



---

22521 ISLAND ROAD · PORT PERRY, ON · L9L 1B6 · TEL: 905-985-3337 · FAX: 905-985-8828 ·  
www.scugogfirstnation.com

---

To the attention of:

Canadian Nuclear Safety Commission  
Let's Talk Nuclear Safety

consultation@cnscccsn.gc.ca

cc: Blair Carter (Blair.carter@cnscccsn.gc.ca), Adam Levine (Adam.Levine@cnscccsn.gc.ca)

Re: REGDOC-1.2.3, License Application Guide: License to Prepare Site for a Deep Geological Repository

Thank you for providing the opportunity to comment on the REGDOC-1.2.3, License Application Guide: License to Prepare Site for a Deep Geological Repository via Let's Talk Nuclear Safety.

We understand that the purpose of the REGDOC is to clarify the CNSC's licensing requirements for preparing a site for a possible future deep geological repository (DGR) and is not intended to provide guidance on finding or selecting a site, or on surface or near-surface waste management facilities.

Comments on behalf of the Mississaugas of Scugog Island First Nation (MSIFN) are below.

- Section 3.1 of the REGDOC lists the requirements for an applicant of a license to have a management system in place meant to outline processes and procedures that have been/will be put in place to protect health, safety, security, and the environment. The management system must have a description of the organizational management structure for the applicant's site preparation work activities, including procurement and ensuring technical knowledge at the staffing level is adequate to meet nuclear safety management needs.
  - o We recommend including Indigenous procurement and Indigenous education and training relevant to whichever geographical location is chosen within the management system. There is a high probability that wherever a site is selected for the DGR site it will be within the Traditional and/or Treaty Territory of a First Nation in Canada.
  - o It is important, and becoming customary, to include Indigenous procurement policies in the early stages of planning for major projects. It is also important that First Nations be properly consulted on a potential DGR, and to do so appropriately the staff of whichever organization is chosen should be adequately trained and educated on Indigenous rights and interests, and best practices for Indigenous procurement.
  
- Section 3.3 of the REGDOC lists risks to the health and safety of the public in the site preparation phase. The list includes noise, chemical, mechanical, electrical, and dust hazards. An applicant is meant to assess possible risks to the health and safety of workers and the public including accidents and malfunctions that could occur during site preparation activities.



---

22521 ISLAND ROAD · PORT PERRY, ON · L9L 1B6 · TEL: 905-985-3337 · FAX: 905-985-8828 ·  
www.scugogfirstnation.com

---

- The list of risks to health and safety of the public does not include potential risks to groundwater. Given the depth of a DGR (<500 metres below the ground's surface, NWMO 2021) impacts to groundwater flow and potential contamination should be considered, including groundwater-surface water interactions. Does the CNSC not anticipate impacts to groundwater from the DGR, or does the site preparation stage not include below surface activities?
  
- Section 3.9 of the REGDOC discusses what an applicant must do for environmental protection. It states that “for site preparation, environmental monitoring consists of defining baseline characteristics and monitoring the effects of site preparation activities on the environment”.
  - Environmental monitoring should first begin with predicting the effects of site preparation and mitigating certain impacts before they happen, then monitoring for unanticipated impacts. Most impacts of site preparation should be clear before any work begins, preemptive measures should be taken to protect the environment and substantially mitigate impacts, not just monitoring effects.
  
- Section 3.10 of the REGDOC states that an application must describe an emergency preparedness program and outline hazards that exist on the licensed site. It states “Although hazards of a malevolent nature are not described in this section of the license application, the applicant should consider the emergency response to those hazards. Note that the effects of such hazards are likely to be similar to those of conventional accidents and malfunctions”.
  - We recommend that this section include mandatory reference to hazards of a malevolent nature, and that the REGDOC use stronger language than “the applicant should consider the emergency response to these hazards”. It should be required that all applicants consider possible intentional threats to a future DGR including the potential for terrorist attacks and sabotage. There is at least one known plan of a group of men considering terrorist/sabotage activities at nuclear sites in Ontario, including considerations for planting explosives, including crude nuclear explosives, and one of the group was training at a flight school whose flight paths cross the Pickering Nuclear Generating Station (<https://www.nytimes.com/2003/08/24/world/canada-links-arrest-of-19-pakistanis-to-possible-terrorism-ties.html>). The CNSC must fully and transparently consider such threats and appropriate measures to protect against such threats as a future DGR may well be a target for such activity.
  - Nuclear safety is of paramount importance to MSIFN. Almost every portion of the nuclear fuel lifecycle exists in our territory except for uranium mining. A safe and sustainable future for our community is of highest importance, as we have been, and will continue to be impacted by nuclear activities occurring since colonization. The responsibility of the CNSC to keep our community, and other Indigenous communities, safe must not be taken lightly.
  
- Section 3.16 of the REGDOC states “The CNSC, as an agent of the Crown, is responsible for fulfilling Canada's legal duty to consult and, where appropriate, accommodate Indigenous peoples, when



the CNSC's decisions may have adverse effects on potential or established Indigenous and/or treaty rights."

- As mentioned in previous comments, it is very likely that the CNSC's decision regarding DGR siting will have adverse effects on potential or established Indigenous and/or treaty rights. As the project will involve digging hundreds of metres below ground, First Nations' subsurface rights should be acknowledged in whichever geographic location is selected. We recommend the wording in this section be strengthened. Accommodations to impacted Indigenous peoples should not only be where appropriate as determined by the CNSC/the Crown. First Nations should be given the opportunity to state concerns and adverse impacts to their rights, including subsurface rights, without discrimination, and the regulator should be required to accommodate.
- The same section states "Conducting engagement activities with the public and Indigenous peoples early in the project development process, including site evaluation, is expected to result in more effective and efficient consultation practices, strengthen relationships and assist the Crown in meeting its obligations regarding any potential legal duty to consult and accommodate, as well as reduce the risk of delays in the regulatory review process."
  - While it is appreciated that consultation will take place early in the project development process, the wording in this section is not inclusive of upholding the rights of Indigenous peoples. The benefits of early engagement should not only be considered in relation to the CNSC/the Crown, but in ensuring that the rights of Indigenous peoples are upheld and not further eroded. Consultation allows Indigenous peoples to fully understand the impacts of a project, and it should not only be looked at from a regulatory standpoint or as having the potential to delay project timelines.

CNSC is urged to obtain consent from MSIFN prior to licensing the DGR. On June 19th the Canadian Senate voted to pass Bill C-15 to implement UNDRIP into Canadian Law. This Bill has significant implications for government and resource development proponents as UNDRIP requires states to obtain Free Prior and Informed Consent (FPIC) in their consultation with Indigenous Communities. Article 32(2) of UNDRIP states that the Crown shall consult and cooperate with Indigenous Peoples to obtain FPIC prior to approval of any project affecting our lands and territories particularly in connection with development of resources. The measures identified in UNDRIP are a minimum standard for well-being and survival of Indigenous communities and inform processes of consultation. Consent is a theme which has permeated through Canadian history. The 1997 Delgamuukw vs. British Columbia Decision stated that in some cases the Duty to Consult may require obtaining consent. Other industries have prioritized FPIC including the Mining Association of Canada which has established a Sustainable Mining Protocol which identifies a good practice to obtain FPIC for new projects. CNSC should follow with industry standards and Canadian law to obtain consent prior to licensing the site preparation for such work.

Miigwech for the opportunity to comment on the REGDOC-1.2.3, License Application Guide: License to Prepare Site for a Deep Geological Repository. Overall, our concerns remain around the impacts to Indigenous rights, proper consultation, health and safety, and environmental impacts of a future DGR project. We look forward to continued consultation with the CNSC on these matters.



---

22521 ISLAND ROAD · PORT PERRY, ON · L9L 1B6 · TEL: 905-985-3337 · FAX: 905-985-8828 ·  
[www.scugogfirstnation.com](http://www.scugogfirstnation.com)

---

Sincerely,

MSIFN Consultation Office

[consultation@scugogfirstnation.com](mailto:consultation@scugogfirstnation.com)