SUBMISSION ON: Proposed Amendment of Schedule 1 in the *Building Canada Act,* to list the Nuclear Waste Management Organization's Proposed Deep Geological Repository for Canada's Used Nuclear Fuel as a Project of National Interest.

Transmitted via email to:
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Introduction

This document comes from a volunteer-run chapter of the national Council of Canadians, located in Renfrew County, Ontario. [1] We are known as the Kitchissippi-Ottawa Valley Chapter (KOV), a name chosen to honour the original inhabitants of this area, the Algonquin Anishinaabeg, who today are still without a treaty. We are engaged in advocacy for and protection of the 'common good' in the Upper Ottawa Valley, within the scope of the national Council's overarching strategic concerns.

Given our location, we are particularly concerned about protecting the water, air, soil, flora, fauna, mycelia, and human communities from radioactive nuclear waste. A large quantity of this waste is "temporarily" stored and/or buried in our area. Radioactive materials are routinely transported through our county. This stimulates our "citizen scientist" interest in environmental and community public health matters under the purview of the Canadian Nuclear Safety Commission (CNSC). Since 2021, we have developed considerable familiarity with CNSC processes, its public mandate, how it carries out its research, its areas of expertise, its management, and more.

The CNSC and the Nuclear Industry Have a Cozy Relationship

Our engagement with projects subject to CNSC processes leads us to agree with these findings from the 2017 federal expert panel report, *Building Common Ground* (BCG). [2]

- "A frequently cited concern was the perceived lack of independence and neutrality because of the close relationship between [the] CNSC and the industry they are mandated to regulate."
- The CNSC seems concerned to "promote the projects they are tasked with regulating," with "the term *'regulatory capture'*" used by the public to signify their "apprehension of bias" and "a perceived lack of independence in assessment decisions."
- Despite their views on the CNSC's efforts, all participants agreed on "the need to ensure decisions are transparent and reasons are provided."

These concerns outline precisely what we have observed in many instances. Alas, Bill C-39 would also make this new CNSC authority permanent, thus pertaining to all nuclear industry developments.

1 Council of Canadians website
2 *Building Common Ground;* see section 3.1.1.

We oppose placing the Deep Geological Repository (DGR) proposal from the Nuclear Waste Management Organization (NWMO), an industry consortium, under the complete review and approval aegis of the CNSC, as follows from the provisions in Bill C-39.

This is especially alarming because the substance to be buried is the most toxic material on earth: reactor core "spent fuel" or waste. Scientists agree that it will remain just as deadly for up to one million years. Some of this is due to how it transforms when it decays. We can't know for sure about the decay process because humans have only been creating it for a century.

Why Does Public Distrust of the CNSC Matter?

Bill C-39 provisions set terms and conditions for all "national interest" priority projects. Under the proposed mandate, the CNSC will totally control whether or not, and if so how and by whom, environmental and other impact assessments are done on proposed nuclear industry projects. The NWMO's DGR is intended to be their initial file under this new mandate.

Building Common Ground authors set forth these comments about the outcomes arising when there is public distrust of an assessing entity:

> "*"Public trust and confidence is crucial" because "without it... approval will lack the social acceptance necessary to facilitate project development. ...The erosion of public trust has created a belief among many interests that the outcomes are illegitimate. This, in turn, has led some to believe that outcomes are pre-ordained and that there is no use in participating in the review process because views will not be taken into account. The consequence of this is a higher likelihood of protests and court challenges, longer timeframes to get to decisions and less certainty that the decision will actually be realized – in short, the absence of social license."*

There is no evidence that suggests environmental and human rights advocates have become more trusting of the CNSC's capacity to function at arm's length from the industry since the BCG report was published. [3] On the contrary, for example:

- We were involved in a Natural Resources Canada-led multi-part online consultation reviewing the federal radioactive waste management in 2021. The vast majority of participants expressed little or no confidence in the CNSC as an arms-length regulator. [4]
- Identical concerns about the bias of the CNSC emerged in public discourse as the NWMO searched for a location for their proposed DGR, and also regarding Canadian Nuclear Laboratories' Near Surface Disposal Facility plans for Chalk River, Ontario.

In regards to the NWMO's DGR proposal, the "public interest" re: management of the risks associated with this horrendously dangerous and unimaginably long-lived waste has been documented and redocumented for at least 15 years. [5] Whether the CNSC has the expertise, will, or intent to ensure a full and thorough impact assessment is not a minor issue.

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3 Note: human rights include Indigenous rights, which are further discussed below.
4 See all the comments by a diligently-engaged and very well informed organization, Northwatch, at this link, in particular the first paragraph on page three.
5 Chief Duncan Malcolm Michano (Biigtigong Nishnaabeg) one of many eloquent on this topic.

For many years we (who know how the CNSC actually works) have been asking for a total overhaul and reform of this regulator. It is fully capable of looking at design and construction issues to ensure safety in CANDU generating stations but we know, from our own experiences with them, that they are not the least interested in or capable of assessing environmental impacts beyond the scope of construction and maintenance on sites.

We want it our federal nuclear industry regulator to prioritize looking after the environment and our human communities, not only the objectives of the nuclear industry. Many suggestions on how to do this have been made to federal authorities, who are the decision-makers as the CNSC is a federal regulatory agency.

- Some argue for a change of the Cabinet member with responsibility for the CNSC, which is the Minister of Natural Resources Canada (NRCan). This is suggested because NRCan is also mandated to promote the nuclear industry.
- Some have suggested there should be two separate regulators because of the potential for deathly impacts on watersheds, lands, communities, and the air if something goes amiss with radioactive waste storage. One regulator would concern itself with impacts on the environment and the other with making sure the project is designed and built to the highest safety standards.

Public concern about the CNSC's coziness with the industry is manifestly evident.

Mandating the Canadian Nuclear Safety Commission
with singular approval powers, in other words
total jurisdiction over green-lighting all industry project proposals,
is NOT in the public interest.

Transportation of Waste to the Site: Out of the Review; In the Scope of the Review; Now Out Again.

Transportation of materials destined for the proposed DGR site in northwestern Ontario has once again been stripped from the assessment terms. That is unacceptable.

It is imperative to ensure **all** communities along **all** likely (potential) transportation routes are engaged, consulted and listened to. The material to be shipped there, from as far away as southeastern New Brunswick, is the highest level of radioactive waste. It is not anything to take chances with. Logical routes from operating nuclear generating stations will require transporting the waste on roadways:

- through major urban areas;
- along the densely packed TransCanada and/or 400 series of Ontario highways;
- that use some small rural roads passing through villages (both LePreau and Bruce);
- on the northern highways (TC-11 & TC-17) there is a horrible rate of accidents and too often there is no alternative route to avoid an accident site, and both highways are prone to winter storms, with resulting road closures of various lengths.

Further, it boggles the imagination how service and rescue workers could get to some of the remote transportation routes in a winter storm or climate change-induced extreme weather. If they can't pass through safely (or at all), how can safe management of the dangerous radioactive waste cargo be assured?

An option proposed by the NWMO is to use rail in combination with roadways. Recalling the Lac Megantic tragedy, and perhaps the Lytton wildfire disaster, trains also pass through human communities and especially fragile ecosystem areas, and they do have accidents. As well, there is not good rail coverage in many parts of Canada.

The only other alternative is to ship much of the waste by boat through the Great Lakes waterways. The Great Lakes provide water, food, and livelihood for many millions of people. It is our understanding that NWMO previously committed not to ship this waste by water. If this option is now under consideration, the public must know before any further plans advance.

All intended forms of transportation must be fulsomely assessed, with public input, **prior** to beginning work on the DGR. This timing is essential because Bill C-39 can enable CNSC to approve development start-up before full approvals are granted. Our submission's final section sets out the likeliest roadways for this waste to travel north.

Indigenous Rights

Our KOV chapter of the Council of Canadians has had experience addressing the CNSC on both the "Duty to Consult" and the "Free, Prior, and Informed Consent" (FPIC) objectives of the 2021 federal law *DRIPA,* which draws from the *United Nation Declaration of the Rights of Indigenous Peoples* (UNDRIP). [6] Indigenous leaders have documented the limited capacity, cultural training, and/or concern of the CNSC to ensure those crucial principles are upheld.

If you require more background on Indigenous perspectives of issues raised in our submission is required, many relevant submissions are certainly available. For further investigation, we urge you to respectfully engage with the Indigenous organizations, nations, knowledge holders, community members, and their legal counsels who have previously raised these same concerns. These people are the best informants on how it feels to be ignored or consulted by the CNSC.

KOV is a civil society nonprofit group comprised almost entirely by non-Indigenous persons. We insist that the Minister in charge of deciding to mandate the CNSC with king-like powers to approve the NWMO's DGR, instruct his staff that an engagement dialogue with Indigenous Peoples & Nations must take place before any other decision.

In the spirit of justice and reconciliation,
we are in solidarity with Indigenous Peoples re: their concerns about
the CNSC and this specific proposal.
The future of the 7000 generations to come must be considered.

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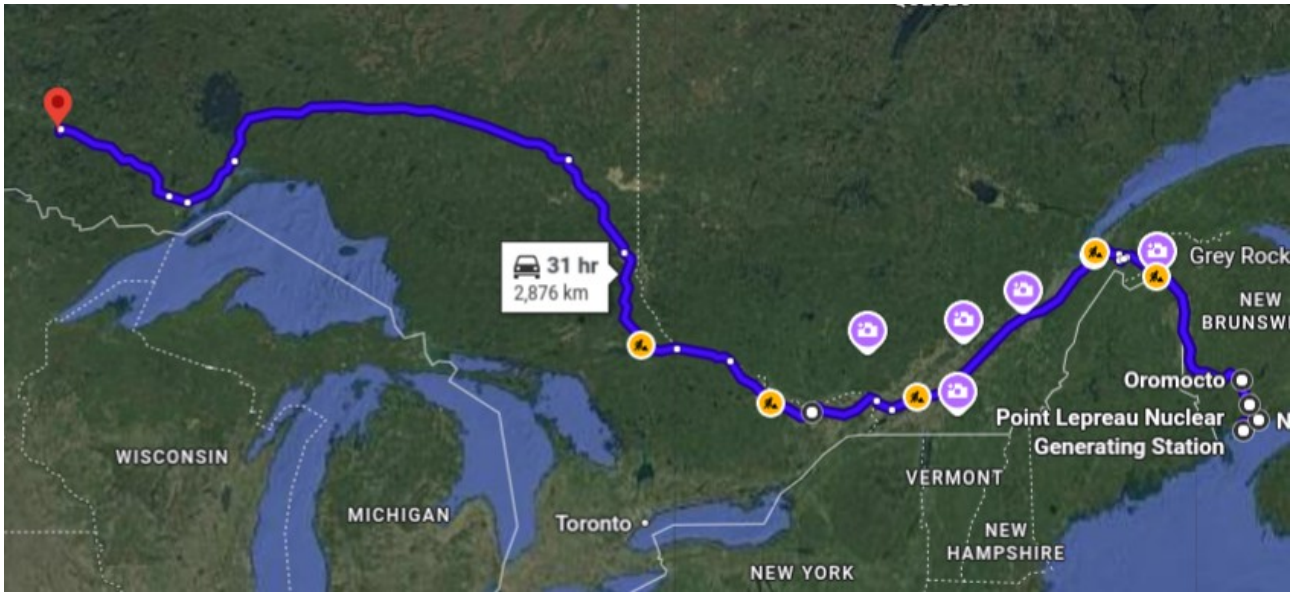
6 In 2016 at the UN, Canada pledged to uphold *UNDRIP.* It is noteworthy that UNDRIP Article 29 bans putting toxic waste on traditional Indigenous lands without explicit community consent. The federal government's subsequent legal commitment to uphold UNDRIP principles is documented in *DRIPA, 2021,* and explained on this August 2026 federal website update.

FYI: Assuming Roadway Transport, here are the Logical Routes from LePreau, Darlington, and Bruce to the proposed DGR location.



The northern TC-17 route, from LePreau to the NWMO's proposed DGR site, passes through Quebec City, Montreal, Ottawa, North Bay, and many other urban and smaller communities, and suburbs, then through remote rural communities.

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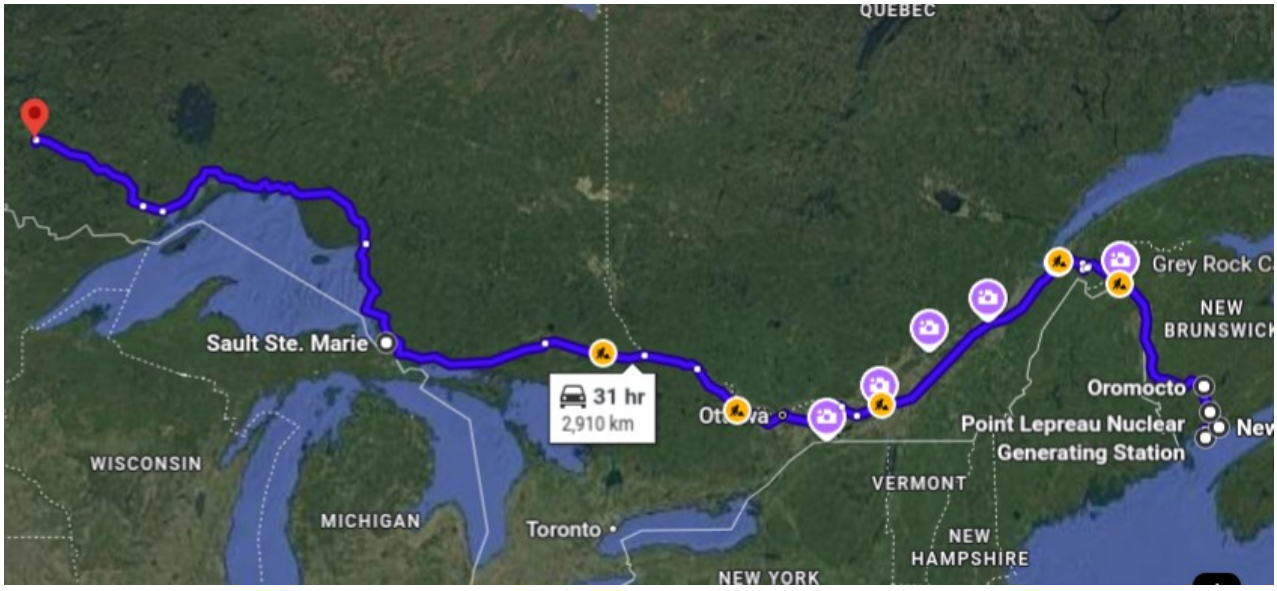

This route from LePreau to NWMO's proposed DGR site goes along the north shores of Lake Huron and Lake Superior on TC-11. Near North Bay, it ends a short spell on TC-17, linking up with TC-17 again later. This route passes through all the same cities as the more northern route, also Sault Ste. Marie and other communities.

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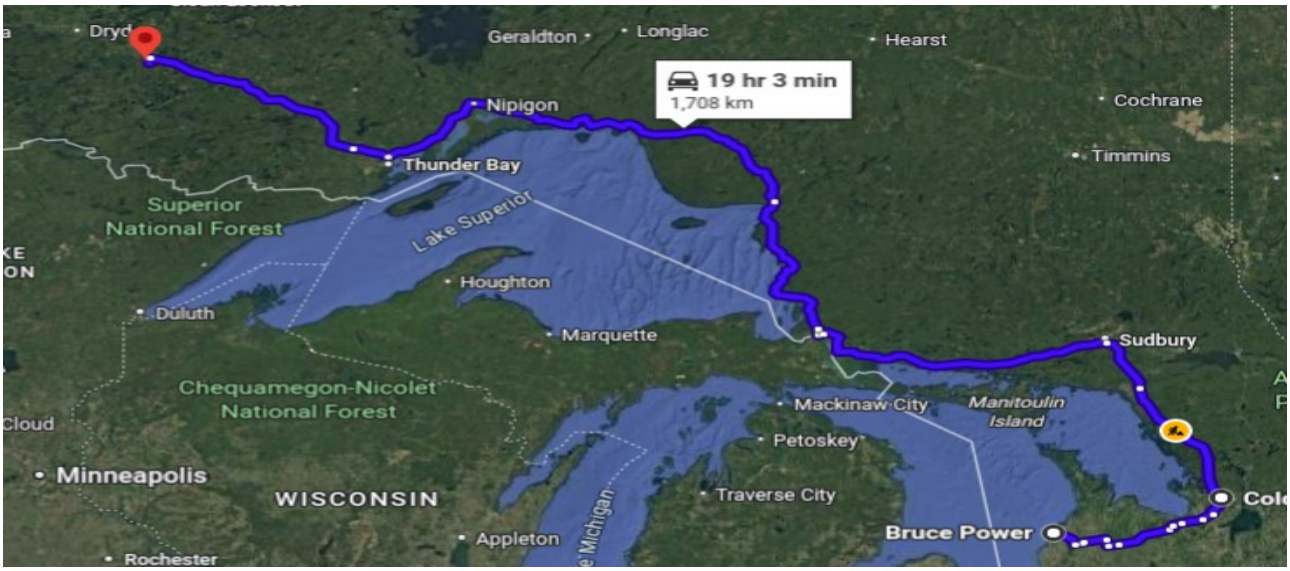

The route from Bruce Generating Station to NWMO's proposed DGR site begins with two or more hours on small rural roadways through villages and towns in tourist areas, until it gets to a major highway in Coldwater, Ontario. Then it basically follows the southern route of the trucks going from LePreau.

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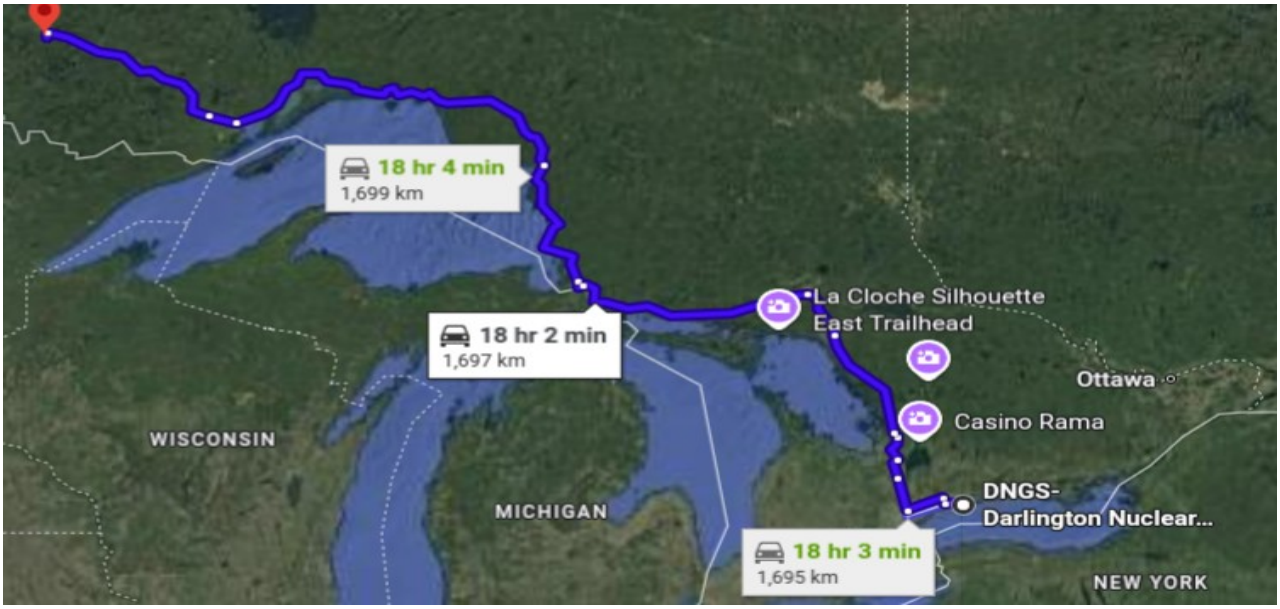

The route from Darlington to NWMO's proposed DGR site goes through Toronto on the 401, or through the suburbs to the north of Darlington via 407, to the 400. Heading north, transport is then on the Trans-Canada as shown for Bruce.

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<u>The above four maps beg this question</u>: why not do as global nuclear scientists overwhelmingly recommend, and build secure, long-term, high-level waste repositories right near where the waste is created?