



## Comments on Peace River Nuclear Power Project Initial Project Description

### 1. Kikino Metis Settlement

Kikino Metis Settlement is in northeastern Alberta, approximately 50 kilometers from Lac La Biche. It is one of eight Metis Settlements incorporated under Alberta legislation. Kikino is a proud Métis community with a growing population of approximately 1,100 living on Settlement today. The name Kikino comes from a Cree name meaning “Our home.”

Kikino Metis Settlement holds recognized and constitutionally protected Indigenous rights, including the right to harvest animals and plants for subsistence purposes. The proposed Project is located within Métis Harvesting Area A, an area designated for harvesting purposes under Alberta’s Métis Harvesting in Alberta Policy (2018). Many of our members have historically, and continue today, to use the Crown lands north of Grande Prairie and Peace River to exercise their constitutionally protected right to harvest for subsistence purposes. The significance of the Crown Lands found in Métis Harvesting Area A, moreover, have increased over time as the development of agriculture, oil and gas, forestry, and other sources of anthropogenic disturbance and taking up of Crown lands on and around the Settlement have forced members to travel greater distances to practice their way of life and culture and exercise their Indigenous rights.

Settlement members are concerned about cumulative infringements to their constitutionally protected Indigenous rights, including the potential incremental effects of the proposed Project. Our analysis, using the Human Footprint Inventory (HFI) data from the Alberta Biodiversity Monitoring Institute (ABMI) suggests that the areas around Kikino Metis Settlement and the proposed project are already highly disturbed by industrial activity, including at or beyond the levels of terrestrial disturbance that the British Columbia Supreme Court found excessive to support the exercise of Indigenous rights in the *Yahey* case.



As such, we respectfully request that the Impact Assessment Agency of Canada (IAAC) and Energy Alberta engage in meaningful consultation with Kikino Metis Settlement in relation to the potential cumulative and incremental effects of the proposed project to the Indigenous rights, health, and culture of our members.

## 2. General Concerns

- **Concern 1:** Kikino Metis Settlement requests that, moving forward, all references in all IAAC and proponent documents to “Indigenous engagement” be removed and replaced by “Indigenous consultation”. Indigenous peoples are not ‘stakeholders’ to be ‘engaged’ like a municipality or a private individual. They are the holders of constitutionally-protected Indigenous rights, for which Canada holds a duty to consult and accommodate in a manner that upholds the honour of the Crown. These are legally-based and legally-defined standards that the Crown and proponents are required to meet or exceed;
- **Concern 2:** Kikino Metis Settlement would like clarity from IAAC and the proponent on how they intend to discharge this duty to consult in a manner consistent with the commitments made by Canada through its ratification of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and *United Nations Declaration on the Rights of Indigenous Peoples Act* (the Act) As the recent *Kebaowek* decision makes clear, regulators and proponents must take the Act into consideration when discharging the duty to consult and accommodate and demonstrate how they the Act was incorporated into the consultation process;
- **Concern 3:** the Initial Project Description (IPD) makes numerous references to ‘respecting Indigenous decision-making’ and ‘integrating Traditional Knowledge’, yet it is unclear how any of this will be done. For Kikino Metis Settlement, ‘respecting Indigenous decision-making’ and ‘integrating Traditional Knowledge’ mean providing adequate resources for the Settlement to assess the potential cumulative and incremental impacts of the Project on the rights, health, socio-





economic status, and culture of our people, as it is impossible for the Settlement to make decisions in regards to the Project without this information, which cannot and should not simply be collected by the proponent or its consultants;

- **Concern 4:** Kikino Metis Settlement is very concerned about the assessment of cumulative effects within the regulatory process. In our view, cumulative effects are rarely considered adequately in the project-by-project assessment framework, a view that was seconded by the British Columbia Supreme Court in the *Yahey* decision. Kikino Metis Settlement is very interested in working with IAAC and the proponent to develop a meaningful framework from which to assess the cumulative effects of the proposed project, particularly in relation to the Indigenous rights of our people.

### 3. Specific Concerns

- **Concern 5:** Kikino Metis Settlement is concerned about the lack of recognition in the IPD that potential impacts to Indigenous rights will need to be assessed. Instead, the IPD refers to “Traditional Land and Resource Use” (TLRU). TLRU is only one aspect of Indigenous rights and an assessment of impacts to TLRU or its underlying environmental resources. As the Supreme Court of Canada made clear in its *Clyde River* decision, rights must be assessed *as rights*, not via proxies;
- **Concern 6:** The Settlement is concerned about the potential future impact of earthquakes to the Project. While the IPD plays these concerns down, there is evidence that earthquakes are becoming more common and more severe as a result of oil-and-gas activity, and in particular by the practice of wastewater injection from in-situ bitumen operations. Given the proximity of the Project to very high levels of oil-and-gas activity, we wish to see this concern explored much more substantially;
- **Concern 7:** The Settlement is concerned about the potential impacts of the Project to water and wildlife, given the high levels of cumulative disturbance within Métis Harvesting Area A. Cumulative impacts to water, plants, and animals is an area where



impact assessments generally do a poor job of utilizing Indigenous knowledge, despite the fact that Indigenous peoples are the ones who have been monitoring these changes uninterrupted for decades and indeed centuries. This is unlike the patchwork Western-scientific approach that dominates impact assessments, where baseline data and indicators vary greatly from project-to-project and almost never produce any clear and systematic view of cumulative and incremental effects. Kikino would like IAAC and the proponent to work closely with Indigenous peoples to develop Indigenous Knowledge indicators and baseline data for impacts to water, plants, and wildlife that can be assessed alongside and equal to Western science (which is in fact generous, since the Indigenous Knowledge, in an impact assessment process, is likely to be far more reliable);

- **Concern 8:** Kikino Metis Settlement is very concerned about the storage of radioactive and other forms of highly toxic waste from the Project. There is a lack of clarity in the IPD regarding the plans for the storage of such waste, including whether such waste will be stored on-site or shipped elsewhere. It is Kikino Metis Settlement's position that no such decisions regarding the storage of radioactive and other highly toxic forms of waste should be made without the Free, Prior, and Informed Consent of Indigenous peoples, consistent with Canada's commitments under the United Nations Declaration on the Rights of Indigenous Peoples.

#### **4. Conclusion**

Kikino Metis Settlement would like to thank IAAC for the opportunity to participate in the review of this Initial Project Description. We look forward to working with IAAC and the proponent to assessment potential impacts of the proposed Project and discharge the duty to consult and accommodate in a manner that upholds the honour of the Crown.

