

June 1, 2019

From: Matthew General (The Clearwater River Dene Nation (CRDN))

To: Nicole Frigault, Environmental Assessment Specialist

Canadian Nuclear Safety Commission

By email: [cncs.ea-ee.ccsn@canada.ca](mailto:cncs.ea-ee.ccsn@canada.ca)

Comments concerning the NexGen Energy Ltd. Rook I Project Description

CEAA Reference number: 80171

Ms. Nicole Frigault

Environmental Assessment Specialist

Canadian Nuclear Safety Commission

Good afternoon Nicole.

The Clearwater River Dene Nation (CRDN) is pleased to submit the attached comments in relation to the NexGen Rook I Project Description.

With thanks,

M General

JFK Law

For CRDN



**Clearwater River Dene Nation**  
**Comments on Project Description**  
**NexGen Energy Ltd.'s Rook I Project**  
**May 31, 2019**

## 1.0 Introduction

This document provides the comments of Clearwater River Dene Nation (“CRDN”) on NexGen Energy Ltd.’s project description (the “Project Description”) for the Rook I Project (the “Project”) as requested by the Canadian Nuclear Safety Commission (“CNSC”).

The Rook I Project (Project) is a proposed new uranium mining and milling operation that is 100% owned by NexGen Energy Ltd. (NexGen). It is located adjacent to Patterson Lake in the southern Athabasca Basin in northern Saskatchewan approximately 155 km north of the town of La Loche, 80 km south of the former Cluff Lake Mine site (currently in decommissioning) and 640 km by air north west of Saskatoon. The mineral resource basis for the proposed Project is the Arrow deposit, a land-based, 100% basement hosted high grade uranium deposit.

The Project includes underground and surface facilities to support the mining and processing of uranium ore from the Arrow deposit. The main components included in the scope of the Project for environmental assessment purposes, include:

- underground mine development;
- an on-site mill to process an average of 1,400 tonnes of ore per day;
- surface facilities to support the short and long-term storage of waste rock and ore;
- an underground tailings management facility (UGTMF);
- water handling infrastructure and an effluent treatment circuit with associated treated effluent discharge; and
- additional infrastructure that will include a camp for personnel, an airstrip and supporting waste and water management facilities, a maintenance shop, warehouse, and offices.

In providing these comments, CRDN acknowledges that a project description is not a substitute for an environmental impact statement, which will be required for this Project, and which must provide detailed information regarding potential impacts to the environment and on CRDN’s use of land and resources. However, a project description

is required so that Crown regulators and First Nations like CRDN may understand the scope and potential impacts of the project, so that parties can determine the issues that must be considered through an environmental assessment. CRDN's view is that this Project Description fails to provide sufficient information for CRDN and for Regulators to understand, at this preliminary stage, the types of impacts that may occur to CRDN, in particular the potential for the Project to impact the exercise of CRDN's Treaty 8 rights.

This Project is a significant development in an area proximate to CRDN's community, and will impose large scale and long lasting restrictions on the ability to CRDN members to continue to rely on land and resources within this area of its traditional territory. Despite this, the Project Description fails to provide any information on the traditional resources currently available in this area, and does not provide information on effects that may occur as a result of the Project. CRDN is concerned that these omissions are intended to obscure the potential for this Project to impact on the exercise of their members' Treaty 8 rights and unduly narrow the scope of issues to be considered by the CNSC as this assessment proceeds. Below, we set out comments on the Project Description, and we have provided background information on CRDN and the exercise of our Treaty 8 rights, to supplement the Project Description. We ask that the CNSC engage with our community as it proceeds to propose the scope of issues to be considered in this assessment.

## **2.0 Clearwater River Dene Background**

By way of background, the CRDN are a Dene speaking people. At the time of contact our ancestors were present, occupying, utilizing and in possession of a large swath of land centered on the Clearwater River watershed and the Patterson Lake area and extending north from Patterson Lake to areas within the Carswell and Old Fort Rivers watersheds.

As part of our usual practices carried out before and at the time of the signing the Treaty 8, our ancestors hunted, trapped, harvested and fished a wide range of animal, bird, fish and plant species for subsistence, and for cultural, economic trade social and spiritual needs. Certain species and plants were of greater

significance to fulfill these needs, but all species and plants were important to our way of life.

Whitefish Lake, now called Garson Lake, was already an old established Dene village of 50 people in 1880. On August 4, 1899 the residents were gathered in Fort McMurray and selected Adam Boucher as headman to represent them in the signing of Treaty 8.

The descendants of this group from Garson Lake became known as the Portage La Loche Band. At the La Loche Mission in 1907 these families asked that treaty payments be made to them at La Loche or Buffalo River so they wouldn't have to travel all the way to Fort McMurray. On July 17, 1911 they received their treaty payments at Portage La Loche (West La Loche). In 1920 the Portage La Loche Band (now known as the Clearwater River Dene Nation) had 66 members.

Our people adhered to Treaty 8 following the main signing of the Treaty that occurred at Lesser Slave Lake in 1899. Through oral promises of the parties and the written terms of Treaty 8, the Treaty established a set of reciprocal rights and obligations owed by the Crown to the Indigenous people, including our ancestors. In addition to guaranteeing the ongoing right to hunt, fish, trap, harvest and pursue their traditional livelihood, the treaty also provided rights to carry out activities incidental to the exercise of these rights including, but not limited to:

- rights to unrestricted access to preferred lands and waters of a sufficient quality and quantity necessary to exercise rights within their traditional lands;
- rights to sufficient and culturally appropriate land and resources to support the exercise of rights;
- rights to participate in the management of natural resources within their traditional lands;

- rights to gather various natural resources, including plants and berries, within their traditional lands;
- rights to establish the infrastructure necessary to exercise rights, including by building trails, cabins, camps, traps; and
- rights to maintain and access sites where CRDN's culture and way of life can be taught to subsequent generations.

Our community members continue to actively exercise these treaty rights through our traditional territory. To this day, our families depend on our ancient lands for a range of cultural, sustenance, livelihood, spiritual and socio-economic purposes. Our ability to depend and rely on our lands is still critical to our community. Our families generally face high levels of unemployment and must continue to depend on the land to put food on the table. Any impact, disruption or diminution of our community's ability to rely on our wildlife, fish, berries, plants, forests and water resources can result in serious impacts and ramifications.

In recent years, the CRDN had the opportunity to conduct an initial traditional land and resource use study. The resulting maps and information confirm our people's historic, current and ongoing use of our traditional territory. Of significance, a locus and concentration of community land and resource utilization occurs around Patterson Lake, in and on Patterson Lake and areas extending north and south of the Patterson Lake area.

Based on information relayed to us by our elders, knowledge keepers and active land users, the CRDN is able to delineate a Traditional Territory within north-western Saskatchewan and north-eastern Alberta.

### 3.0 CRDN's Exercise of Rights

The CRDN have and continue to exercise a wide range of rights and cultural practices throughout their Traditional Territory. Livelihood and cultural practices that existed at the time of contact and at the time of the signing of treaty continue to the present day. There clearly has been some level of cultural change and modification in how these rights are exercised on the ground. With that said, the majority of CRDN members continue to need to be on the land, are required to be on the land and wish to be on the land as their ancestors and prior generations did. Trapping clearly spiked as an economic and trading activity as European demand for furs escalated through 18th century and into 19<sup>th</sup> century. Trapping has since declined in importance as principal economic and trading driver since the 1970's however numerous CRDN members continue to harvest fur bearers for a wide range of purposes.

It is possible to set out examples of CRDN rights exercised within its Traditional Territory and summarize these in the following way:

<b>Right Exercised / Integral Activities / Cultural Practices</b>	<b>Species Utilized / Value Referenced</b>
Right to Hunt Large Mammals - General	Large Mammals - General
Right to Hunt Moose	Moose
Right to Hunt Caribou(Woodland/Barren Ground)	Caribou (Woodland/Barren Ground)
Right to Hunt Mule Deer	Mule Deer
Right to Hunt White Tailed Deer	White Tailed Deer
Right to Hunt Kodiak Bear	Kodiak Bear
Right to Hunt Black Bear	Black Bear
Right to Hunt / Trap Small Mammals	Small Mammals - General
Right to Hunt / Trap Rabbit	Rabbit
Right to Hunt / Trap Beaver	Beaver
Right to Hunt / Trap Otter	Otter

Right to Hunt / Trap Muskrat	Muskrat
Right to Hunt / Trap Lynx	Lynx
Right to Hunt Wolverine	Wolverine
Right to Hunt Badger	Badger
Right to Hunt / Trap Weasel	Weasel
Right to Hunt / Trap Squirrel	Squirrel
Right to Hunt / Trap Marten	Marten
Right to Hunt / Trap Wolf	Wolf
Right to Hunt / Trap Coyote	Coyote
Right to Hunt / Trap Fox	Fox
Right to Hunt Birds - General	Birds – General
Right to Hunt Partridge	Partridge
Right to Hunt Grouse	Grouse
Right to Hunt Geese	Geese
Right to Hunt Ducks	Ducks
Right to Hunt Swan	Swan
Right to Harvest Duck Eggs	Duck Eggs
Right to Fish – General	Fish – General
Right to Fish Jackfish / Northern Pike	Jackfish / Northern Pike
Right to Fish Grayling	Grayling
Right to Fish Pickerel / Walleye	Pickerel / Walleye
Right to Fish Ling Cod	Ling Cod
Right to Fish Whitefish	Whitefish
Right to Fish Trout	Trout
Right to Harvest Berries – General	Berries – General
Right to Harvest Saskatoon Berries	Saskatoon Berries
Right to Harvest Wild Strawberries	Wild Strawberries
Right to Harvest Blueberries	Blueberries
Right to Harvest Raspberries	Raspberries
Right to Harvest Chokecherries	Chokecherries



Low Bush Cranberry	Low Bush Cranberry
High Bush Cranberry	High Bush Cranberry
Right to Harvest Plants – General	Plants – General
Right to Harvest Wood – General	Wood – General
Right to Harvest Wood for Cabins	Wood for Cabins
Right to Harvest Wood for Domestic Use	Wood for Domestic Use
Right to Harvest Wood for Tepees	Wood for Tepees
Right to Harvest Wood for Overnight Shelters	Wood for Overnight Shelters
Right to Harvest Wood for Fuel - Camps	Wood for Fuel - Camps
Right to Harvest Wood for Domestic Heating	Wood for Domestic Heating
Right to Quarry Rock – General	Rock – General
Right to Quarry Rock - Pipestone	Rock - Pipestone
Right to Quarry Rocks – Ceremonial Purposes	Rock – Ceremonial Purpose
Right to Collect Potable Water – For Camp	Water – For Camp
Right to Collect Potable Water – Domestic Purposes	Water – Domestic Purposes
Right to Construct / Maintain Cabins	Cabins
Right to Construct / Maintain Camps	Camps
Right to Construct / Maintain Overnight Shelters	Overnight Shelters
Right to Travel to / Access Hunting, Fishing, Trapping and Harvesting Areas	Travel to / Access Hunting, Fishing, Trapping and Harvesting Areas
Right to Build, Use and Maintain Trails	Build, Use and Maintain Trails
Right to Use Land / Water Travel Routes to Access Hunting, Fishing, Trapping and Harvesting Areas	Use Land / Water Travel Routes to Access Hunting, Fishing, Trapping and Harvesting Areas

To date, CRDN has not been afforded the opportunity or resources to undertake comprehensive rights and cultural research. Through 2010–2014, the CRDN was able to undertake an initial level of research on traditional land and resource use in certain portions of CRDN’s territory. A limited number of community members were involved in one-on-one map biography interviews and a series of thematic maps were produced depicting documented geo-spatial data. The focus of that initial research effort was related to a proposed oil sands development proposed west of Descharme Lake in areas along the Saskatchewan – Alberta border. CRDN Indigenous use and knowledge information contributed by CRDN elders, knowledge holders and land users were categorized into the following thematic areas:

- Dene Place Names
- Settlements
- Gathering Places
- Camps
- Cabins
- Rest Spots
- Land and Water Based Travel Routes
- Hunting
- Fishing
- Trapping
- Berry Harvesting
- Plant Harvesting
- Medicinal Plant Harvesting

While the focus of this research was not on the Project area, this initial survey confirmed historical and current use of the Project area for a variety of activities integral to the exercise of Treaty rights. This research confirmed what is well known in the community: that Patterson Lake forms an important area for our members. As this assessment process proceeds, CRDN intends, with the support of the CNSC and

the proponent, to conduct specific research to inform the assessment of the impacts of this Project on CRDN Treaty rights, cultural heritage and the current use of lands for traditional purposes.

#### **4.0 Comments on Project Description**

At this stage, CRDN has not been provided capacity funding in order to allow it to provide technical review of any of the engineering or technical elements of the Project. Accordingly, for these comments, we have focused on two higher level concerns. First, CRDN is concerned that the scope of Project is being described inaccurately – CRDN's perspective is that there is at least one additional adjacent mining area that is likely to be developed in a way that will extend the Project's footprint, impacts and operational life. Second, CRDN is concerned that the Project description contains essentially no information about the potential impacts of the Project on Aboriginal groups, including on CRDN's exercise of Treaty 8 rights.

#### **4.1 Description of Project and Project phases**

The regulation under *CEAA, 2012*<sup>1</sup> sets out the required information to be included in the Project Description. This includes the requirements (in sections 7 – 11) that the Project Description describe “all physical works that are related to the project”, “all activities to be performed in relation to the Project” and “anticipated phased of and schedule for” the construction, operation, and decommissioning of the project.

The Project Description provides a description of elements relating to the proposed mine and mill, and provides a proposed schedule for each phase (at Table 2.2-1). At this stage, CRDN does not have the capacity to review the technical sufficiency of these descriptions, but we do have a concern that this description has omitted consideration of an additional mine which may be proposed immediately adjacent to the Project.

CRDN has been made aware of exploration activities undertaken by Fission Uranium Corp at Patterson Lake, immediately adjacent to the Project. At this point, we understand that there are ongoing feasibility studies associated with those uranium

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<sup>1</sup> Prescribed Information for the Description of Designated Project Regulations (the “Regulation”)

deposits, but CRDN's concern is that the development of an additional mine at this site is inextricably linked to the Project proposed by NexGen. We have two related concerns in this regard. First, the addition of this mine would increase the lease area and footprint of industrial activity around Patterson Lake, causing more sizeable disturbances to CRDN's exercise of rights. Second, the addition of that mine is likely to change the proposed schedule for phases of the Project – in particular, it is highly unlikely that a new mill would be constructed to serve the prospective Fission Project, and if NexGen's mill is used, the time horizons for this Project are likely to be extended considerably.

While CRDN acknowledges that Fission has yet to provide a project description, our position is that it is not premature to request that the CNSC consider the potential *combined* impacts of these two reasonably foreseeable projects, given the proximity of these projects and the likelihood that these projects will be developed either simultaneously, or in very close connection to each other. The risk in the narrow description put forward by NexGen is that the assessment will be scoped overly narrowly, and thereby underestimate the potential impacts on the environment and on CRDN's Treaty 8 rights.

In addition to this, the Project Description is impermissible vague in relation to proposed facilities and activities relating to power generation. NexGen notes that the substantial power requirements of the Project will be met through on-site diesel generation or via some alternative based on gas generation or a renewable energy source. CRDN is of the view that how power is produced and is delivered to the Project site is a relevant issue. The power option eventually selected will have an attendant array of Project effects and potential impacts on CRDN's rights and practice of culture in the Project area and areas in the vicinity of the Project. Thus CRDN is of the view that additional detail should be made available at the Project Description stage rather than what has been provided which amounts to little more than a vague reference to power options. The Regulation requires a description of project elements and the assessment of this Project will require information on power component alternatives or alternate means of carrying out the Project. The Project Description's current exclusion of sufficient detail

defeats the purpose of filing an adequately detailed Project Description and the Act itself.

#### **4.2 Information on effects on Aboriginal peoples**

Section 19 of the Regulation requires that a project description include:

Information on the effects on Aboriginal peoples of any changes to the environment that may be caused as a result of carrying out the project, including effects on health and socio-economic conditions, physical and cultural heritage, the current use of lands and resources for traditional purposes or on any structure, site or thing that is of historical, archaeological, paleontological or architectural significance.

The proponent purports to comply this requirement through sections 3.8 and 4.0 of the Project Description. CRDN's overarching comment is that these sections provide essentially no information on the potential effects of the Project on CRDN, which is the closest Indigenous community to the Project. These sections demonstrate that the proponent has not sought to gather or consider information from CRDN regarding traditional land use, cultural heritage, human health community needs and interests and/or archaeological sites.

In section 3.8.1, the Proponent states that "the Project's remote location and the lack of public access mean that activities in proximity to the Project are somewhat limited." This statement, intended to diminish the potential effects of the Project, fails to account for CRDN's historic and current use of the Patterson Lake area for the exercise of Treaty 8 rights by CRDN members. The proponent's statement that the "public" lacks access to the Project area is misleading and this narrative stands in stark contrast to the intense historic and ongoing / current use activities by the CRDN community. CRDN members, as beneficiaries of Treaty 8, have the right to carry out their way of life, including through carrying out hunting, fishing, trapping, gathering and other incidental activities to all lands, both Crown and private, that have not been put to a visibly incompatible use. CRDN members, historically and currently, access the Project area and immediate

vicinity, to exercise rights. Indeed, since the construction of 955, the Project area has become much more easily accessible by CRDN members.

The proponent's summary of potential effects of the Project on land and resource use (4.2.6) is similarly devoid of any information that could be relied upon by regulators, at this stage, to understand the scope of potential impacts on CRDN. In particular, this section does not provide information on the types of impacts that might occur as a result of, for instance:

- the exclusion of CRDN members from the lease area;
- impacts on wildlife and fish habitat from construction and operations activities;
- long term exclusion of land users from the Project area during decommissioning and closure;
- degradation of habitat and species that CRDN relies upon due to increases in local population (i.e. work camps);
- avoidance of the area by CRDN members due to fears about health impacts associated with uranium mining and fears relating to management of wastewater;

Instead, the Project description appears to only acknowledge the possibility that workers (assumed to be derived from non-local population) may also hunt in this area (and the proponent states that restrictions on hunting by personnel may be inferred). The potential impacts of this project are plainly not confined to increased hunting competition from workers, yet the Project Description does not attempt to offer additional information on the potential effects of this project on Aboriginal peoples. It is apparent that the Project has been designed and proposed without considering the potential impacts on CRDN or other Indigenous groups. The proponent should be directed to engage with CRDN to understand these potential impacts so it may provide the information required pursuant to the Regulation.