



October 28, 2022

Nicole Frigault
Environmental Assessment Specialist
Canadian Nuclear Safety Commission (CNSC)
[via email: rook1@cnsccsn.gc.ca]

Dear Ms. Frigault,

Re: Comments on the draft Environmental Impact Statement (EIS) for the Rook 1 Project, proposed by NexGen Energy Ltd

On behalf of the Athabasca Chipewyan First Nation (ACFN), the Dene Lands and Resource Management (DLRM) is writing to provide comments to the Canadian Nuclear Safety Commission (CNSC) on the draft Environmental Impact Status ("EIS") for the Rook 1 Uranium Mining Project ("the Project"), submitted by NexGen Energy Ltd. As described by the CNSC¹, the public comment period gives Indigenous nations and others "an opportunity to submit their views in writing to the CNSC on the adequacy of the information presented in the EIS", as measured against the 2012 CEAA Guidelines for Preparation of an Environmental Assessment.

Please accept this letter and the appended technical reviews as ACFN's formal submission of comments on the adequacy of information in the draft EIS.

Background on ACFN Rights and Interests

ACFN has historically used all parts of their Treaty 8 area for a range of cultural practices that have been integral to its physical and cultural survival. The use of those lands for these purposes is extremely important to ACFN. The land sustains ACFN and is at the heart of their culture, traditions, identity, spirituality, and rights.

ACFN members are very concerned with ensuring the continuation of their culture and see the land as central to their ability to do so; for example, in the following quote, R. Cardinal explains how "traditional ways" and the "land" are integral to ACFN identity and culture:

¹ Rook 1 Project - Canada.ca (ceaa-acee.gc.ca)

"It is important for me to continue these traditional ways. It's been part of my family for hundreds and thousands of years. Hunting, fishing, camping, gathering food and medicines on our traditional lands, this is part of what it means to be ACFN... It's a connection to previous generations, and it's how we pass on and protect our traditional knowledge, culture and ways of being. I want to be able to pass it on to my children so that it can continue on.

"For my generation and past generations, traditional activities are very important. For the current generation, it's important to the ones that are interested in it. The future generations need accessible places to learn our culture."² (Cardinal, 2009:9)

This deep cultural connection with the land is at the root of the Dene culture and identity, and is maintained by going out on the land, practicing traditional activities, and both is informed by and continues to inform other cultural values. There is fear if lands are not protected and the young people are not taught these ways; the ACFN's Dene culture and language could be lost forever.

"The people today have to teach the young people about the traditional way of life and their culture... We often hear this from people, once our age group (Elders over 70 years of age) is gone, there's a chance that our culture, our language could be gone forever. That's a sad thing to think about let alone to see it happen... That's why when we talk about the land (we want) to protect and preserve it in order to help the young people learn about our way of life and to try to maintain the way of life in the future. We want to keep that culture alive... That will help reserve the way of life on the land."³

The land, and access to it for cultural activities, is essential for teaching cultural knowledge and language, which are necessary to sustain to "preserve and protect" livelihood.

ACFN members actively use lands within the vicinity of the Project for a variety of purposes. While carrying out their traditional harvesting activities, many older ACFN members also pass down their knowledge and skills to younger ACFN members. The importing of traditional harvesting knowledge and skills is essential to the survival of the ACFN's culture and its distinctiveness as a people. As development increases, it is becoming more difficult for ACFN to hunt, fish, trap, and gather.

The importance of land to First Nations is highlighted in the decision of Justice Smith of the Ontario Superior Court of Justice in *Platinex v. Kitchenuma et al.* (2006), 272 D.L.R. (4th) 727 at par. 80: It is crucial the nature of the potential loss (of Land) from an Aboriginal perspective. From that perspective, the relationship that aboriginal peoples have with the land cannot be understated. The land is the very essence of their being. It is their very heart and soul...

²Cardinal R. 2009, in the Court of Queen's Bench of Alberta Judicial District of Edmonton between Athabasca Chipewyan First Nations and Minister of Energy, Canadian Coastal Resources Ltd, Standard Land Company Inc., and Shell Canada Ltd, Affidavit # of R. Cardinal sworn January 30, 2009 Action No. 0803 17419, Edmonton Registry.

³Focus Group PA-1, 2009 ACFN Land Use Plan-Preservation Areas Study Focus Group PA-1, Fort Chipewyan, Alberta October 15 and October 19, 2009. Transcript in possession of ACFN IRC, Fort McMurray, Alberta.

Aboriginal identity spirituality, laws, traditions, culture, and rights are connected to and arise from this relationship to the land. This is a perspective that is foreign to and often difficult to understand from a non-Aboriginal viewpoint.

It is in this context that Chief Allan Adam, in ACFN's April 28th, 2009, submission to the House of Commons Committee on Environment and Sustainable Development (Appendix A) said that:

"It is important for you to understand the nature and severity of the impacts of industrial activity on our rights and on our communities. We have traditionally relied on the land and water to sustain ourselves and to carry out our livelihood. This is what was promised to us in Treaty 8; that we would be able to continue to live and exist as we had before we entered into Treaty. Industry development has caused adverse impacts to our rights to our health and to the environment and ecosystem on which we rely". To name some examples, that development has taken away lands on which we rely. It has caused the fragmentation of wildlife and fish; it has blocked our access to our Traditional Lands; it has depleted water bodies; and it has largely destroyed the delta of the Peace and Athabasca Rivers. As more of our lands are taken up for development, there are fewer and fewer places where we can take our children and grand-children to teach them our culture and way of life. Without a sufficient land base to exercise our rights and pass down our culture, we slowly lose our ability to be ACFN people. While this may be hard for non-aboriginal people to understand, for us these issues are critical to our survival.

It remains crucial that ACFN maintains active, undisrupted use of, and ties to, its traditional territory – and to specific cultural areas in the traditional territory.

ACFN has deep-rooted connections, many members came from the area of the proposed Project and there are strong ties to local First Nations in the area, as Fond du Lac First Nation was once a single band with ACFN. ACFN's reserve lands of N.22 are impacted by this project and our membership uses this area on a regular basis. They use this land to practice their traditional way of life and exercise their treaty rights.

Given ACFN's long-standing ties to, and continued use of, this part of its traditional territory, ACFN has undertaken this endeavor to better understand the Project and identify anticipated impacts on ACFN's lands, waters, and Treaty Rights. Unfortunately, ACFN was not able to conduct a thorough examination of the Project Information, a complete review of the EIS, and inform itself of the full extent of impacts, due to issues and flaws in the Consultation Process.

Issues with the Consultation Process

ACFN was prevented from fully participating in the consultation process. Several Issues include but are not limited to:

- The Proponent has made no effort to meet with ACFN (including DLRM, Leadership, and the community) to provide a project overview and other information.
- The Proponent has not provided ACFN with the opportunity/capacity funding to undertake technical reviews and supporting studies.
- The Proponent has used an inaccurate consultation map in the initial engagement report

- The Proponent, does not provide the DLRM office with capacity funding at this time

Upon reviewing the EIS for the Project please note that the proponent failed to fund a fulsome technical review. ACFN was also not provided capacity funding to undertake a full Traditional Land Use and Indigenous Knowledge study. The EIS incorporates indigenous concerns from those the Proponent declared a "Primary Indigenous Group," but did not include ACFN which has, as highlighted above, significant ties to the area in which the proposed Project will be operating.

A reasonable consultation process would have occurred as follows:

- ACFN would have reviewed earlier project and assessment information from NexGen, which would have allowed ACFN to identify anticipated impacts at a time when NexGen could have included these in the assessment and worked to address them through changes to project design and/or specific mitigation
- ACFN would have been provided capacity funding to undertake a full Traditional Land Use (TLU) and Indigenous Knowledge (IK) study, and provided this to NexGen – again, at a time when the IK information could have informed NexGen's assessment. More importantly, the IK and Use information would have formed the basis of discussions with ACFN on specific avoidance and mitigation measures

As stated above, ACFN's ideal/preferred Consultation Process did not occur. ACFN has moved forward with focused technical reviews, using funding from CNSC only. The funding provided by the CNSC was not sufficient for a full technical review to address all concerns. From this initial review of the NexGen Rook 1 Draft EIS, ACFN concludes that the project will adversely, and likely irreversibly, impact the health (quality) and abundance (quantity) of resources (incl. water, land, plants (berries and medicines), fish, birds, and animals in the area, and ACFN's use and consumption of these.

Overview of ACFN Technical Reviews of the Draft EIS

Using available funding from CNSC only, ACFN commissioned the following initial technical reviews, submitted as appendices to this letter:

- Hydrology technical review by Aqua Environmental Associates (AEA)
- Surface water and sediment quality review by Thompson Aquatic
- Toxicology technical review by Integrated Toxicology Solutions (ITS)
- Vegetation, wetlands, reclamation, and wildlife technical review by Management and Solutions in Environmental Science (MSES)
- Indigenous knowledge internal review conducted by ACFN's Dene Lands and Resource Management (DLRM)

As funding was limited, complete reviews were not undertaken, and this initial technical review is not a comprehensive overview of anticipated impacts brought with the proposed Project.

CNSC funding was not used to cover staff's time for this effort. It is to be noted that not all sections were covered due to lack of capacity funding. At the time of writing this, NexGen has not provided capacity funding to DLRM. In the same way that a TLU/IK study would bring forward vital ACFN-specific knowledge and use information for the proponent, ACFN expects that technical review of the entire application would identify additional gaps and deficiencies in NexGen's EIS.

ACFN Position/Requests

ACFN concludes that there are several gaps and deficiencies in the EIS, as documented in the appended technical reviews. These gaps and deficiencies are evidence that the required assessment of impacts has not been undertaken, and further, the impacts on ACFN's lands, waters, resources, and use of these are not understood, let alone fully assessed and addressed. This is, in part, due to flaws in the consultation process.

Only at that point can ACFN and NexGen begin to update the EIS and the project itself with ACFN's information, upon which discussions to identify effective avoidance and mitigation measures can be based.

Closure

Given that ACFN's constitutionally protected rights are at stake and given the rapidly diminishing ability of ACFN members to exercise their rights within their Traditional Lands, it is submitted that the Applications should not be approved. We also reserve the right to bring forward further concerns as they arise. Today, however, based on the inadequacies in the EIS and the anticipated and likely impacts of the project on ACFN, **ACFN wholly objects to the proposed NexGen Rook 1 Project.**

Sincerely,



Lisa Tsessaze
Executive Director, DLRM

- cc. ACFN Chief and Council
Maggie Farrington, ACFN CEO
Sherelyn Caderma, Director, Aboriginal Consultation Unit, Ministry of Government Relations, Government of Saskatchewan