



# PETER BALLANTYNE CREE NATION

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March 03, 2023

Ms. Jes Way  
Environmental Assessment Officer  
Canadian Nuclear Safety Commission  
Email: wheelerriver@cnsccsn.gc.ca

**Re: Denison Mines – Wheeler River Project**

## **Comments of the Peter Ballantyne Cree Nation on Draft Environmental Impact Statement**

Dear Ms. Way,

### **Preliminary Issue**

Peter Ballantyne Cree Nation (PBCN) has had a limited opportunity to conduct an initial review of the Denison Mines Ltd (Denison) proposed Wheeler River Project (Wheeler or Project) draft Environmental Impact Statement (dEIS) due to the fact that it was initially excluded from consultation. Although PBCN acknowledges and appreciates the opportunity to submit its views on the adequacy of the information presented in the Wheeler dEIS it has concerns regarding the adequacy of the aboriginal consultation undertaken to date by Denison and the Canadian Nuclear Safety Commission (CNSC) in respect of Wheeler.

It is understood that cooperation with Canada's Indigenous peoples with respect to Environmental Assessment (EA) is one of the purposes of the CEAA 2012. The CNSC ensures that its EA and licensing decisions uphold the honour of the Crown and consider Indigenous peoples' potential or established Indigenous and/or treaty rights pursuant to section 35 of the Constitution Act, 1982.

Both Denison and CNSC indicate they have fulsome aboriginal engagement policies and guidelines and appear to be undertaking their delegated Crown duty to consult in good faith, as informed by those policies, principles, legal and regulatory requirements. However, there has been an initial error in the assessment, by both Denison and CNSC, of the indigenous communities that should be considered an indigenous community of interest for purposes of consultation on this Project. PBCN was erroneously excluded from indigenous engagement, ostensibly due to distance from Wheeler and a lack of understanding of PBCN lands and indigenous activities potentially impacted by the Project.

PBCN is an Indigenous community that must be consulted having regard to the decided law, the provisions of CEAA 2012 and Dennison's own criteria. PBCN meets nearly all of Denison's stated criteria to evaluate Indigenous communities located in the Saskatchewan Northern Administration District that would be engaged by Denison. Wheeler falls within PBCN traditional territory, where traditional land use activities have historically been and are currently practised. For the record:

- PBCN territory encompasses Treaty 10.

- PBCN has potential or established Indigenous Rights within the Project Area.
- PBCN community of Southend is proximate to the Project having regard to conditions and the geography of Northern Saskatchewan. Southend is 185 km away, in a straight line, from the Project.
- PBCN has known traditional territory and has exercised aboriginal rights in and around the Project site.
- PBCN not only has the potential to exercise its Indigenous/Treaty Rights in proximity to the Project but is currently doing so.

PBCN is of the view that this lack of understanding, among Denison and CNSC, concerning PBCN's territory and the exercise of its Indigenous rights has impeded engagement during the early stages of the Wheeler regulatory process. This may be due in part to the Covid-19 pandemic challenges or misplaced reliance on communication with an umbrella organization like the Prince Albert Grand Council, that does not have authority to outline individual First Nation lands and interests and potential impacts. Regardless of the reason, the engagement process must be honoured to ensure that the PBCN is properly consulted with respect to the proposed Project.

One starting point to redress a failure of engagement is to assist Denison and the CNSC to better understand the nature and scope of PBCN lands and treaty and aboriginal rights and uses. To this end we have attached a map indicating the traditional territory and some uses by PBCN. This document is a working draft and we request that you retain it in confidence consistent with CEAA guidance to protect the Indigenous knowledge and to allow us to jointly discuss management and disclosure of this information.

Although the Wheeler regulatory review is underway, the PBCN intends to engage with CNSC and Denison to share our perspectives on how PBCN interests may be impacted by Wheeler and how the impacts can be addressed.

PBCN's goals are to:

- Work together with Denison in a spirit of mutual respect to cooperate to collectively identify means to avoid, mitigate, or otherwise address potential negative impacts of the Project on PBCN's territory and the exercise of its Indigenous rights and interests.
- Participate in a funding agreement with Denison to facilitate and support PBCN participation and meaningful engagement in the EA process.
- Meet with CNSC and Denison to share PBCN knowledge of its land, and Indigenous uses, and how these may be impacted by the Project and methods to address any adverse impacts.
- Explore employment and job opportunities related to the Project.
- Establish a shared understanding of how PBCN would like to be engaged in the regulatory review including, but not restricted to, timely project updates, information and an opportunity to discuss concerns throughout the EA process, including the review of the dEIS, CNSC staff's EA Report, and other project-related documentation.

We understand that the CNSC, with the support of the federal-Indigenous Review Team, will engage in an EIS technical review. PBCN's intention is to participate fully in the ongoing Wheeler regulatory review.

The following PBCN comments are in response to the 90-day public comment period on the dEIS. They provide background on PBCN and our initial perspectives, as a treaty and aboriginal rightsholder, on issues arising from Denison's dEIS.

### **PBCN Background, Rights, and Interests**

The Peter Ballantyne Cree Nation has a number of concerns about Denison's proposed uranium mine development that it would like to discuss with Denison and CNSC. These include potential adverse environmental and socio-economic impacts to PBCN members, lands and uses, including hunting, fishing, and gathering, in all seasons, throughout its territory.

The PBCN has occupied lands and waters in Northeastern Saskatchewan and Northwestern Manitoba since time immemorial. PBCN is a signatory to Treaty 6 and its traditional territory spans all of Treaty 10 and a portion of Treaty 6. The Project is located on Crown land with the nearest PBCN community located at Southend Saskatchewan (approximately 185 km, in a straight line).

Within Saskatchewan, PBCN traditional hunting, fishing, and gathering territory extends from the Saskatchewan/Manitoba border west to Trade Lake, north to Reindeer Lake and south to Sturgeon Landing. The PBCN territory located within Saskatchewan is critical to sustaining the culture, lifestyle and traditions of PBCN and its members. Not only do PBCN members currently rely on the right to harvest fish, wildlife and plants for subsistence purposes, our members have harvested wildlife as a traditional economic resource activity in all seasons throughout our territory.

Under our treaty, PBCN members also have the right to sustain cultural practices, lifestyle and traditions by preserving and accessing heritage resources such as: access to migration routes, waterways; trap lines and/or subsistence trapping of fur-bearing animals; traditional medicines; raw materials such as bark, wood, stone, bone, fibers and dyes; place names, stories and where they connect with the land; preservation of camps, trails, caches, sacred and burial sites; traditional knowledge; and archaeological and historical sites.

A full and accurate description of PBCN's rights and interests is an essential part of the Wheeler dEIS and is necessary to ensure a fulsome environmental assessment. PBCN is interested in the opportunity to collaborate with Denison Mines to comprehensively identify PBCN's rights and interests that may be impacted by the Project.

### Engagement with PBCN

It is PBCN's expectation that inclusion of Indigenous Knowledge in the EIS should not be limited to a description of land uses but should contribute to all valued components where relevant information is shared or provided. The Wheeler dEIS, as submitted, fails to include PBCN territory or land uses proximate to the project and regional study areas.

Meaningful engagement requires an "exchange of views" (R. v. Sparrow, 1990, SCC 104, at 1114). CNSC and Denison must provide a reasonable amount of time for the identification and analysis of potential adverse impacts of the Project including cumulative effects on PBCN territory and PBCN members exercise of their Indigenous rights. This must include adequate engagement with PBCN on mitigation strategies to address these impacts. Currently neither Denison, the CNSC or PBCN have the necessary information to adequately, and mutually, understand the potential adverse impacts, the severity of those impacts, proposed mitigation, and residual effects.

We ask the CNSC to ensure that its review timelines be adjusted, as required, to ensure fulsome participation by PBCN with the proponent and the regulator, going forward.

### Preliminary Concerns

PBCN has concerns regarding potential impacts to Valued Components including but not limited to water quality, fish, wildlife, aquatic vegetation, Human health, country food consumption, resource use, and socio-economic factors.

Areas of specific concern are:

- Potential impacts to the landscape as a whole, including aquatic and terrestrial environments.
- Effects on the growing/carrying capacity of both aquatic and terrestrial environments for Country Foods because of potential changes to the landscape including the risk of introduction of contaminants.
- Potential accident/spills impacts on the harvesting of plant specific country foods.
- Limitations to access lands for country food harvesting due to mining traffic or operation of the mine.
- Denison's proposed use of freshwater from Whitefish Lake.
- Potential impacts to boreal shield woodland caribou.
- Treatment of mine contact effluent associated spills containment, and the anticipated downstream impacts. PBCN has a specific interest in the potential impacts to the interconnected waterbodies that PBCN relies on in the exercise of its indigenous rights.
- Socio-economic impacts that may result from the Project, including a 300-person construction camp, and a 180 person operations camp and related impacts to vulnerable populations.
- Lack of detail on the proposed means and haul route of yellowcake product to market.
- Employment opportunities for PBCN members and procurement opportunities for PBCN Group of Companies.
- Ensuring PBCN participation in the development and execution of the long-term environmental effects monitoring and follow up programs.

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PBCN would like to work collaboratively and efficiently with Denison to develop a shared understanding of PBCN impacts and interests. Our common goal is to ensure that the Wheeler regulatory review will result in an environmentally responsible and sustainable Project. This cannot be accomplished without active engagement with PBCN including appropriate capacity funding. Though Northern Saskatchewan is often characterized as remote, it is de facto an interconnected ecosystem that PBCN relies upon for its continued environmental, social, and economic wellbeing. We look forward to working together with Denison and the CNSC to build mutual understanding and support for the Project.

Sincerely,

Signature Redacted

Ben Merasty,

Executive Director

c.c. Ted Merasty, Director of Lands and Resources PBCN

Patricia McCunn-Miller, President Blue Bridge Energy Ltd