From: <email address removed>
To: Peace River Nuclear Power Project (IAAC/AEIC)
<email address removed>
Subject: IAAC Funding Deficiencies
Date: Thursday, March 26, 2026 7:54:34 PM

Hallo Joe

RE: Peace River Nuclear Power Project — IAAC Registry #89430 — Formal Submission on the Structural Impossibility of Meaningful Participation — Request for Agency Response

I write as a registered intervenor in the impact assessment of the proposed Peace River Nuclear Power Project (IAAC Registry #89430) and as a resident of the Peace River region of Treaty 8 territory in northern Alberta. This letter raises a formal challenge to the adequacy of the consultation and participation process conducted to date in the planning phase of this impact assessment. It sets out six interlocking grounds on which the process has been, and continues to be, structurally incapable of producing meaningful participation as that term is defined in Canadian constitutional law. At the conclusion of this letter I ask the Agency a direct question and request a direct answer.

1. **THE LEGAL DEFINITION OF MEANINGFUL PARTICIPATION**

The word “meaningful” in the phrase “meaningful consultation” is not aspirational. It carries precise legal content established by the Supreme Court of Canada. In Haida Nation v British Columbia (Minister of Forests), 2004 SCC 73, the Court held at paragraph 46 that consultation must be meaningful “in the sense that there is a possibility of influencing the Crown’s decision.” The word the Court used was “influence.” Not attend. Not comment. Not receive information. Influence the decision. In Rio Tinto Alcan Inc v Carrier Sekani Tribal Council, 2010 SCC 43, the Court confirmed that consultation must allow the affected party “to put forward its views and have them considered” — genuinely considered, not merely received.

The Court further established in Haida Nation at paragraph 44 that “consultation that excludes from the outset any form of accommodation is no consultation at all,” and that the depth of consultation required is proportionate to the seriousness of the potential impact on Aboriginal rights. A nuclear facility proposed in Treaty 8 territory, on the Peace River, to operate for seventy years, engages the most serious possible impacts on the right to a clean environment, the right to harvest, the right to water, and the right to lands and territories protected by Treaty. The Haida Nation proportionality principle therefore requires that the quality of consultation in this proceeding be at the maximum possible

level.

The United Nations Declaration on the Rights of Indigenous Peoples, implemented in Canadian law by the United Nations Declaration on the Rights of Indigenous Peoples Act, SC 2021, c 14, reinforces this standard. Article 19 requires states to consult and cooperate with Indigenous peoples to obtain their free, prior and informed consent before adopting measures that may affect them. All three words carry independent legal content. Consent cannot be free if financial preconditions make participation inaccessible. Consent cannot be prior if the community has no opportunity to understand the project before decisions are made. Consent cannot be informed if the community lacks the resources to independently assess the technical basis of the project.
These are the legal standards against which the participation process in this proceeding must be measured. I now set out six grounds on which the process fails each of them.

2. GROUND ONE — THE COMPLEXITY OF THE SUBJECT MATTER MAKES PARTICIPATION IMPOSSIBLE WITHOUT EXPERT ASSISTANCE

The Tailored Impact Statement Guidelines issued under Registry #89430 run to eight modules. Those eight modules cover nuclear reactor safety and design, radiation protection and radiological health pathways, environmental assessment across air, water, land and biota, transboundary effects on the Peace River system, socioeconomic impacts, Indigenous rights and cultural heritage, nuclear waste management, and emergency planning. Each of those modules is a distinct scientific and regulatory discipline. A nuclear safety engineer cannot assess the environmental water quality implications of a routine radioactive discharge. An environmental hydrogeologist cannot interpret the CNSC's radiological dose assessment methodology. A Treaty rights lawyer cannot evaluate the engineering basis for the site seismic hazard assessment. No single person, and no community without sustained access to a multi-disciplinary team of technical and legal experts, can meaningfully engage with all eight modules simultaneously.

Energy Alberta's documentation does not present neutral facts. It presents facts constructed by Energy Alberta's retained technical experts to support Energy Alberta's preferred regulatory outcomes. Those facts embed assumptions — about radiation exposure pathways, about Peace River hydrology, about groundwater behaviour, about seismic risk, about Indigenous land use patterns — that cannot be interrogated, challenged, or independently assessed without equivalent expert capacity. Without that capacity, the community cannot know whether Energy Alberta's dose assessment

methodology is conservative or optimistic, whether the Peace River hydrology model accurately captures winter low-flow conditions that affect dilution of any radiological discharge, whether the tritium guideline relied upon by the CNSC reflects current science or a 2009 recommendation that Health Canada has not implemented for seventeen years, or whether the nuclear waste storage proposals create a permanent long-term liability for Treaty 8 territory.

The Haida Nation proportionality principle requires that where the potential impacts are at the maximum end of the scale, the quality of consultation must also be at the maximum end. Maximum quality consultation in a nuclear proceeding requires sustained expert access across multiple disciplines over a period sufficient to understand the issues. The community has had neither expert access nor sufficient time. The complexity of the subject matter alone, therefore, makes meaningful participation — in the sense of a genuine possibility of influence — structurally impossible.

3. GROUND TWO — THE PROPONENT RECEIVED $8,366,800 OF PUBLIC FUNDING; THE COMMUNITY RECEIVED $7,000

On March 5, 2025, the Government of Canada announced that EAC Capital Limited Partnership — the legal entity of Energy Alberta — had received $8,366,800 from Natural Resources Canada's Electricity Predevelopment Program for the stated purpose of advancing predevelopment of the proposed Peace River Nuclear Power Project. That funding was provided before any impact assessment work had been completed, before any TISG had been issued, and before any community consultation had been conducted. It was provided upfront, in advance, to the proponent.
The Impact Assessment Agency of Canada made approximately $7,000 available to the entire affected Treaty 8 community as participant funding for the planning phase of the same impact assessment. The ratio is 1,195 to 1 in favour of the proponent.

The government's own decision to fund the proponent at $8,366,800 is a formal acknowledgement of what it costs to understand and advance a project of this complexity. NRCan does not give public money to projects that do not require it. The $8,366,800 represents NRCan's institutional assessment of the financial resources required to engage with this project at a level sufficient to advance it. If the project requires $8,366,800 to advance, it requires equivalent resources to assess. The community has been asked to assess the same project on $7,000.

The comparable NRCan Electricity Predevelopment Program grants issued

simultaneously for the Alberta SMR Site Evaluation and the Saskatchewan SMR predevelopment both expressly include community and Indigenous engagement as named deliverables of the predevelopment work. NRCan's own regulatory due diligence rules require it to assess Crown consultation obligations under section 35 of the Constitution Act, 1982 before disbursing any contribution agreement funds. The question this submission raises, and to which I return below, is whether NRCan conducted that assessment before releasing $8,366,800 to EAC Capital, and if so, what Indigenous engagement conditions, if any, were attached to the contribution agreement. Until that contribution agreement is disclosed, it is not possible to determine whether EAC Capital has met its obligations, or whether the Crown has met its own obligations in funding a project of this nature without ensuring community capacity to participate.

4. GROUND THREE — THE AGENCY'S PARTICIPANT FUNDING IS STRUCTURALLY INADEQUATE FOR A PROJECT OF THIS COMPLEXITY

The $7,000 made available to the affected community for the planning phase of this impact assessment is not a participant funding allocation proportionate to the project's complexity. It is a token. Seven thousand Canadian dollars cannot retain a single nuclear safety expert for a single day's review of eight modules of regulatory documentation. It cannot retain environmental counsel for a preliminary legal opinion on the TISG's compliance with the Impact Assessment Act. It cannot commission an independent radiological health assessment, a hydrological review of Peace River impacts, or a Treaty rights analysis under UNDRIP. It cannot fund a community meeting at which technical findings could be translated and discussed.

The Agency has both a statutory obligation and a constitutional obligation to ensure that participant funding is adequate to the nature of the proceeding. Section 22(1) of the Impact Assessment Act, SC 2019, c 28, s 1 requires the Agency to consider the effects of designated projects on Indigenous peoples and their rights. That consideration cannot be meaningful if the Indigenous peoples most affected by the proposed facility have no financial capacity to form and articulate their own assessment of those effects. The Agency's participant funding decisions are therefore not administrative discretion — they are instruments of constitutional compliance. A funding allocation that is structurally incapable of enabling the quality of participation that Haida Nation requires is a decision that fails the constitutional standard regardless of the procedural steps that accompanied it.

5. GROUND FOUR — THE RETROACTIVE REIMBURSEMENT MODEL FILTERS OUT THE LEAST RESOURCED PARTICIPANTS

The Agency's participant funding model requires communities and individuals to commit their own financial resources to participation first and then apply for retroactive reimbursement. The Agency has stated that it will retroactively reimburse eligible participants for their participation in the first comment period. This model is not a funding mechanism. It is a barrier to participation dressed as a funding mechanism.

A First Nation band council operating within its annual budget cannot instruct legal counsel to begin work on a nuclear regulatory proceeding, commission independent technical reviews across multiple disciplines, or engage a community liaison for months of intensive participation — all on the chance that the Agency might, after the fact, decide that some portion of those expenditures was eligible for reimbursement. Band councils have fiduciary obligations to their members. They cannot responsibly authorise the commitment of community funds to an unknown reimbursement outcome in proceedings of this scale and duration. A private individual cannot mortgage personal finances to fund a regulatory intervention on a retroactive reimbursement promise.

More fundamentally, the expert market does not operate on retroactive government reimbursement as a payment mechanism. A nuclear safety consultant, an environmental hydrogeologist, or a Treaty rights lawyer will not begin work without a retainer or a confirmed payment arrangement. The retroactive model therefore does not merely create financial risk — it makes it practically impossible to retain the expertise that meaningful participation requires, because the experts required cannot be engaged on the terms the retroactive model offers. The result is that the consultation is financially accessible only to those who already have the resources to bear upfront costs and reimbursement risk — which in practice means the proponent and well-resourced institutional intervenors, and excludes the Treaty 8 communities whose constitutional rights are most directly engaged by this proceeding.

UNDRIP Article 19 requires that consent be free. A process in which participation is conditioned on prior financial capacity that the affected community does not have is not a free process. It is a means-tested process operating under a constitutional standard that requires the opposite.

6. GROUND FIVE — THE THIRTY-DAY COMMENT PERIOD IS STRUCTURALLY INADEQUATE

The Agency opened and closed a thirty-day comment period for public response to the TISG documents. Eight modules of nuclear regulatory documentation — covering

disciplines that take years of specialist training to master — were presented for community response in thirty days. I state, as a registered intervenor who has dedicated more than six months of intensive work to understanding this process, that I am still learning. I have not yet achieved a comprehensive understanding of all eight modules. Thirty days was not a compressed timeline. It was a fiction. It produced the formal record of a comment period without the substance that a genuine comment period requires.

Energy Alberta's technical team spent years preparing the documentation to which the community was asked to respond in thirty days. The proportionality principle in Haida Nation does not merely require depth of consultation proportionate to seriousness of impact — it requires time proportionate to complexity. A comment period measured in days against documentation measured in years is not proportionate. It is a procedural form that cannot produce the substantive engagement the constitutional standard requires.

7. GROUND SIX — THE CHAIN OF INFLUENCE IS BROKEN AT EVERY LINK

Meaningful participation, as defined by the Supreme Court of Canada, requires a genuine possibility of influencing the outcome. Influence is not a passive act. The chain from participation to influence runs as follows: access to the relevant facts, then understanding of those facts, then independent assessment of those facts, then formation of an informed position, then articulation of a challenge, then genuine consideration of that challenge by the decision-maker, then a real possibility that the challenge changes the outcome. Every link in that chain requires resources. Every link in that chain was denied to the affected community by the structural design of this process.

Without money there are no experts. Without experts there is no independent assessment of the facts. Without independent assessment there is no informed position. Without an informed position there is no articulated challenge. Without an articulated challenge there is nothing for the Agency to genuinely consider. Without genuine consideration there is no possibility of influence. Without the possibility of influence there is no meaningful participation as the Supreme Court has defined it.

The community was presented with Energy Alberta's facts and asked to respond to them. But facts presented by a party whose interest lies in a particular regulatory outcome are not neutral facts. They require independent expert scrutiny. The community cannot provide that scrutiny without money. The community has no money. The chain of

influence is therefore broken at its first link — access to facts — and every link downstream fails as a consequence. The consultation record produced by this process is therefore a record of notification, not consultation. Notification is not consultation. The form of consultation without its constitutional substance does not discharge the Crown's obligations under section 35 of the Constitution Act, 1982, and it cannot form the basis of a valid decision under the Impact Assessment Act or the Nuclear Safety and Control Act.

8. THE MASTER ARGUMENT

STRUCTURAL IMPOSSIBILITY OF MEANINGFUL PARTICIPATION

- Meaningful participation in a nuclear impact assessment requires three things: sufficient time to understand the issues, sufficient expert assistance to assess the technical claims, and sufficient financial resources to retain that assistance. The Peace River Nuclear Power Project TISG process has denied all three simultaneously.

- The subject matter is so technically complex that no community member can assess it without expert assistance. Expert assistance requires money. The community has no money — or money so inadequate relative to the project's complexity that it produces the same result as no money.

- The proponent received $8,366,800 in advance public funding before any participation occurred. The community received $7,000 retroactively, on terms that make it impossible to retain the expertise required.

- The comment period was thirty days against documentation that takes years to produce and months to begin to understand.

- These are not procedural imperfections. They are structural features of a participation framework that was never capable of producing meaningful consultation. A process that is structurally incapable of producing meaningful participation cannot discharge the Crown's constitutional obligations, and the consultation record it generates cannot sustain any decision under the Impact Assessment Act or the Nuclear Safety and Control Act.

9. QUESTIONS FOR THE AGENCY

In light of the foregoing, I respectfully ask the Impact Assessment Agency of Canada to address the following questions directly and on the record of this proceeding:

1. Does the Agency accept that meaningful participation, as defined by the Supreme Court of Canada in Haida Nation v British Columbia (Minister of Forests), 2004 SCC 73, requires a genuine possibility of influencing the outcome of the impact assessment — not merely the opportunity to comment or attend?

2. Does the Agency accept that influence, in the Haida Nation sense, requires access to the relevant facts, independent assessment of those facts, formation of an informed position, articulation of a challenge, and genuine consideration of that challenge by the decision-maker?

3. Does the Agency accept that independent assessment of the facts presented by Energy Alberta across eight TISG modules requires multi-disciplinary expert assistance across nuclear safety, environmental science, radiological health, hydrology, Treaty rights, and impact assessment law?

4. Does the Agency accept that retaining that expert assistance requires money — and that money, under the Agency's retroactive reimbursement model, must be committed by the community before any reimbursement decision is made?

5. Given that the proponent received $8,366,800 in advance public funding for predevelopment including community engagement, and the affected Treaty 8 community received approximately $7,000 retroactively: does the Agency consider that the community had the financial capacity to retain the expert assistance required for meaningful participation in the Haida Nation sense?

6. If the answer to question 5 is no — that the community did not have the financial capacity for meaningful participation — does the Agency consider that the consultation record produced by the planning phase of this impact assessment can form a valid basis for any decision under section 63 of the Impact Assessment Act?

7. What steps does the Agency propose to take to remediate the structural participation defects identified in this submission before the planning phase is concluded and the impact statement phase begins?

10. RELIEF SOUGHT

In light of the structural defects identified in this submission, the registered intervenor respectfully requests that the Impact Assessment Agency of Canada:

- Provide written responses to each of the seven questions posed in section 9 of this letter, on the record of this proceeding, within thirty days of the date of this letter.

- Suspend any further procedural steps in the planning phase until the Agency has addressed the structural participation defects identified herein, including the adequacy of participant funding, the retroactive reimbursement model, and the adequacy of comment periods relative to the complexity of the TISG documentation.

- Require EAC Capital Limited Partnership to disclose the terms of its contribution agreement with Natural Resources Canada under the Electricity Predevelopment Program, including any conditions relating to Indigenous community engagement, and any budget allocated thereunder for community capacity-building.

- Increase participant funding to a level that is genuinely proportionate to the complexity of this proceeding and that enables affected Treaty 8 communities and intervenors to retain the multi-disciplinary expert assistance required for meaningful participation in the Haida Nation sense, provided in advance and not on a retroactive reimbursement basis.

- Extend future comment periods to a duration that is genuinely proportionate to the complexity and volume of the documentation to which comment is sought.

The issues raised in this submission are not procedural complaints. They are constitutional challenges to the architecture of a participation process that was never designed to produce the meaningful participation that section 35 of the Constitution Act, 1982 and Articles 18, 19 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples require. The Agency has both the authority and the obligation to remedy these defects before this impact assessment proceeds further. I respectfully urge it to do so.

I reserve the right to supplement this submission as further information becomes available, including information obtained through access to information requests directed to Natural Resources Canada and the Impact Assessment Agency of Canada.

Regards

Chris

LEGAL AUTHORITIES CITED

Canada (Minister of Citizenship and Immigration) v Vavilov, 2019 SCC 65.
Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11, s 35.
Haida Nation v British Columbia (Minister of Forests), 2004 SCC 73, paras 44, 46.
Impact Assessment Act, SC 2019, c 28, s 1, ss 22(1), 63.
Nuclear Safety and Control Act, SC 1997, c 9.
Rio Tinto Alcan Inc v Carrier Sekani Tribal Council, 2010 SCC 43.
Taku River Tlingit First Nation v British Columbia (Project Assessment Director), 2004 SCC 74.
United Nations Declaration on the Rights of Indigenous Peoples Act, SC 2021, c 14.
United Nations Declaration on the Rights of Indigenous Peoples, Arts 18, 19, 32.

FACTUAL AUTHORITIES CITED

Government of Canada, "Canada Invests in the Next Generation of Canadian-Made, Clean, Affordable Nuclear Energy," Natural Resources Canada press release, March 5, 2025 — confirming EAC Capital Limited Partnership received $8,366,800 under NRCan's Electricity Predevelopment Program.
IAAC, "Public Notice — Participant Funding Available," IAAC Registry #89430, April 16, 2025 — confirming IAAC retroactive reimbursement model and participant funding process.
IAAC, Tailored Impact Statement Guidelines, Peace River Nuclear Power Project, Registry #89430, June 2025 — eight-module TISG confirming complexity of assessment requirements.
NRCan, Electricity Predevelopment Program, comparable grant terms: Alberta SMR Site Evaluation (Capital Power, $13,000,000) and Saskatchewan SMR Predevelopment (SaskPower, $80,000,000), both expressly including Indigenous community engagement as a deliverable.