



May 13, 2025

## **Duncan's First Nation Comments on Peace River Nuclear Power Plant Initial Project Description**

### **Introduction: Duncan's First Nation and overview of Peace River context**

The Indigenous group now known as Duncan's First Nation ("DFN" or the "Nation") use the lands and waters in our Traditional Territory to hunt, fish, trap, gather, and support other important cultural practices and activities. These lands and waters center on the Peace River area and have shaped DFN's unique identity and way of life as an Indigenous People, including our language, economy, culture, and spirituality.

In 1899, the Crown sought the agreement of DFN's ancestors to open the region up to non-Indigenous persons for settlement. In return, the Crown promised that DFN would be ensured the right to carry on our way of life free from interference as well as the rights to hunt, fish, trap, and gather natural resources in our Territory. These solemn promises induced DFN's ancestors to enter Treaty 8.

The Crown has not lived up to its obligations under Treaty 8. Since the signing of the Treaty, first the federal Crown and later the provincial Crown have engaged in a pattern of conduct that has significantly diminished the Nation's rights to hunt, fish, trap and harvest.

DFN has been reporting the diminishment of our ability to practice these rights and the related cumulative impacts in our Territory from various activities including in-situ bitumen, shale oil and gas, pipelines, forestry, agriculture, residential development, mining, and other activities. Despite these reports, neither Crown has taken action. DFN continues to reach out to the Government of Alberta ("GOA"), the primary land and resource decision maker in DFN's Territory, to collaborate with DFN to create a fair and defensible process to address the factors which have led to the infringement of DFN's rights. As of the summer of 2022, no substantive or meaningful response was forthcoming from the GOA. As a last resort, DFN brought a treaty infringement action that year, claiming breach of Treaty 8 (the "Claim").

The Claim asserts that the Crown has breached the Treaty by authorizing so much development and enacting hunting regulations and other restrictive laws that DFN's rights have been meaningfully and substantially diminished.

DFN engages with Energy Alberta (or the "Proponent"), the Impact Assessment Agency of Canada ("IAAC"), and the Canadian Nuclear Safety Committee ("CNSC") in the context of this Claim.

### **Energy Alberta's proposed Peace River Nuclear Power Plant project**

Energy Alberta's proposed Peace River Nuclear Power Plant ("PRNPP" or the "Project") would have significant impacts on DFN's lands, waters, and pose potential human health risks to its people. The proposed western nuclear facility site would be located approximately 53 km from DFN's Brownvale reserve on the west side of the Peace River and approximately 54 km from DFN's William Mackenzie IR and cultural hub project area on east side of the Peace River. The



eastern site, if selected, would be approximately 55 km from DFN's Brownvale IR on the west side of the Peace River and under 50 km from DFN's William Makenzie IR and cultural hub project hub on the west side of the Peace River. In summary, both project sites and the core assessment area can be considered proximate to DFN.

The potential impacts and risks associated with the PRNPP, and the fact that this kind of project has no precedent in Alberta, necessitates a rigorous and comprehensive assessment process. Further, it has been decades since Canada's nuclear industry has attempted a new build ("green field") nuclear generating plant in Canada. No CANDU MONARKs have been constructed or are in operation. Accordingly, this process must go beyond minimal regulatory requirements. The constitutional, common law, and statutory obligations owed to DFN must be meaningfully fulfilled. It is imperative that a process be established that provides DFN's members with the information necessary to seriously consider the proposal and to determine whether or not to consent to the Project.

### **The Project engagement process so far**

DFN has participated in two general online information sessions about the Project, one in the fall of 2024 and one in the winter of 2025. On March 17, 2025, DFN provided a memorandum to Energy Alberta regarding DFN's presence on the land, and outlining DFN's expectations, interests, and objectives for engagement regarding the Project, setting out many initial questions and concerns, some of which are restated below. This memorandum was also provided to the IAAC and CNSC. DFN clearly set out our interest in being heavily involved in the assessment of this geographically proximate Project. DFN also offered to meet with IAAC and CNSC at that time. We have now scheduled our first meeting between DFN and IAAC and CNSC on May 16, 2025.

Most recently, IAAC has requested DFN comment on the Initial Project Description ("IPD") for the Project. As we have communicated in prior correspondence and in meetings, DFN has not been offered sufficient time or capacity funding to engage on the IPD or engage the experts whose advice is critical to DFN's meaningful participation in the project. Given the scope and complexity of this proposed Project, DFN requires a team of qualified, independent experts with the relevant expertise to properly review and advise us on this document and to provide support throughout the impact assessment process. This engagement process so far has been extremely rushed and does not remotely meet the level of involvement that DFN expects from such a significant proposal in our Territory.

Despite these time and capacity restraints, DFN provides the following comments. It should be noted that the following comments regarding the IPD are preliminary and do not represent a rigorous or comprehensive assessment. DFN intends to continue its review of the IPD and will be raising additional issues as we engage experts to review the proposal. These comments should not be taken as DFN's comprehensive submissions on the IPD.

### **Duncan's requires engagement beyond consultation**

DFN must be involved in developing the impact assessment as a co-administrator, not just as an Indigenous group to be consulted. The storage and disposal of hazardous materials on any Indigenous Peoples' lands or territories requires free, prior, and informed consent ("FPIC"), per



Article 29(2) of UNDRIP, as enshrined in Canadian law.<sup>1</sup> A recent federal court decision has made it clear that UNDRIP is applicable to CNSC decisions.<sup>2</sup>

As the proposed nuclear reactors and related radioactive waste storage facilities are proposed within DFN's Traditional and Treaty Territory, DFN intends to exercise its consent-based decision-making process in relation to this proposed Project. The rights recognized in UNDA are a "minimum standard"<sup>3</sup> that Canada has committed to implementing "without qualification".<sup>4</sup> The recognition of the right of FPIC regarding hazardous wastes cannot be limited to hosting deep geological repositories. All radioactive waste is hazardous, and Indigenous Peoples on whose Territory proponents intend to store nuclear waste are entitled to the right of FPIC. The wastes that would be produced by this Project do not yet have a final disposal solution, and as such, it is likely the wastes would be stored at the site for many decades to come, and potentially forever.

As outlined above, the process so far has fallen well short of the level of involvement DFN expects to have in this Project. DFN is prepared to work with IAAC and CNSC to develop a process to secure DFN's FPIC for this Project.

Beyond developing a consent-based process that empowers DFN's members to decide whether this Project should proceed, DFN expects to co-develop the assessment methodology, including how to determine whether:

- a mitigation measure is technically or economically feasible, and how technical or economic feasibility is defined;
- a mitigation measure is appropriate;
- an effect is significant; and
- significant effects are justified.

These are all key benchmarks under the purview of the IAAC, and DFN must be involved in developing these parameters.

Further, DFN requires adequate capacity funding from both IAAC and CNSC. As indicated previously, \$5,000 for comments on the IPD does not allow DFN to hire technical experts to assist, which is a vital component of DFN's meaningful engagement in this process. As holders and stewards of these lands, this proposal will require our Nation to invest significant time and resources into considering the potential impacts of nuclear development. It is essential that IAAC and CNSC provide the necessary financial support to reduce this burden we are now being asked to carry.

In addition, DFN requires longer windows to respond to key documents like the Tailored Impact Statement Guidelines and the Indigenous Engagement and Partnership Plan. Thirty days is insufficient time to get expert advice, consider, and provide feedback on these foundational

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<sup>1</sup> *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c 14 [UNDA].

<sup>2</sup> *Kebaowek First Nation v Canadian Nuclear Laboratories*, 2025 FC 319.

<sup>3</sup> *United Nations Declaration on the Rights of Indigenous Peoples (A/RES/61/295)* at Art 43 ("UNDRIP").

<sup>4</sup> C. Bennett, Speech delivered at the United Nations Permanent Forum on Indigenous Issues, New York, May 10, 2016 (Online).



documents that will inform the rest of the Project. DFN would like to discuss with IAAC about what it can do to ensure the assessment is not rushed and that its quality and integrity are not compromised. The scope of the upcoming assessment is critical to all parties and should the scope and level of assessment fail to meet the high standard of conduct required by the Crown and its regulators, the Project and any related approval will be subject to challenge. There are key strategic issues which are unique to this region and DFN which must be dealt with at the early strategic planning phase of the Project review and before the issues and the scope of the assessment are decided. A faulty assessment scope would lead to a faulty assessment and eventually a flawed project decision.

### **DFN's preliminary concerns**

As described above, DFN takes the position that this Project is being proposed in a territory that has been subjected to considerable development and human activity. As a result, DFN takes the position that any increase in cumulative risks and impacts should be mitigated or balanced, with reductions elsewhere to result in no increase in risks and impacts. Considering what might be within acceptable bounds is not enough: the Crown, regulators and proponents must work with DFN to develop both interim and longer-term collaborative strategies, measures and actions which address the cumulative impact of development and this Project's contribution to further impacts on DFN's rights, culture and way of life.

DFN is extremely concerned about the effects of the Project on our traditional land use, culture, and way of life. DFN has not had sufficient opportunity to analyze the potential impacts of the Project—in fact, the proponent has provided very little information regarding the anticipated impacts of the Project. It is clear, however, that there will be significant impacts to the aquatic and terrestrial environment, resources on which DFN members rely to exercise their rights, and to the socio-cultural and economic context of the local community. Below we have outlined some major gaps in the IPD that DFN would like to work to address with Energy Alberta, IAAC, and CNSC.

The Project would be the first nuclear generating plant to be proposed and constructed in western Canada and Alberta. DFN is extremely concerned about nuclear safety. New nuclear project proposals cannot be considered without a comprehensive analysis of safety and risks. DFN would like to emphasize the importance of assessing and addressing the risks of accidents, malfunctions, the threat of terrorism that comes with hosting nuclear facilities, and the devastating impact that any such incident would have on DFN territory and community.

From DFN's perspective, this Project only presents risks, with no known benefits.

DFN is interested in working with Energy Alberta, Crown agencies and regulators to learn, understand, assess and address:

#### *Impacts to DFN's Treaty rights*

- how the Project's construction and long-term operation could adversely impact our rights, culture, and way of life;



- DFN traditional land use in and around the proposed Project sites to understand the strength and nature of DFN's Aboriginal and Treaty rights and the community's perspective on the impact to these rights;
- what the full nature and scope of the Project's impacts will be on the ecosystem which our rights, culture and way of life are predicated upon and depend;
- if and how the Project could act in a manner to deepen and reinforce the existing and ongoing cumulative effects and impacts of development, which we assert has resulted in a significant or meaningful diminishment of our rights;
- how will DFN knowledge will be meaningfully recognized and integrated into the impact assessment process;
- how the introduction of up to 4800MW in energy and generating capacity could give rise to and shape other projects and development trends within DFN's Traditional Territory and impact DFN's Territory;

#### *Socio-economic impacts*

- the impacts on our rights, culture and way of life from the introduction of a substantially larger local workforce and population who will want to take advantage of recreational opportunities in DFN's Traditional Territory (e.g. hunting, fishing, camping, ATV trail riding and access, back country access etc.) and what measures could be employed to limit and offset this;
- how the impacts from an increased workforce and the safety risks they pose to Indigenous women and 2SLGBTQI+ peoples will be identified, assessed, and mitigated;
- what the impact of increased workforce be on the cost of living for DFN members (e.g. housing, food, services, land availability etc.) and how this uplift in rising costs could be offset;
- how interested DFN members, who currently do not have the requisite education and skills for the Project, could be employed in the plant's construction and operation and what measures and programs could be put in place to ensure a high level of DFN participation;
- what procurement strategies would be implemented to promote Indigenous economic opportunities;

#### *Nuclear safety*



- comprehensive consideration of nuclear safety and risks from the Project not just from the western scientific perspective, but in accordance with the perspectives of the Indigenous Peoples who are the stewards of these lands;
- how the need for expanded emergency response resources and capabilities – specific to nuclear projects – will be addressed, including with respect to wildfires and challenges associated with water shortages;
- the risks the Project potentially poses to our members' health, including mental health, and safety as well as our neighbouring Indigenous relatives and non-Indigenous neighbours;
- what unknowns or areas of uncertainty (and areas of diverging scientific and academic views) exist in respect to the safe long-term operation of CANDU nuclear technology / assets;
- what risks would the Project potentially pose to our members' health and safety in the event of an accident, malfunction, or catastrophic failure;
- what operating system features, redundancies, and back systems could be employed (in accordance with regulatory standards and over and above regulatory standards) to reduce the risks to the plant's infrastructure and operations from serious accidents and malfunctions and catastrophic events or failure;
- the risks posed by natural and human induced seismicity in the region to the Project's infrastructure, operation and what mitigation options and strategies might be employed to lower human incidence seismicity in the region and Project area;
- how long and under what conditions the radioactive waste produced by this Project will be stored in DFN's Territory;
- how long and under what conditions other hazardous materials produced by this Project may be stored in DFN's Territory;
- what the long-term impacts will be on DFN members who use this stretch of the Peace River and valley, benchlands, and adjacent forests who may now avoid the area due to their perception of risk to themselves and the environment and a landscape significantly altered by a major industrial undertaking;

#### *Impacts to terrestrial and aquatic environments*

- how this Project could contribute to increased population growth, and subsequent increased shoreline development and other stressors on the aquatic environment;





- what risks the Project poses for the aquatic environment, including fish impingement and entrainment, and impacts to fish habitat and water quality;
- what risks the Project poses for terrestrial environment, including the plants and animals on which DFN members rely to exercise our Treaty rights;
- what the impacts from construction of this massive project and all the associated infrastructure will be;
- what the long-term projections of water quantity and flows in the Peace River watershed and the Peace River will be into the future based on varying climate change projections and whether sufficient water supply be available to safely support the Project based on a 100 year operating cycle; and
- what the downstream effects of this Project will be.

At this time, the DFN takes no position in respect to the Project. Our overall objective is to enable and empower the DFN community to make an informed decision on this major nuclear power project at the appropriate time down the road in the review and decision making process, whether that be a 'yes' or a 'no'.

We look forward to engaging with the IAAC, CSNC, and Energy Alberta in the coming days and weeks on the review of this Project.

Yours truly,

<Original signed by>

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