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**Via Email:**

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To Whom It May Concern:

**Re: Peace River Nuclear Power Plant Project  
Comments on the Summary of the Initial Project Description  
Ref No. 89430**

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Our firm is legal counsel to Whitefish (Goodfish) Lake First Nation #128 (“WLFN #128”) with respect to the Peace River Nuclear Power Plant Project. Please find attached comments on the Summary of the Initial Project Description for your review and consideration.

Yours truly,

**JFK Law LLP**

Per <sup><Original signed by></sup>

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BLF/jlw

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## **WHITEFISH (GOODFISH) LAKE FIRST NATION #128**

### **COMMENTS ON THE SUMMARY OF THE INITIAL PROJECT DESCRIPTION**

#### **PEACE RIVER NUCLEAR POWER PROJECT**

##### **1.0 EXECUTIVE SUMMARY**

This submission by Whitefish (Goodfish) Lake First Nation #128 (“WLFN #128”) comments on in an Initial Project Description submitted by Energy Alberta’s proposed Peace River Nuclear Power Plant in northwestern Alberta.

This Project gives rise to free, prior, and informed consent as the proponent is seeking to store contaminated and hazardous nuclear waste in the Peace River region (although details are not clear). Article 29(2) of UNDRIP states that the storage and disposal of hazardous materials on Indigenous Peoples’ land requires free, prior, and informed consent.<sup>1</sup> Recently, the federal court confirmed this article applies to Canadian Nuclear Safety Commission decisions.<sup>2</sup> This is a critical component of regulatory and project development that must be addressed at the outset.

In addition to procedural concerns about the application of free, prior, and informed consent, WLFN #128 has major and substantive concerns about how this Project may impact the practice of their Aboriginal and Treaty rights in the area, the local and regional ecosystem and the environment, and the socioeconomic conditions in the area. This is a major project that will fundamentally alter the region and contribute to the cumulative impact of industrial development on areas used by WLFN #128 harvesters for the practice of Aboriginal and Treaty rights.

More specifically, WLFN #128 is concerned about novel risks introduced by nuclear power. This includes the safe and effective long-term storage of contaminated and hazardous materials, the use of water, the disposal of contaminated water, and other concerns related to this industry.

WLFN #128 looks forward to a regulatory process that provides significant engagement opportunities and builds out a process to obtain free, prior, and informed consent from the rightful landholders – Indigenous Peoples.

##### **2.0 INTRODUCTION**

###### **2.1 Whitefish (Goodfish) Lake First Nation #128**

Whitefish (Goodfish) Lake First Nation #128 (“WLFN #128”) is a signatory of Treaty 6. WLFN #128’s reserve lands are located approximately 220 km northeast of Edmon. The total population of WLFN #128 is approximately 2,378 with approximately 1,778 members living on reserve.

As a signatory to Treaty 6, WLFN #128 holds Treaty rights to hunt, fish, trap, and maintain its traditional way of life “as before the Treaty” throughout Alberta, including the Project area.

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

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

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Through Treaty 6, signed in 1876, the Crown solemnly promised that WLFN #128 could maintain their way of life and would be free to hunt, trap, fish, and harvest throughout their traditional territory as they had done before entering the Treaty. The Crown also promised that descendants of WLFN #128 would be entitled to access lands and waters to exercise their Treaty rights to hunt, trap, and fish throughout their traditional territory. In addition to these rights, WLFN #128 also has rights to carry out activities incidental to the exercise of express Treaty 6 rights, such as the right to access areas for harvesting and the right to use camping areas and so on.

The Crown, in right of Alberta and Canada, must ensure that potential effects on WLFN #128's Treaty rights are properly assessed and accommodated before proceeding with activities that could have an impact on WLFN #128's Aboriginal and Treaty rights.

## **2.2 Request for Participation**

WLFN #128 was not identified as a Potentially Impacted Indigenous Nation in the Initial Project Description ("IPD"). WLFN #128 requests to be included on the list of Potentially Impacted Indigenous Nations and have full participatory rights in the regulatory process.

## **2.3 Request for Contribution Funding**

WLFN #128 requests contribution funding to support the participation in early engagement and to prepare this submission on the IPD.

## **3.0 WLFN #128 COMMENTS AND CONCERNS**

### **3.1 Project Overview**

Energy Alberta has proposed the Peace River Nuclear Power Plant (the "Project") on the banks of the Peace River in northwestern Alberta. The Project will directly impact critical lands used by WLFN #128 harvesters, exacerbate major cumulative effects concern, and increase potential risk to the lands and waterways on which WLFN #128 harvesters rely. Further, the IPD hints at two major potential concerns: (1) storage of contaminated materials in or around the project site; and (2) substantial use and subsequent disposal/recycling of water.

The initial project description describes a project with no comparison in western Canada in terms of scale of potential impact. Indigenous groups, including WLFN #128, must play a substantial role in project regulation and development to realize the positive impacts of the Project and reduce the negative impacts and potential risks.

The Project must proceed with the absolute highest level of environmental protection, diligence, and scrutiny. It must involve First Nations and Indigenous groups at every step of the way. To meet this standard requires a meaningful engagement process to obtain the free, prior, and informed consent of WLFN #128 and other impacted Indigenous Peoples.

### **3.2 Engagement to Date**

WLFN #128 was not individually notified about the release of the IPD. They are not included on the list of impacted First Nations and Indigenous groups. They have not been contacted by the proponent or the responsible government agencies as of yet. WLFN #128 has not been offered capacity funding.

### **3.3 WLFN #128 Requests to be Included as Impacted Indigenous Nation**

WLFN #128 requests to be added as a full participant to the regulatory process. We understand from the IPD that only Treaty 8 First Nations and other Indigenous groups from within the Treaty 8 area were invited to participate. An expanded consultation zone is required.

WLFN #128 harvesters have a Treaty right to hunt for food on unoccupied Crown lands throughout Alberta and have a rich traditional economy that relies on harvesting throughout the province. WLFN #128 has a traditional territory that extends far beyond the Treaty 6 boundary and includes the area where the Project is proposed.

Information gathered on other projects in the region has identified that WLFN #128 harvesters regularly harvest moose, elk, and mule deer for subsistence purposes throughout both Treaty 6 and Treaty 8. Given the extent of industrial development around WLFN #128 reserve lands and throughout Treaty 6, members have more regularly travelled longer distances to exercise Treaty rights to hunt for subsistence purposes. In this context, the Peace River region is becoming increasingly important to support WLFN #128 harvesting for subsistence purposes. Much of the harvesting throughout the Project area is conducted through family connections to Peace River.

The precise nature of this use will be documented in subsequent submissions as we gather project-specific traditional land use information.

### **3.4 Application of Free, Prior, and Informed Consent**

Article 29(2) of UNDRIP states that the storage and disposal of hazardous materials on Indigenous Peoples' land requires free, prior, and informed consent.<sup>3</sup> Recently, the federal court confirmed this article applies to Canadian Nuclear Safety Commission ("CNSC") decisions.<sup>4</sup>

Consent from First Nations and Metis groups is the bare minimum on which the Project should proceed. We look forward to developing a stronger and better understanding of this Project to ensure we can reduce any adverse impacts and expand on potential benefits for First Nations and Metis groups, including WLFN #128.

Impacted First Nations and Metis groups, the proponent, and the various federal and provincial agencies and the regulator must co-develop a process to obtain the free, prior, and informed consent of Indigenous Peoples' on whose lands the Project will operate. This is a prerequisite for a project of this kind and one that should be addressed immediately. There is no sense in

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<sup>3</sup> *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c 14.

<sup>4</sup> *Kebaowek First Nation v Canadian Nuclear Laboratories*, 2025 FC 319.

proceeding with this project without contemplating meaningful consent requirements as the regulatory process will be immediately out of step with Canadian law (i.e. out of step with UNDRIP).

#### **4.0 PRELIMINARY CONCERNS**

##### **4.1 Cumulative impacts**

The Project is being proposed in an area that has borne the brunt of industrial development and has seen substantial adverse impacts on Aboriginal and Treaty rights. For example: (1) Blueberry River First Nation successfully sued British Columbia for infringement of Treaty 8 (just on the other side of the BC-Alberta border); and (2) Duncan's First Nation sued Canada and Alberta for failure to manage the cumulative impact of industrial development on the lands, waters, and wildlife required for the practice of Aboriginal and Treaty rights in Treaty 8 territory.

Treaty 6 and WLFN #128 face similar substantial impacts to their Treaty rights in northeastern Alberta. Oil and gas mining and infrastructure, as well as other developments in WLFN #128's traditional territory, force many WLFN #128 harvesters to seek game throughout the province of Alberta, leading to harvesting in the Peace River region.

Any project that increases the cumulative risk to the viability of our Aboriginal and Treaty rights practice, and our traditional economy, must be properly mitigated to ensure no net decrease in viable land occurs and, where possible, there is a net gain in available land. One of the potential positives of the Project is more efficient energy development – both in footprint and in production. This means that other energy generating projects – those that take up a larger area and produce less energy – should be taken off the table or larger areas reserved for uses compatible with the practice of Aboriginal and Treaty rights.

##### **4.2 Impacts to WLFN #128 Aboriginal and Treaty Rights**

WLFN #128 is very concerned about the potential adverse impacts of the Project on WLFN #128 harvesting activities. The Project will: (1) take up lands for uses incompatible with Aboriginal and Treaty rights; (2) impact the aquatic environment; and (3) impact wildlife and wildlife habitat. Taken together, these impacts have the potential to dramatically curtail the use of the area for Aboriginal and Treaty rights practice, namely harvesting (plants and wildlife).

The Project does not just impact Treaty 8. The impacts will be felt by all First Nations who rely on the lands in the Peace River region for the practice of their Aboriginal and Treaty rights to hunt, trap, and fish.

##### **4.3 Nuclear Power Introduces Novel Risks**

In addition to the known impacts of taking up of lands, a nuclear project brings new and novel risks to the equation. Namely, we are concerned about the storage of contaminated materials and the mechanisms in place to ensure the safety of the waterway. Additionally, the regulators must demonstrate their proficiency to manage a project of this nature for its entire lifespan. The Project would be the first of its kind in western Canada and Alberta. It is critical that the risks of the Project to the environment, and Aboriginal and Treaty rights practice is properly understood.

#### 4.4 Additional Concerns

We understand and appreciate that the IPD is an initial document. However, there are immediate concerns that need to be addressed as the proponent prepares for the next stage of the regulatory process, including:

- (a) The Project fundamentally alters the socio-economic environment in the region. WLFN #128 wishes to understand the socio-economic effects of introducing a new industry into the region and how this may impact: industry trends, employment, cost-of-living, and other drivers of social change.
- (b) The Project introduces substantial new risks in the event of natural disasters. Forest fire, increased seismic activity, and flooding, alongside other potential natural disasters present a risk to the safe operation of a nuclear site in this area. Project information must address how the proponent and the regulator are protecting against these risks – accounting for a changing climate over the next several decades.
- (c) The Project proposes to use substantial volumes of water. The IPD highlights that the location of the Project, along the east or west bank of the Peace River, is to satisfy the Project's need for water. WLFN #128 needs detailed information about the extent of the water use, how this aligns with water scarcity management throughout Alberta, what recycling efforts are being made, and the potential risks of contamination. Additional information on the water quality and quantity in the Peace River watershed over the next several decades must be provided.
- (d) Storage of contaminated waste. The IPD states that nuclear waste will be stored on site. A proposed alternative of shipping it away from the area was deemed not to be feasible. This proposed approach requires detailed planning and, most importantly, will require the free, prior, and informed consent of all Indigenous Peoples' on whose land the proponent seeks to store their waste. The proponent needs a detailed plan for how they will obtain the free, prior, and informed consent of First Nations and Métis groups. This is a fundamental and deeply controversial component of the Project that needs to be addressed in full as soon as possible and should be addressed in the next iteration of the project description.

#### 4.5 Increased Funding Required

WLFN #128 requests full participation and funding to engage in the regulatory process in a substantial way. WLFN #128 will apply for and accept the funding offered by IAAC and any potential funding offered by the CNSC. However, we accept this funding with the caveat that the funding offered to date is inadequate for the full and complete participation of WLFN #128 in this process and an increase in funding at each stage of the regulatory process is necessary. This is particularly true given the IAAC and CNSC's obligation to obtain free, prior, and informed consent of impacted First Nations and Indigenous groups.

Any acceptance of funding offered is without prejudice to WLFN #128's ability to raise concerns about funding levels at a future date.

## **5.0 CLOSING**

The IPD leaves many unanswered questions about the Project. Most notably: (1) the lack of detailed process by which the proponent and the regulators intend to obtain the free, prior, and informed consent of impacted Indigenous Peoples; (2) no detailed proposal for how to store contaminated and hazardous nuclear waste; (3) how the Project will address cumulative impacts to Aboriginal and Treaty rights; and (4) the continued taking up of lands incompatible with harvesting. This Project has the potential to fundamentally alter the region and will require the highest level of scrutiny to ensure that all potential risks are addressed.

Thank you for your consideration of this submission.