cent incidents of infractions when trucks -- and this is specifically carriers carrying radioactive waste class material -- 25 per cent of them had an infraction. They were things like brakes not working, signals not working, flat tires, faulty brakes, exceeding weight and height. So that was radioactive waste shipments, a few years old, Ministry of Transportation numbers.

More recently, we looked at statistics just for truck transportation. And we haven't been able to get a cross-section of these two data sets. But we look with concern. And certainly when you live in northern Ontario, you heard more and more and more about incidents, traffic accidents, transportation accidents involving transportation vehicles, large trucks.

In the first half of 2018, the OPP investigated more than 3,600 transport-truck-related incidents, accidents. That was 11 per cent of the total number of collisions. And again, we saw that charges were being laid for things like distracted driving, defective equipment -- which does overlap with the MTO findings -- and equipment-related charges against the drivers. For the whole year of 2018, the numbers are equally sobering. And

what was particularly sobering for us is that over half of the transportation accidents involving transport trucks occurred in northeastern Ontario.

So there's a rising concern in northern Ontario about the presence of large trucks on the road. You couple that with a track record that's not very good in terms of truck safety. And then you add into that thousands of shipments of radioactive waste from Whiteshell to Chalk River with no transportation risk assessment having been done, at least as well as have been able to discern.

So we did some work -- and we did report this to the Commission as part of our intervention on the Slowpoke-2 in Saskatchewan last week, but I wanted to share it again. It's equally relevant, and not all Commission Members were part of that panel.

We did some work with the Ontario Law Foundation a few years ago. And what we did is we engaged with first responders looking at their state of readiness, state of education, training, information specifically around hazardous shipments and even more particularly around radioactive waste shipments. And what we found was that the amount of training was -- it was minimal. And largely, particularly volunteer rural northern first

responders, largely they rely on the emergency response guide. And that emergency response guide I think is quite misleading. It specifically advises that radioactive materials are of minimal risk.

And I think this is simply irresponsible. It's irresponsible to those largely volunteer first responders and particularly in, you know, those with service boards, volunteer organizations, First Nations. And I think that the Commission has a responsibility, if you approve these transportation shipments, to ensure at least there's a transportation risk assessment, at least the placarding is always, always accurate, visible, and understood, and that there's a clear measure in place for those first responders.

In terms of additional issues, the scope of the licensed activities I've already mentioned is a key issue. This scoping out of WR-1 and this deferring any assessment of the trenches, the safety case for the trenches, in-situ decommissioning of the trenches until sometime midway through the licence period. You really require that information.

And so when we talk about the information that's missing, absent, required, perhaps we tend to talk too often in terms of our own frustrations in not being

able to access that information. But really, Commissioners, you most of all need that information. If you don't have the safety assessments for those 25 trenches, how can you approve this continued activity for a 10-year period, assuming that it's going to come back somewhere within your organization, maybe all the way up to the Commission, maybe somewhere down below?

These safety assessments for the trenches, when you look back to the 2002 detailed decommissioning plan, they talked about that safety assessment for those trenches in almost the same way that they're talked about in Commission Member Documents and by CNL and CNSC staff these two days, except that in 2002 to say they were going to be done in the near future meant something different than when they're saying in 2019 they're going to be done in the near future. How near is that future? And you need that information, particularly with this idea of an accelerated decommissioning.

So those are significant additional issues.

The issue of duty to consult I think has been really mishandled by CNSC staff, with all due respect. They state there was no duty to consult because it was activities that had already been occurring within the

Whiteshell site. We disagree. These transportation activities had not been previously occurring. They are not routine activities. And there was a duty to consult with the First Nations, the Indigenous peoples of Treaties 3, 9, Robinson-Huron, Robinson-Superior, and the Algonquin peoples. And that did not happen.

So in terms of our request and just our conclusions, we've made a number of requests to the panel. And I just want to revisit request number two, where we ask the Commission to renew the decommissioning for only a two-year period. We don't disagree with CELA's reasons for recommending a one-year period, except one-year period didn't get us very far in terms of the Whiteshell Reactor 1 EA, so two years might be more reasonable.

Given the issues around the trench, the radioactive waste trenches -- and they're not low-level radioactive waste trenches -- given the issues around the trenches, that you're not going to see a safety assessment 'til 2023, maybe we need to rethink our recommendation, and maybe you need to consider a five-year licence. I say that with caution, because a lot can happen in five years. I'm not sure that you have the information you need to even approve five years. But maybe five years is what would allow the decision to be made around Whiteshell Reactor 1

and the safety assessment for the radioactive trenches and all of those other outstanding issues, the detailed decommissioning plans, what's happening with the tiles -- maybe that would allow you to actually make informed decisions.

Our other recommendations are to require that CNL provide the information that is currently absent. And again, the shorter licence period, whether you do that now in advance of making your decision or whether you give a very short licence period so they have to provide you with that before the activities go on for too long, you could go either way.

You really need to provide clear guidance to the proponents, to the licensees on your expectations that they provide both you and us with sufficient information.

And finally, we would request that you engage directly with Indigenous peoples along the transportation route and invite their participation, their input, and also with first responders prior to making a decision that involves this volume of transportation of low-, intermediate-, and high-level radioactive waste.

So thank you for your consideration.

**THE PRESIDENT:** Thank you very much.

We'll open up for questions and Dr. Demeter, please.

**MEMBER DEMETER:** Thank you for your presentation.

For CNSC staff, maybe they could summarize and walk me through how they monitor the transport of material originating in Whiteshell, maybe by low-, intermediate-, and high-risk activity categories. And is there a tiered approach that the higher the activity, the more involvement, the more stringent the requirements? That gives me a sense of how it's regulated.

**MS TADROS:** Haidy Tadros, for the record.

We have our director here in the Transport and Licensing Division, so I'll pass this question on to her.

**MS OWEN-WHITRED:** For the record, my name is Karen Owen-Whitred. I'm the director of the Transport Licensing Division.

So there are a number of layers to the regulatory oversight for the transport of radioactive material. I'll just walk through them one by one at a high level.

The transportation of radioactive material is a highly regulated activity. The regulations are laid

out at an international level by the International Atomic Energy Agency. Canada then incorporates those regulations within our domestic regulations, so to the *Packaging and Transport of Radioactive -- sorry -- of Nuclear Substances Regulations, 2015*. In addition to that, within Canada we have the *Transportation of Dangerous Goods Regulations*. So that's managed and implemented by Transportation Canada.

You're correct that there is a graded approach to the oversight and regulatory oversight of the packaging of radioactive material and when involved in transport. So the kind of fundamental concept of safety in the transportation of radioactive material lies within the packaging, with the idea being that there are requirements that apply at all levels, but with increasing levels of risk posed by the nuclear material being transported, the requirements for the performance and the robustness of the package also increases.

At the highest level of risk of material being transported, the packaging requires certification from the CNSC. So an application would be submitted, a full safety analysis report, which is then reviewed by certification engineers at the CNSC, who are also designated professional engineers. The review ensures that the package design meets all of the requirements that are

laid out in the regulations, including the ability to withstand both normal conditions of transport and accident conditions.

Finally, I'll just mention that in certain cases our regulations require a specific licence to be issued by the CNSC for transport, a transport licence. And those would apply in situations of higher risk, for example, the transport of used fuel.

**MR. JAMMAL:** Dr. Demeter, I would like to complement my colleague's answer. What she spoke is bang on.

And with respect to the certification, it's very important for the public to understand that the certification requirements under the international IAEA provide us with an independent review of the packaging design itself. Karen mentioned that our professional engineers will review the certification and the design.

If that package is going to be used internationally, it will undergo a review by the national regulator in order to consent or amend the packaging accordingly. So it's an added layer in defence and depth with respect to the certification process. And in Canada, we review the certification on a cyclical basis, on a five-year basis.

In addition to it, we have our project office inspectors who did the inspection with respect to characterization and the inspection at both ends of -- from Whiteshell and from Chalk River.

If you would like to hear from them, they'll tell you.

**MEMBER DEMETER:** That's good. I'll follow up with -- drill down a little bit, and yeah, I could stand to be corrected, but my understanding is if you're transporting a nuclear substance under class 7 and there's an accident, that it's a reportable event to the CNSC duty officer. So you would have statistics on the number of accidents in relation to the transport of nuclear substances. And maybe you could provide me some feedback as to the volume of such calls you get.

**MS OWEN-WHITRED:** Karen Owen-Whitred, for the record.

So you're correct. The regulations require that anyone involved in transportation of radioactive material report what's known as a dangerous occurrence to the CNSC. And we do maintain records of those.

I don't have the exact numbers at my fingertips. We can certainly provide that for you if

there's any particular year or kind of in general.

I would say they are on the order of tens, as opposed to on the order of hundreds, and I would also confirm that the majority of reports that we get through this mechanism are very minor, fender-bender type accidents, where I can confirm that in no cases were the packages being transported affected by the small accident that may have occurred.

**MEMBER DEMETER:** Thank you.

**MR. JAMMAL:** Dr. Demeter, again, I would like to complement Karen. In our regulatory oversight report of the Directorate of Nuclear Substance Regulation we list the event itself and the element. So it is in the tens per year, but the key point here is the package has never been -- no leakages occurred with respect to the transport packaging.

We go back historical, there was one major event by which, I think in the late 1990s or early 2000, it was a very tragic event where the truck melted, even -- and then the package of the source itself, which was categorized high-risk source, was not impacted at all.

**THE PRESIDENT:** So what's your comment on the statement the intervenor made around the 25 per cent incidence of infractions of radioactive material shippers.

So I know you get notified of any accidents, but if they are infractions, is there a way of you being informed and monitoring that?

**MS OWEN-WHITRED:** Karen Owen-Whitred, for the record. I will pass a more detailed response to that question to my colleagues who are standing by in Ottawa who would have more specific information on that.

But I would, again, reiterate that the events that get reported to us through our regulatory process have not -- I would say they have not been of safety significance.

But I will turn it over to the Transport Officer who's standing by in Ottawa who might have a little bit more information on the types of infractions that are looked at by the Ministry of Transportation at the provincial level.

**MR. DAGENAIS:** Yes, hi there. So my name is François Dagenais, I'm a Transport Officer with the CNSC. So in regards to the statement made with regards to the MOT. So to answer the questions, yes, we do have a mechanism with which we can actually discuss with the province any issues that they have or that we have with regards to transport.

So along with Transport Canada we do have

a working group committee, so with the federal, provincial, territorial transportation committee, which meets twice a year to discuss these types of transportation issues.

Specifically though, with regards to the issues that were mentioned back at the DGR hearing we did follow-up with the MOT of Ontario in regards to these. There was approximately -- so exactly what they said is that there was approximately 10 or so citations issued for trucks that were transporting Class 7 material. Out of those finds, 25 per cent of those were what they considered out of service criteria.

So we did follow-up with the MOT. We did review all of those incidents, none of them were actually of major concern to us. They were all sort of minor issues. I can go into detail if you want a little bit further information, but I think I'll leave it at that for now.

**THE PRESIDENT:** Okay, no. Thank you very much for that. Dr. Berube.

**MEMBER BERUBE:** So I'll address CNL. Obviously, as the operator responsible for these shipments, you would have done a safety and risk analysis based on the transportation. I would assume you had done this, looking at different modalities of getting it there; rail, land

transport, these kind of things.

Could you explain the process that you went through in that?

**MR. GILBERT:** Thank you, Commissioner. John Gilbert, for the record. The answer to your question is yes, and I'm going to allow Audriana Luke to provide those details.

**MS LUKE:** Thank you, Mr. Gilbert. My name is Audriana Luke, for the record. CNL has done a few assessments. We actually looked at the potential usability of rail. We deem that was not financially feasible, so we are now choosing to use the road transportation.

CNL is also leveraging the Nuclear Waste Management Organization's assessment with the use of the package that is intended to transport Whiteshell's highest radiological hazard. Through that study, they have assessed the dose to both the public and to nuclear operators as well involved in the transportation aspect.

**MEMBER BERUBE:** So just in that light, you've decided to go with ground transport for economic reasons. That's fair enough, I mean providing it's safe, which is what we're being told over here.

So the question the is, because you have a number of -- I don't know if you operate your own trucks or

you use subcontractors to do this for you. What level of assurance do you have that the drivers are trained adequately, that the vehicles are being maintained properly?

**MR. GILBERT:** Thank you, Commissioner. I believe Audriana can continue with the response to that question.

**MS LUKE:** Audriana Luke, for the record. We do use subcontractors for the transportation aspect. Part of our procurement process is to vet these transport carriers extensively, specifically looking at their safety record as one of these considerations.

CNL Staff, as well, before any transport occurs, performs rigorous inspections and that's commensurate with the radiological hazard associated with that intended transport?

**MEMBER BERUBE:** Just one -- just so we drill down to some level of -- just trying to understand. You know, how often do you actually look at the maintenance provisions on this? One of the issues that the intervenor's brought up of course is that a lot of these trucks are in disrepair, and I just want to make sure that that is not the case in this situation.

**MS LUKE:** Thank you. Audriana Luke, for

the record. All trucks are always inspected before they leave the site at Whiteshell. So, in general, air systems, fluid leaks, tires, lights, glass and body and frame are specifically looked at. As I mentioned, a more rigorous inspection commensurate with the radiological hazard would then be performed on the vehicle before it leaves. So all trucks and packages are inspected before they leave the site.

**THE PRESIDENT:** Question for Staff. In the environmental impact statement, was the transportation of radioactive material part of the scope of that?

**MS TADROS:** Haidy Tadros, for the record. Just to ensure clarity, the environmental impact statement that is going on right now?

**THE PRESIDENT:** No. I'm sorry, for this licensing renewal, the EIS.

**MS TADROS:** For the environmental protection review report?

**THE PRESIDENT:** The environmental protection review report, right. Sorry, got the wrong acronym.

**MS TADROS:** That's all right. Haidy Tadros, for the record. We're having our colleagues in environmental assessment come up as part of their review.

**MS CIANCI:** Cadida Cianci, for the record. So not particularly in the scope of the environmental protection review was it looked at, but it's part of the other safety and control areas that was looked at as part of the CMD.

**MR. JAMMAL:** Ramzi Jammal, for the record. If I may, Madam Velshi. With respect to the package certification process itself, the environmental impact is taken into consideration because the safety and the impact on the environment is inherent to the packaging design itself.

With respect to the licence itself, does it require a separate environmental assessment? Historically, the CNSC did an evaluation on the impact of the environment on many shipments, and I can state one of them which was the shipment of liquid HEU to the U.S. where we did an impact assessment -- an environmental assessment, I mean.

Sorry, I'm paraphrasing here, but an assessment was done and -- with respect to the shipment and the impact to the environment based on the design of the package demonstrated that there is no impact on the environment in the case of an accident.

This was tested in the U.S. courts and it

was reviewed by U.S. NRC, was reviewed by the DOT, Department of Transport, and one of the States did the review, and the fact that it was a valid study and demonstrated that the package design itself provides adequate protection.

**THE PRESIDENT:** I'm trying to get an understanding on what the requirements are or when would a review of shipments -- the environmental impact of radioactive shipments would be triggered.

So here there already has been hundreds and hundreds of shipments, and we've heard concerns about has any adequate consultation happened to communities on the route, the readiness of first responders. I just wondered why would that not be part of this scope of the environmental protection review?

**MS CIANCI:** Candida Cianci, for the record. So that was looked at in terms of the comp study report in terms of -- where it would be looked at would be in terms of the accidents and malfunctions, if there would be a release from the packaging in transportation, and that was looked at as part of the comp study report.

Just to provide some conclusion on that, the comp study report did conclude that they would not result in any significant adverse environmental effects.

**THE PRESIDENT:** Thank you. Dr. Lacroix.

**MEMBER LACROIX:** This is a question to CNL. In their submission Northwatch reports a quote from Dr. Krugmann who says that the accelerated decommissioning timeline will significantly increase health and safety risks, including waste transportation risk.

You've performed risk assessment analysis. Did you reach this conclusion?

**MR. GILBERT:** Thank you, Commissioner. John Gilbert, for the record. Obviously, with all nuclear decommissioning jobs risk is part of that procedure, and risk analysis is also part of that procedure. So we've looked at our proposed accelerated decommissioning plan and we feel that the risk is minimal, and we are able to proceed safely and compliantly.

**MEMBER LACROIX:** Staff, would you care to comment?

**MS OWEN-WHITRED:** Karen Owen-Whitred, for the record. Those involved in the transportation of radioactive material are required by regulation to have a radiation protection program in place. This includes the ability to limit the doses -- to respect the dose limits that are laid out in the Radiation Protection Regulations, and this is the case regardless of material being shipped.

So if there were to be a higher dose related to the type of material being shipped, regardless the dose limits would still have to be respected. So that would be managed through, for example, a change in the type of packaging being used or a change in the quantity of material being shipped.

**THE PRESIDENT:** Dr. Demeter.

**MEMBER DEMETER:** I'm good, thank you.

**THE PRESIDENT:** Thank you. Dr. Berube.  
Dr. Lacroix.

**MEMBER LACROIX:** Yes, I do have another question. On page 21 and 22 of the Northwatch submission I was disturbed by this comment, and I quote, "It would appear that CNSC and CNL have a game plan, but it is not necessarily one that supports the Commission in carrying out the regulatory responsibilities or the interests of the public and engaging in review processes in an orderly, informed, and meaningful way.

So I find it a bit disturbing and I want an answer, yes or no, does CNL have a game plan, and CNSC, same question?

**MR. GILBERT:** Thank you, Commissioner.  
John Gilbert, for the record. I'm not sure that I understand your question. Could you maybe repeat it for me

please? Thank you.

**MEMBER LACROIX:** Well, I'm not sure that I understand this claim.

**MR. GILBERT:** Thank you, Commissioner. John Gilbert, for the record. We have our plan to safely and compliantly execute the decommissioning of the site that's in full compliance with the licence, and that's all we have.

**MEMBER LACROIX:** Well, I'm going to turn to Northwatch, and I would like you to elaborate on this claim.

**MS LLOYD:** The comment is in the context of our review of the CNSC and the CNL documents and our assessment that you, the Commission, are not being provided with the information that you need to make an informed decision.

We've had lots of examples of that in the last couple of days. Certainly your discussion, your questions, which I don't think were adequately answered yesterday around the radioactive waste trenches, their safety assessment, certainly around the transportation issues.

I think that CNSC and CNL, and I'm not going to make any moral judgment on either party, I think

they want you to approve the application as submitted. I think that's their game plan. I don't think you should, because I don't think you have the information required.

So CNSC and CNL, I think they agree, they think, yeah, go ahead, approve it for 10 years, an accelerated decommissioning plan. It's quite in contrast, it's quite inconsistent with the approved decommissioning plan.

We just heard it here again where you have a question around, you know, a content question, and you're told, oh, that's in the detailed decommissioning plan. That's a detailed decommissioning plan from 2002. So if you're going to go with that, go with that. You're not shipping all these materials posthaste to Chalk River. You're not deviating from the plan for the Whiteshell Reactor decommissioning.

So I just think that CNL and Staff, in their responses to you -- I don't want to be disrespectful, but I feel that they play with you and I think that that is unfair to you and I think that it undermines your ability to make a good decision.

We just heard the game around the transportation packaging. Well, I don't think that we would have any disagreement, at least between CNSC Staff

and Northwatch around the history. There was a package approved, certified in the 1990s, it was recertified, it's been recertified again, and there's going to be another modification and a recertification, and it's a reference case, the UFTP is a reference case, it's NWMO's reference case.

Now they're going to use it, they say, for the Whiteshell shipments, but it will be modified and it will be recertified, and that recertification process will happen without your participation and without our participation, without any window into those discussions, negotiations, considerations, assessments.

Mr. Ramzi Jammal referred to the -- I think he was referring to the high-enriched uranium liquid nuclear -- HEUNL shipments, and there was an assessment, and I think it was a somewhat good model, we got more information on that shipment than we have on these shipments.

But, still, we didn't get to see the details, the specifications, around the container and the redesign of a certified container to carry liquid waste. We didn't see that. We saw other parts of the plan, but we didn't see that. That's a problem; it's a problem for us and it's a problem for you.

I don't think there's been any discussion about how what package will take liquid waste. There's a potential for liquid waste to be shipped off-site. I don't think there's been any discussion around that. That's information that it is your responsibility to scrutinize. It's our right to scrutinize, and it's absent. That's the game plan, and I don't think it's a good one.

**MEMBER LACROIX:** Staff, are you providing us with the right information and all the information?

**MR. JAMMAL:** Ramzi Jammal, for the record. I would like to start with the fact this is not a game, we're not -- you're very smart to know if we're having a game in front of you or not. So I'll start from that perspective.

With respect to the -- if there is an emphasis, focus, on the certification and the transport, we follow international practices with respect to the certification process.

I'm going to reiterate again our Staff who approved the certification process are accredited professional engineers that review the blueprint, they put their stamp on it, and then they give the approval, and the approval is given to the designated officer.

This is a normal practice internationally,

and Canada we host on multiple occasions international peer reviews, and we just finished one, and I can state -- even though the report is not with us; it's with the IAEA -- their finding was we have an extremely robust certification process for the transport with respect to what we do.

As a matter of fact, there are many good practices, that they will like to copy the Canadian process. When I say the Canadian process, it's the CNSC regulatory process, with respect being the most up-to-date regulatory requirements. We make reference to the IAEA and we're always updating.

I would like to go back to the fact that the added defence in-depth with respect to the type of packaging, especially within Canada or outside Canada, because the packaging that is certified in Canada has been consented to internationally and the defence in-depth from other regulators that are completely independent of us review, and to date not one package has been not accepted internationally nor consented to.

Is it a game? It is not a game. This is the fact with respect to how things are being designed, transported, and the inherent safety design of the package takes into consideration the characteristics of the nuclear material or nuclear substance, its activity and it's, as it

was mentioned by my colleague Karen, with respect to the exposure associated with it.

In addition, Canada is the only country, as far as I know as a regulatory, requires the carriers who are not licensees of the CNSC, to have a management system with the radiation protection program.

**MEMBER LACROIX:** Thank you. CNL, would you like to add something?

**MR. GILBERT:** Thank you, Commissioner. John Gilbert, once again, for the record. I'd like to follow-on with the comment from the Staff, which caught me off guard to begin with I'll admit. Again, this is not a game, decommissioning of a nuclear facility or nuclear plant is no game, it's serious business, one we intend to do and have done safely and compliantly for many decades now.

As far as the transportation issue, as we mentioned in our slide yesterday, we've had no transportation incidents, period, in over 340,000 km travelled within Canada, so we do it safely and compliantly. Thank you.

**MEMBER LACROIX:** Thank you.

**THE PRESIDENT:** A clarification for Staff. The certification process for the shipping containers, does

that normally involve the public or the Commission, whether it's for a new container or a modification of an existing one?

**MS OWEN-WHITRED:** Karen Owen-Whitred, for the record. So the certification decision is carried out by a designated officer. So these are cases where the Commission has delegated decision making authority to designated officers for lower risk licensing or certification activities which includes, as I've just said, the certification of packages in this instance.

I would just repeat what has already been said, which is that the CNSC has a robust designated officer process for certification.

**THE PRESIDENT:** Thank you.

And a question for CNL.

One of the concerns raised by the intervenor is around the trenches and whether there is low-level or high- or intermediate-level waste and that there are two trenches with perhaps higher-level waste. Your thoughts on that, please?

**MR. GILBERT:** Thank you, Madam President.

John Gilbert, for the record.

As a point of clarity, we would like to assure the Commission that the activities within the waste

management area are considered within its safety analysis report, including the in situ management of the low-level waste trenches.

I am going to ask my colleague Mr. Randall Swartz to add a little more detail to that, but that is where we stand.

**MR. SWARTZ:** Thank you, John.

Randall Swartz, for the record.

There are a number of trenches that contain material that are not suitable for in situ decommissioning and those have been identified at the time of the Comprehensive Study Report.

There is a trench that contains WR-1 pressure tubes. That is not low-level waste. That is to be remediated prior as part of our licence application today.

There was a trench that was used to filter a small amount of WR-1 water. That too is to be remediated.

And there is a trench that contains high levels of arsenic that were received from the Province of Manitoba and stored in one of the trenches.

The fourth trench is one that contains Technetium-99 that was identified at the time of the

Comprehensive Study Report and current assessments are that that may be viable for in situ decommissioning and will be put forward potentially as part of our safety case and safety assessment for the in situ decommissioning.

**THE PRESIDENT:** So just for clarification then, the 21 or 22 trenches that you are considering for in situ decommissioning, none of those have anything other than low-level waste?

**MR. GILBERT:** That is my understanding, correct.

**THE PRESIDENT:** Ms Lloyd, do you have some other information that we are not aware of?

**MS LLOYD:** Brennain Lloyd, for the record. Here is a good example of why a just straight laid-out inventory of the waste would be helpful, because we can cross-reference but we don't necessarily see consistent information.

So back in the Detailed Decommissioning Plan, on page 57, it said there is irradiated fuel waste in standpipes, high-level waste in trenches 6 and 16, and there are several references back in the DDP that talk about high-level waste in trenches 6 and 16. But then in CMD 19-H4.1, footnote 2, page 25, it says: Trench 16 containing Technetium-99 has been determined that at the

time could be a candidate for in situ. Well, back in 2002 that had high-level waste and now a single isotope is mentioned and is identified and it's suitable for in situ remediation.

I would suggest caution. I think that -- you know, I have gone through the documents, I have identified the various places where -- you know, trenches 6 and 16 are flagged as having either -- usually identified as high level. In one place it was identified as medium level, which I presume is intermediate level. So trench 16 now is a single isotope, Technetium-99. It used to be irradiated fuel components -- irradiated reactor components.

So I think you need a very detailed inventory of those 25 trenches and how CNL proposes to disposition them, in situ or other remediation, but I am not comforted by the contradictions that I see, or the gaps and contradictions.

**THE PRESIDENT:** Any other questions from Commission Members? Okay.

Over to you for your final comments, please.

**MS LLOYD:** Thank you, President Velshi and Commissioners.

So there is a lot to be done on this site before I believe you can make a decision. I think there is a lot to be done in the whole set of issues around transportation. I don't dispute everything that Mr. Jammal just laid out. You know, they can apply the language of defence in depth and international best practice and so on, it doesn't negate the concerns that we have, it doesn't negate the lack of transparency and third-party scrutiny, third-party as in public scrutiny, your scrutiny, of the certification processes.

I think that -- we really hope it goes well. We really want this to go well. We really don't want our concerns to turn into reality, but there is no guarantee of that and I think that you need and everyone needs to exercise caution to maintain so that 10 years from now, 20 years from now, 30 years from now CNSC staff can still say to you, or can say to you that we have not had a transportation accident that resulted in a release of radioactivity that was harmful to the environment, bystanders and residents and first responders. I hope they can say that. I don't have confidence that they will be able to say that. I want them to.

We had a report commissioned -- and I will just leave with this. Dr. Fred Dilger did a review for us

on transportation matters in 2017 and he also acknowledged that there are many transportation -- there are packages of radioactive material that do go from point A to B without incident. He says these shipments are made in robust containers that prevent the release of materials. It is equally important to recognize that each shipping program, each shipment is unique. The record of successful shipment is only possible due to extensive sustained effort. Only constant vigilance enables radioactive material shipments to be successful and there is no guarantee for future performance. We know there is no guarantee, but we think we can do better. We think better can be done.

Thank you.

**THE PRESIDENT:** Thank you. Thank you very much for your intervention.

So this concludes all the interventions, all the submissions that we have received, and we will now start with the final round of questions that the Commission Members may have.

I will start with you, Dr. Demeter, please.

**MEMBER DEMETER:** Thank you.

This line of questioning will be for CNL and it is going to drill down a bit for conventional health

and safety and radiation safety and human health.

So maybe you can describe to me what your onsite capabilities are. Given you are having a lot of activities with regard to the decommissioning, you might have a lot of contractors onsite, I want to get a sense of what your ability to manage medical emergencies, onsite injuries and then we will talk about offsite next. But maybe give me a summary of your onsite capability and resources to manage accidents and injuries.

**MR. GILBERT:** Thank you, Commissioner.

John Gilbert, for the record.

Before I turn it over to my colleagues for the details on your question, from a very high level we do have our own medical facility onsite that is staffed by a registered nurse. So we have that 24 hours a day -- well, I shouldn't say 24 hours a day. We have it during our normal shift, five days a week.

So I am going to turn that question over to Mrs. Cynthia Williams and furthermore to Mr. Allan Caron for the answers.

**MS WILLIAMS:** Thank you, Mr. Gilbert.

Cynthia Williams, for the record. I am the Vice President of Health, Safety, Security and Environment Quality for Canadian Nuclear Laboratories.

We work closely with the Pinawa Hospital to provide assistance with injuries where needed. We have programs in place, we interact with them. We involve them in our emergency drills and exercises so that in case we do have an injury that does require transport offsite we already have a plan in place to ensure that it is done safely.

**MEMBER DEMETER:** Just for some more details. You have a clinic with a nurse onsite. Do you have emergency transportation equipment onsite to transport patients? And what -- is there any specific special training for your nurse relative to dealing with radiation contamination or exposure?

**MR. CARON:** Allan Caron, for the record. I am the Director of Environment Safety, Health and Quality at Whiteshell.

Our radiation protection personnel are trained to support any onsite incident that occurs, to support our nurse and our trained first-aiders as well, our robust Emergency Preparedness Program. Also, we have very regular emergency exercises to test our readiness for such incidents and, to step it a bit further, our onsite radiation protection individuals will support any individual that is required to be transported offsite.

The local -- the regional ambulance would be the organization providing for the transport to anybody offsite to the local Pinawa Hospital.

**MEMBER DEMETER:** Okay. Thank you for that.

So offsite, are you aware of any special training or understanding of where your patients may be dispatched, on managing individuals who may have been exposed or contaminated with radioactive materials?

**MR. CARON:** Allan Caron, for the record. Our radiation protection people would provide that support. Our emergency preparedness organization works with the local hospitals and authorities to ensure that they are aware of the hazards.

**MEMBER DEMETER:** Are you aware of Health Canada's training in the METER course, M-E-T-E-R, Medical Emergency Training for Radiation? Do any of your staff have that kind of training?

--- Pause

**MR. GILBERT:** Thank you, Commissioner. John Gilbert, for the record. Let me call on my colleague Mr. Jay O'Connor to see if we can answer your question.

**MR. O'CONNOR:** Thank you, Mr. Gilbert.

For the record, my name is Jay O'Connor, I head up the Emergency Management Programs for the Whiteshell site.

I am aware of the METER training course and they do frequently hold teleconference training opportunities, which we have extended to both the Health Region and the Pinawa hospital.

**MEMBER DEMETER:** Thank you.

I'm good, thanks.

**THE PRESIDENT:** Dr. Berube...?

**MEMBER BERUBE:** I'm looking at the waste facility actually itself in terms of actually opening up the standpipes. Are any of the standpipes under pressure when you open them up and, if so, what actions are you taking to deal with the radiological hazard in terms of containing it or determining what it is exactly?

**MR. GILBERT:** Thank you, Commissioner.

John Gilbert, for the record.

We do have some characterization data from previous years. Obviously, we have looked at that extensively. We are engaged in constructing one-off, one-of-a-kind equipment to handle the removal of the waste in the future. That construction contract is soon to be let for fabrication.

The answer to your question can probably be best answered by Mr. Miles Smith within our waste group.

**MR. SMITH:** Thank you, Mr. Gilbert.

Miles Smith, for the record.

To answer your question as to pressure, we have looked at 20 of the -- we have opened up 20 of the standpipes and noted very little amount of pressure. That isn't being discounted, that there is pressure that could have built up. Therefore, as to what Mr. Gilbert was discussing, we have engaged with the design and now are on the precipice of construction of what we call the bunker -- standpipes and bunkers waste retrieval system.

It is a multipart system that is designed to address all of those hazards to include the worst-case hazard, which would be a deflagration within one of the standpipes, and is designed to contain that without offsite incident -- or offsite impact.

It also uses a great deal of remote tooling. So instead of exposing our workers, everything is done with robotic arms to retrieve, process, sort, segregate and analyze the waste.

**MEMBER BERUBE:** Just to amplify that, what type of personal dosimetry and dosimetry are you using onsite when you are actually undertaking these activities?

**MR. GILBERT:** I believe that would be best answered by my colleague Len Rasmussen.

**MR. RASMUSSEN:** For the record, my name is Len Rasmussen, I am the RP Program Manager.

We use a licensed dosimetry service provided by Chalk River Laboratories. All of our employees wear thermoluminescent dosimeters and these are augmented with electronic personal dosimeters.

**MEMBER BERUBE:** And your site surveys are done with...? What are you doing as you are popping the top on these things, what are you using?

**MR. RASMUSSEN:** For the work that we do, we have trained radiation detection staff. We have remote radiation survey meters that we can monitor the dose rates, and we have -- we launch a control alert and backout points to identify and confirm that things are expected. If they are abnormal, we would stop and reevaluate.

**THE PRESIDENT:** Dr. Lacroix...?

**MEMBER LACROIX:** For the record, is there enriched uranium in one of the canisters?

**MR. GILBERT:** Thank you, Commissioner.  
I'm going to let my colleague once again, Mr. Miles Smith, respond to your question.

**MR. SMITH:** Thank you, Mr. Gilbert.

Miles Smith, for the record.

Commissioner, did I understand you to say correctly in one of the concrete canisters, the concrete canister storage facility?

Yes, there is fuel there that is -- some of it is enriched. There is a small amount. There is -- most of the fuel we have is natural uranium, but there is quite a wide variety of fuels, including enriched.

**MEMBER LACROIX:** Is there a risk of reaching nuclear criticality during the handling of this fuel?

**MR. SMITH:** No. Nuclear criticality safety analyses are done as part of the work and that is also an instrumental or an integral part of used fuel transportation package safety analysis. Not only is it an accident safety analysis but it is also the criticality safety analysis and those are part and parcel of how we retrieve, move, load into the cask and then ship the cask. There is integral criticality safety as part of that.

**MEMBER LACROIX:** Thank you for clearing up this matter.

**THE PRESIDENT:** A question. I will start with CNL and then maybe move to staff.

As we deliberate on the term of the

licence, I wanted to know about some of the missing pieces of information that are going to be coming later on. So we heard that the safety assessment for the lower-level trenches is likely 2023. What about the revised environmental assessment for the in situ decommissioning of WR-1, do you have a better date for that?

**MR. GILBERT:** Thank you, Madam President.  
John Gilbert, for the record.

To answer that question adequately, I am going to call upon my colleague Mr. Brian Wilcox.

**MR. WILCOX:** Thank you, Mr. Gilbert.

For the record, my name is Brian Wilcox and I am the Director of Decommissioning Projects at the Whiteshell Laboratories.

To answer your question about the timing for the environmental assessment for WR-1, CNL is in the final aspects of preparing our Environmental Impact Statement, responding to information requests, and we anticipate a formal submission to the CNSC in March of 2020.

**THE PRESIDENT:** Thank you.

So, staff, I want to get a handle on the proposed *Licence Condition Handbook* and how these various decisions would impact the proposed licence and the *Licence*

*Condition Handbook.*

So for the low-level waste trenches, if it is within the licensing basis, then the current licence is okay and so no -- the Commission doesn't get involved again then?

**MS MURTHY:** Kavita Murthy, for the record.

That is correct. We do -- we will report to you during our Regulatory Oversight Reports on activities of this nature that will take place on the site.

We also, as a part of our Regulatory Oversight Report, report to you on changes to the *Licence Condition Handbook*. So if there is a need for us to add any specific new procedure that we have accepted or plan we have accepted that is still within the licensing basis but which was not included in the compliance verification criteria, those would be added to the *Licence Condition Handbook* so that we could do compliance against it and we would report it to you during Regulatory Oversight Reports.

**THE PRESIDENT:** Thank you.

And if the safety assessment that is presented doesn't fall within the existing licensing basis, then it comes as a Commission decision?

**MS MURTHY:** Kavita Murthy, for the record.

That is correct. So with respect to the

trenches, as we had a discussion just now about low-level waste, the licensing basis based in the CSR did only talk about low-level waste. So should CNL propose to remediate anything other than trenches that have anything other than low-level waste, that again, in line with what I told you yesterday and what we have been talking about, is outside the licensing basis and so then that becomes a Commission decision.

**THE PRESIDENT:** And then when it comes to WR-1 decommissioning, walk me through what the decision process would be and how the current licence would get impacted and what gets opened up and the public's involvement in that.

**MS MURTHY:** So there are two decisions that the Commission will be required to make. The first one is under *CEAA, 2012*. That decision -- that is the first decision and anything related to the licence is based on a favourable decision on the environmental assessment.

Assuming that that is a positive decision, then there is a licence amendment required because currently the licensing basis does not include the in situ decommissioning of WR-1.

As a part of the documentation that is being submitted for the -- apart from the documentation

that we are reviewing for the environmental assessment, there is also a very extensive technical review that was started at the same time as the environmental assessment. Staff involved with the review -- Jennifer is here. Staff and all of the team, a fairly large team of CNSC staff, who have been doing an assessment of that application from the licensing perspective will make sure that everything related to knowledge management, related to management of all of the elements involved in managing that activity, if it is going to take place, will be incorporated into the *Licence Condition Handbook*.

So what you will see in front of you should we come in front of you recommending that in situ be allowed will be a revised *Licence Condition Handbook* which will probably have a fairly substantial section of it devoted to the in situ decommissioning of the WR-1 reactor. Compliance verification criteria and all of that that is associated with the *Licence Condition Handbook* will be a part of that package.

**THE PRESIDENT:** And so humour me with this scenario. What if CNL decides to do nothing with WR-1, 10 years go by and right now the proposed licence has carved that out, how do we make sure that we never get into that scenario?

**MS MURTHY:** Kavita Murthy, for the record.

The only thing that has been carved out is the in situ decommissioning of WR-1 reactor. So the licensing basis does include dismantlement and complete decommissioning of the site. It is CNL's -- it has been CNL's decision to use WR-1 in situ decommissioning as a preferred approach. Now, should the decision be not favourable and/or if CNL decides not to take that approach, they would have -- and 10 years lapse, they would have to come before you again for a licensing decision on what their next steps are.

The responsibility for managing the activities related to decommissioning is on the licensee, is on AECL, on CNL. They would have to come to us or come to the Commission and propose a different plan from what we have already seen.

Once again, I do want to stress that it has been brought up time and again that there is going to be a greenfield event of 10 years and CNL somehow will not be responsible. CNL continues to be responsible. CNL needs an abandonment licence in order to walk away from this site. That is a Commission decision. They will be in front of you either in 10 years or however long it takes requesting to be released of their commitments to that

site. So if they don't, they will need more licensing action I guess.

**THE PRESIDENT:** Mr. Jammal...?

**MR. JAMMAL:** Ramzi Jammal, for the record.

Without adding complexity, I just want to give you assurance, Madam President, with respect to your question.

Currently, this licence authorized the deferred decommissioning that was proposed at the time. The in situ with respect to one element of that facility is a deviation from the decommissioning strategy that is already approved by the Commission.

So Ms Murthy is -- literally two different processes. Your question is very clear with respect to what changed. As we are before you today, the decommissioning strategy has not changed, it is just the plans associated with the timeline and the project is varying and, as we saw, it is the variation of the plan. But the deferred decommissioning strategy still is valid.

**THE PRESIDENT:** Thank you.

Dr. Demeter...?

**MEMBER DEMETER:** Thank you.

I had one specific question that I had sort of.

This regards the Independent Environmental Monitoring Program and it is on page 63 of your Environmental Protection Review Report. Nice map and I went to the website and I found it very manageable and navigable. And then I looked at results of the one site that is about 15 kilometres east of Whiteshell, the WL03, and it is by the Pinawa Dam there, and the results kind of surprised me. Most of the results of these independent monitoring are one or more orders of magnitude below the threshold and that site that's 15 kilometres away had gross alpha at .3 Bq per litre where the threshold is .5 and the gross beta at .24 where the threshold is 1.0. So that is a bit of an outlier for something that's 15 kilometres away. So I didn't know. When you do these, you must have a sense of why this one particular site is a bit of an outlier compared to the other independent environmental monitoring sites. I don't know if you need some time to look at that or if you have an answer, because it is 15 kilometres away and it has -- this isn't background activity.

**MS SAUVÉ:** Kiza Sauvé, for the record.

So what I can tell you is that that site was chosen because it is downwind but not downstream. So it's a downwind site, but the water actually doesn't flow that way.

I can't -- I don't have further information on those numbers. We do know since they were below the screening levels -- and remember that screening levels are set at 1/10th of a number that would be of a regulatory concern. We didn't look into it further, but we also know that our results are within range of any licensee's results and within a range that doesn't provide us concern. But, as you mentioned, that would be above background and we will be ensuring that we resample there and I can do some more follow-up in terms of the licensee's results as well, but that is the information I can tell you right now.

**MEMBER DEMETER:** Because the whole purpose of independent monitoring is to pick out outliers and this is really an outlier that doesn't make a whole lot of sense from a hydrological point of view because it is not downstream and it wouldn't make a lot of sense from an air transport point of view because that would be quite a bit of activity, so that would be something to look into.

**MR. GILBERT:** Commissioner, if I may?

**MEMBER DEMETER:** Maybe CNL has --

**MR. GILBERT:** I believe we have some additional information on that for you.

**MEMBER DEMETER:** That would be wonderful.

**MR. GILBERT:** Miles may have.

**MEMBER DEMETER:** Thank you.

**MR. SMITH:** Thank you, Mr. Gilbert.

Miles Smith, for the record.

The monitoring site you spoke of is 15 kilometres east of the site, which is not on CNL property and is well into the Whiteshell and the Canadian Shield, and most likely that gross alpha arises from the natural uranium in the granite at the Canadian Shield.

**MEMBER DEMETER:** Okay. That would help, thank you.

**MR. JAMMAL:** Ramzi Jammal, for the record.

We will assess and we will get back to you with respect to this information.

**THE PRESIDENT:** Dr. Berube...?

**MEMBER BERUBE:** Just in regard to environmental sampling. Do you change your environmental sampling rates in conjunction with the activities onsite?

**MR. GILBERT:** Thank you, Commissioner.

John Gilbert, for the record.

The answer to your question is yes, but I will allow Karen Ross to add some more detail to that.

**MS ROSS:** So Karen Ross, for the record.

We have routine environmental -- I'm

sorry, I have a little frog in my throat there. We have routine environmental monitoring activities and we do conduct enhanced monitoring when specific activities are occurring.

So yes, we do have a routine and we have enhanced and the frequencies are evaluated on a regular basis.

**THE PRESIDENT:** Dr. Lacroix...?

A question for -- well, let's start with CNL. You have talked about institutional control once the decommissioning is over and if you were here yesterday you would have heard about Saskatchewan having an Institutional Control Program. So does Manitoba have an -- well, tell me a bit about this Institutional Control Program and what is contemplated.

**MR. GILBERT:** Thank you, Madam President.  
John Gilbert, for the record.

Before I turn this over to Karen once again, basically at the closure period of most nuclear facilities you will have some type of an institutional sampling protocol laid out for a specified period of time to verify that the work that was complete was done in accordance to the licence requirements. Therefore, you have some assurance over time that the site is clean and is

performing as anticipated.

So with that, I will turn the microphone over to Karen.

**MS ROSS:** Karen Ross, for the record.

We have an Environmental Protection Program, it's an integrated program, it includes effluent, environmental and groundwater monitoring, and that program evolves over the time period of the project and would transition into and be a part of the institutional controls. And so we would be conducting groundwater monitoring as well as surface water monitoring and there would also be administrative controls as needed and financial guarantees.

**THE PRESIDENT:** And a program administered by CNL?

**MS ROSS:** Right.

**THE PRESIDENT:** That is what I was trying to grapple --

**MS ROSS:** Yes. Yes.

**THE PRESIDENT:** -- as opposed to is this the province that takes over.

**MS ROSS:** That's right. Yes.

**THE PRESIDENT:** Okay. Thank you.

**MS ROSS:** Yes.

**THE PRESIDENT:** Dr. Demeter...? Dr. Berube?

**MEMBER BERUBE:** So a large part of what you are going to be doing in the next 10 years is doing waste management separation, this kind of activity.

Could you run me through generally how you intend to approach waste separation and classification? I know there is a lot of it and a lot of different types of it, so some of it is done by hand, some is done by machine. How do you intend to do this?

**MR. GILBERT:** Thank you, Commissioner.

John Gilbert, for the record.

I believe the best person to answer that for the team would be Mr. Miles Smith once again.

I can tell you that you are correct, we do have a lot of waste coming off the site, inessential. It is just a waste job at this stage of the game. Moving forward, all of that waste will be appropriately segregated -- prior to that, it will be characterized, obviously -- segregated, packaged and shipped safely and compliantly.

Mr. Smith...?

**MR. SMITH:** Thank you, Mr. Gilbert.

Miles Smith, for the record.

Mr. Gilbert hit it right on the head. All waste as it is generated is characterized either prior to its generation or after, depending on how -- depending on where the waste is coming from. The waste is characterized and from that data, that tells us what categories it goes into, what type of shipping container it goes in, whether it's an IP-1, a Type A or Type B cask, and I can assure you, all waste materials shipped from Whiteshell are shipped in internationally approved standard -- or meeting international standards containers only that are bought under an approved quality assurance program. So those wastes, it starts with the characterization depending on the quantity of radioactivity and/or other hazardous constituents in it determines what it is, it goes into the appropriate package and then that determines the level of safety analysis that goes -- or safety inspections that happen with that particular conveyance.

**THE PRESIDENT:** I have a number of very quick questions.

CNL, will there be any intermediate-level liquid waste that is going to be shipped?

**MR. GILBERT:** Thank you, Commissioner.  
John Gilbert, for the record.

Again, I would like Mr. Miles Smith to

answer that as the waste specialist.

**MR. SMITH:** Thank you, Mr. Gilbert.

Miles Smith, for the record.

Madam President, could you repeat that just to make sure I heard that correctly?

**THE PRESIDENT:** Any intermediate-level liquid waste to be shipped?

**MR. SMITH:** No. We don't anticipate any intermediate-level liquid waste. We will have intermediate-level solid waste. Any liquid waste that we generate, our intention is to stabilize and solidify that in a concrete-like matrix before we ship it.

**THE PRESIDENT:** Thank you for that, because I think your CMD -- at least I didn't think it was quite as categorical as that.

And besides Chalk River, are you contemplating shipping radioactive waste to other facilities? Because often the statement will say CRL or other waste management facilities.

**MR. SMITH:** Yes, ma'am. As part of our analysis, we will look at the most -- our preference is to use any commercially available facilities for the treatment of waste. Those commercial facilities are generally restricted to mixed waste such as organic volatile, organic

compounds mixed with tritium or other types of low-level waste. We would send those to a number of different institutions both in Canada and the U.S. for incineration or stabilization or macroencapsulation. The resultant treated waste would come back to us and would be certified to meet Ontario Reg. 347 which allows for then land disposal -- shallow land disposal.

**THE PRESIDENT:** Thank you.

Dr. Berube...?

**MEMBER BERUBE:** Over the last couple of days we have heard quite a bit of discussion about Indigenous engagement and Indigenous consultation. So my question, first to the operator, is do you actively track the hours of engagement or the occurrences of engagement with Indigenous peoples and, if so, why haven't we seen any of that information?

**MR. GILBERT:** Thank you, Commissioner.

John Gilbert, for the record.

We do track our meetings with the Indigenous communities in the First Nations. I'm not sure we track it to the hour, but we do track our engagements. I can provide more detail I believe if I call upon my colleague Mr. Mitch MacKay.

**MR. MacKAY:** Mitch MacKay, for the record,

Manager of Stakeholder Relations for Environmental Remediation Management at CNL.

That is correct from Mr. Gilbert. We do track all of our engagements, not just Indigenous and Métis but public, public inquiries, website traffic, and we track that in order to better improve our communications and our engagements going forward.

**MEMBER BERUBE:** And for CNSC I'm going to ask the same questions. Are we doing this and what are we doing with that information for improvement?

**MR. LEVINE:** Adam Levine, for the record.

Yes, we track all of our interactions with Indigenous communities on a regular basis. We have consultation logs that are specific to ongoing projects where there may be a duty to consult, so for example the WR-1 in situ project, there is a specific log for that, and then also more generally engagement logs for ongoing engagement outside of a formal regulatory process. We keep that as internal records to make sure that we can refer back to it if needed and to house meeting minutes and action items and things like that. So for the recent activities that we have done with Sagkeeng for example in the last couple of weeks, we have tracked that and we are following up with Sagkeeng because there were a number of

action items that came out of the community meeting that we had with them and we have already followed up with the information that they are going to be posting on their community website and Facebook pages.

**MR. GILBERT:** Commissioner, if I may, as a follow-up to that.

We also submit that annually to CNSC in the -- pardon me while I get the document right -- Annual Compliance Monitoring Report.

**THE PRESIDENT:** A question for CNL. You may have answered this in the last day or so.

For the 12 volumes of Detailed Decommissioning Plans, how many of these have been developed already?

**MR. GILBERT:** I'm going to turn that over to Mr. Randall Swartz for the exact number.

**MR. SWARTZ:** Randall Swartz, for the record.

The outstanding Detailed Decommissioning Plans, currently there is one volume for Building 402, the health and safety building, and we have taken the waste management area and split it into three parts for that volume. We have submitted one of those volumes to the CNSC and we are working on comment disposition of those. The

other two are related to the standpipes and the intermediate-level waste and we need the design of the remediation equipment and the safety analysis that comes with that in order to complete those Detailed Decommissioning Plans.

**THE PRESIDENT:** And other than redacting any commercially sensitive information, those are available upon request by members of the public?

**MR. SWARTZ:** That is correct.

**THE PRESIDENT:** Thank you.

And staff, in CMD 19-H4.C, your slide presentation, slides 34 and 35 -- and you don't need to pull them up, but it is the weekly airborne releases and the monthly liquid effluent release to water. I think if you had a chart instead of the table, it would just be a lot easier to understand. When you have E+08 and +10, yes, very hard to understand. But something for you to think about.

Dr. Berube...?

**MEMBER BERUBE:** Yes, just one last question. This pertains to security and I want to make sure that you don't reveal anything that would be of a classified nature, but would you please describe to me in your own words what a design basis threat is?

**MR. GILBERT:** Thank you, Commissioner.

John Gilbert. I think we can get a better answer so I don't stumble across something I shouldn't if I call upon my colleague Mr. Tim Rosentreader.

**MR. COTNAM:** Mr. Gilbert, maybe -- Shaun Cotnam, for the record, Chief Security Officer -- I might start on this because it is an important question. Thank you, Dr. Berube.

As you are well aware, we at CNL take site security very seriously at all our CNL managed sites. In fact, for the Whiteshell case I think it is important to reassure the Commission and the public, the public here, that the recent security discussions that we have had are not as a result of any breach of security at the Whiteshell site, nor are they a result of an attempted breach, and I am pleased to call upon Mr. Tim Rosentreader, who is actually the Manager on site for the security force at Whiteshell, to briefly, without getting into prescribed information -- thank you for the reminder, sir -- about design basis threat assessment.

**MR. ROSENTREADER:** Thank you.

For the record, my name is Tim Rosentreader. As Shaun mentioned, I am Manager of Emergency Service Operations at Whiteshell.

The DBT, from a high level, is basically a definition of the different threat profiles that a nuclear facility may encounter.

I don't want to get into too much detail regarding that. That's the high-level answer. I would expect that the Nuclear Security Division staff may elaborate a little bit further. Thank you.

**MEMBER BERUBE:** CNSC staff, if you could help elaborate on that?

**MS HEPPELL-MASYS:** I'm Kathleen Hoppell-Masys, for the record. I am the DG of Security and Safeguards.

In our *Nuclear Security Regulations* the definition of the design basis threat is actually:

"the characteristics of a potential adversary in respect of which countermeasures are incorporated into the design and evaluation of a physical protection system."

So that is the *Nuclear Security Regulations* and this process is a document that we passed on to the licensees and it is an assembly of intelligence information gathered from the national context with our peers that are working in the federal government and also

other stakeholders. So we are in the process at the moment of revising the DBT.

**MEMBER BERUBE:** Just further down that line of reasoning. How often do you actually do inspections and check these things on sites in general?

**MS HEPPELL-MASYS:** I will pass on the -- we have a system of exercises that the licensees have to comply with. It has a fixed frequency. My colleague from the Nuclear Security Division will elaborate on that.

**MR. SNOW:** Michael Snow, for the record. I am a Security Advisor with the Nuclear Security Division.

Every two years, by regulation, high-security sites, of which Whiteshell is one, will have to conduct a security exercise which tests its contingency plan, which demonstrates its effectiveness to counter the design basis threat. There is one scheduled this year in November, November 28, which CNSC staff will attend and evaluate.

**MEMBER BERUBE:** And in this particular case we have a below expectation with the operator, which is underneath consideration. What actions do you do as a direct result of this kind of assessment?

**MS TADROS:** Haidy Tadros, for the record. Perhaps I can start and then pass it on to

our colleagues in security who were part of the considerations put together for the below expectations.

So the below expectations, as was identified in our presentation, is a rating that is given when CNSC staff consider that the program in place does not meet all of the regulatory requirements and hence improvements are required and in effect are communicated to the licensee, and through the licensee's corrective action plans those regulatory requirements need to be met.

With regards to the security below expectation as per CNSC staff's supplementary CMD, the below expectation rating was issued to the safety control area for security after a series of inspections had noted some deficiencies with regards to CNL's and specifically Whiteshell's security programs.

So I'm not sure if that sort of answers the question or you'd like a little bit more detail from our --

**MEMBER BERUBE:** Just a little bit more on remedial action after the fact. What are you doing now as a direct result of this finding?

**MS TADROS:** Haidy Tadros, for the record.

So what we've done is we have identified what the issues are to CNL. CNL has responded appropriate

by putting together a corrective action plan, and that corrective action plan is as identified in our supplementary CMD a tiered response force plan.

Implementation of that plan would meet all of the regulatory requirements that need to be put in place to ensure that the security program becomes more satisfactory in terms of meeting the regulatory requirements for the regulations that include security regulations.

**MEMBER BERUBE:** Just one final question.

CNL, you're confident that you can bring all that up to satisfactory performance in the next short period of time?

**MR. GILBERT:** Thank you, Commissioner.  
John Gilbert, for the record.

Yes, we are.

**THE PRESIDENT:** Staff, before I turn to CNL for any final comments, anything you want to add as closing comments?

**MS MURTHY:** Thank you for this opportunity. Kavita Murthy, for the record.

CNSC Staff are recommending that the Commission renew the licence for the Whiteshell Laboratories for a 10-year period.

You have noted correctly that the licence's performance in one safety and control area in one year out of the 10 years has been below expectations.

Understanding that matters related to security cannot be publicly discussed, we have provided you with a publicly accessible CMD that provides the text of the licence condition that we are proposing that should be included in that licence.

With the licence condition being in the licence, we intend to have -- use the compliance framework that we have within the organization, the compliance framework that the CNSC has established to ensure that the licensee comes into full compliance as quickly as possible while making sure that there are compensatory measures in place to ensure that security of the site is never under any risk.

The licensee's application for WR-1 is clearly not the matter that is in front of you for decision today. What is in front of you for decision today are the continued operations of the activities over which we have had good regulatory oversight for the last 10 years, and we continue to do as different documents -- regulatory documents come into effect intend to improve upon and add to their *Licence Condition Handbook* so that they come into

full compliance with all the latest regulatory requirements.

CNSC Staff has -- we have a fact team approach, a fact team being a group of specialists at the CNSC, who are -- who are -- who support us as the licensing division to do the compliance on the -- on the site.

Our compliance at the site is very risk informed. We recognize that transportation and waste management are areas -- of the safety and control areas, these are two areas where there's going to be a lot of activity going on on the site, so in accordance with our risk based regulatory program, we intend to have higher focus on those areas in the coming years.

Noting also the comments that have been made by Indigenous communities and Indigenous groups and the general community around the site, we recognize that we need to be communicating better, we need to be communicating more often and we need to be doing a good job at -- better job at that than we are doing.

So we intend to engage with them, continue to involve them in all our discussions and provide them the information in the way they want.

Thank you.

**THE PRESIDENT:** Thank you.

So over to CNL for your final words,  
please.

**MR. GULL:** Mike Gull, for the record.

Thank you, Madam President and Members of the Commission, for considering this application to renew the decommissioning licence for Whiteshell.

I'd also like to thank the intervenors for their presentations and submissions in response to our application.

It's important to everyone at CNL, including the people sitting behind me, that we serve as good, responsible neighbours to our friends in the region. Just as our waste management practices are improving compared to those in the past, we recognize that the same needs to be true of our Indigenous and Métis engagement such that it becomes truly meaningful.

We are committed to this change, and we work to address this. We understand that some people are fearful and have questions and concerns. We need to answer these so that we can be happy -- we can all be happy that we're doing the right thing to protect the people, the environment and the earth.

Meaningful engagement leading to mutual understanding is paramount to the safe closure of the

Whiteshell site.

As we have stated in our presentation and answers, we believe that managing the legacy liabilities, storing the waste safely, reducing uncertainty and increasing control will minimize the impact of the historical operations on people, environment, earth and the Winnipeg River.

We also know we can make these improvements safely and look forward to the Commission on our 10-year licence.

Once again, CNL has an absolute commitment to safety. Safety is CNL's top priority.

CNL has also an absolute commitment to protecting the environment. Since decommissioning began in 2003, and for decades before that, CNL and AECL have operated Whiteshell safely. We have made improvements that will continue to enhance the safety of Whiteshell and across the company and building upon established performance, we are well positioned to continue to meet our regulatory obligations during the proposed 10-year licence period.

John, I believe you wish to have some comments.

**MR. GILBERT:** Thank you, Mr. Gull. John

Gilbert, for the record.

In my closing, I just want to reiterate our position and our commitment to the Commission with respect to the proposed licence application.

It's important to emphasize our past performance over the previous 10-year licence. We safely decommissioned and demolished significant nuclear buildings while at the same time accelerating the pace of the Whiteshell decommissioning.

We plan to continue to safely and securely deliver on that mission throughout the next 10-year period.

Furthermore, if we are granted a 10-year licence, CNL will be returning to appear before the Commission for the annual regulatory oversight report. If any significant changes to these activities described as proposed by CNL, a separate licensing process would then be triggered and the public would be given an opportunity to intervene in the process.

As a result, there will be regular and ongoing engagement between CNL, the CNSC, First Nation communities, the Manitoba Métis and the public as we move to the future.

Most importantly, though, as I stated in my opening remarks, this application is based on a track

record of solid safety and environmental performance with trends of improvement over many different areas over the past licence period.

Our programs are mature and they're built upon decades of experience at Whiteshell.

Ultimately, the 10-year plan for Whiteshell site is to reduce and eliminate impact to the environment, the earth and to protect the future. This is why we're doing this work.

Taken together, it's the robustness of our programs and the experience and dedication of our employees that serve as the foundation of CNL as a licensee, and we are fully confident that the site will be safely closed under this licence period.

I'll turn it back to Mr. Gull at this time.

**MR. GULL:** Thank you, John.

Just some personal comments to close.

I think the nuclear industry has been working hard over many decades to do things that it thinks it's good. You know, it's been trying to produce low carbon power or, in the case of CNL, a proud history of producing medical isotopes that have helped many people around the world, but we have to learn as an industry, you

know. Our waste practices, we can improve those, and some of the things we're talking about today are improvements that we're bringing from learning as an industry, and we're bringing them to CNL with the best intention of dealing with our liabilities in the best way that we know how, safely and compliantly, and to get all the learning that we can from around the globe.

I think some of the interventions this morning were particularly impactful on me in listening to some of those things and the recognition that, as an industry, you know, there are improvements we need to make to make people feel that they're properly engaged rather than just spoken to or welcomed to have a meeting, so we know we've got to do things better. And I really do think that as an industry if we can get our meaningful engagement, get people to understand we can all deal with the liability that the industry has created so that the good that is done is not forgotten by the liability that has followed.

Thank you.

**THE PRESIDENT:** Thank you.

That concludes the hearing. Thank you all for your participation.

Before closing the hearing, Marc, some

remarks?

**MR. LEBLANC:** Thank you.

Yes, I think I will also want to join my voice to thank a lot of people, thanking all the participants that are here or those linked via WebEx and video conference and teleconference, that is, people from CNL, CNSC and all the intervenors for their respectful and productive Commission proceeding.

But we also have to thank the interpreters who have to go through those long hours and work in the back of the room and keeping everything going, and that in itself was a challenge at times for them.

The professionals who provide various services for these proceedings, including for the official transcript, the webcasting, the A/V staff and all the room set-up, the security personnel, the staff at the community centre, the caterer and the staff also from IT and the secretariat.

So in that regard, this public hearing is not closed per in that it will continue with the anticipated supplementary submissions from CNL and CNSC Staff in response to the supplementary submission received from the Manitoba Metis Federation.

The Commission will also address the

request for ruling from CELA.

Following the review of all the evidence in this matter, the Commission will deliberate and determine if further information is needed or if it is ready to make a decision.

So this closes this part of the hearing.

Madam President, if you are in agreement, we'll take a 15-minute break and resume with the Commission meeting at 3:10 -- 3:15; let's be generous.

**THE PRESIDENT:** At 3:15.

--- Whereupon the hearing concluded at 3:00 p.m. /

L'audience est terminée à 15 h 00