



CMD 25-H12.42

Date: 2025-01-12

**Written Submission from the
Mikisew Cree First Nation**

**Mémoire de la
Première Nation Mikisew Cree**

In the matter of

À l'égard de

NexGen Energy Ltd.

License application to prepare a site for
and construct its Rook I uranium mine and
mill project

NexGen Energy Ltd.

Demande de permis concernant la
préparation de l'emplacement et la
construction de son projet de mine et
d'usine de concentration d'uranium Rook I

Commission Public Hearing

Audience publique de la Commission

February 2026

Février 2026



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January 9, 2026

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Canadian Nuclear Safety Commission
280 Slater St PO Box 1046 Stn B
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Attention: Commission Secretary

**Re: NexGen Energy Ltd. Rook I Project - CMD 25-H12
Mikisew Cree First Nation request to participate**

Mikisew Cree First Nation (“**MCFN**”) provides this written submission for participation in the Canadian Nuclear Safety Commission (“**CNSC**”)’s public hearing under CMD 25-H12 respecting NexGen Energy Ltd. (“**NexGen**”)’s proposed Rook I Project (the “**Project**”).

MCFN is a Treaty 8 First Nation whose inherent, Aboriginal, and Treaty rights are constitutionally protected and include the ongoing exercise of hunting, fishing, trapping, and stewardship across its territory in the Athabasca Region, including within the Athabasca watershed. MCFN members currently hold and actively use its territory to exercise its rights. Significant and adverse impacts from oilsands, hydro electric development, uranium mining and unmanaged cumulative effects have degraded Mikisew’s traditional territory, leading to impacts which limit use for the purposes of its rights practices.

This reality renders the lands adjacent to Treaty 8 and MCFN’s traditional territory increasingly important for its current day rights practices and future use. Adjacent lands to both Treaty 8 and Mikisew’s territory that have become increasingly important for the maintenance of rights and cultural protection under Treaty 8. Crown policies lack of effective mitigation and non-existent accommodation now spans 6 decades and 5 generations of Mikisew members.

MCFN’s request to participate in this proceeding arises from the fact that MCFN was excluded entirely from the consultation process to date. As MCFN did not receive notice during early project planning or scoping, we were not afforded an opportunity to identify concerns or potential impacts on our lands, waters, and species relied upon by Mikisew members, nor the ability to propose mitigation measures. MCFN was also not afforded the opportunity to be engaged with respect to traditional land use or cumulative effects, and was not provided an opportunity to review or comment on the Environmental Impact Statement (“**EIS**”) prior to its acceptance as complete.

We are also concerned that future mines and project phases may progress without notification and consultation with MCFN. We therefore expect proponents and regulators to ensure that future mines

and project phases in the region do not proceed without early and direct engagement with MCFN. Other mining proposals are already advancing without engagement, and MCFN will need to be included from the outset to understand cumulative effects and to protect its rights, interests, and stewardship responsibilities.

As a result, MCFN was denied any meaningful opportunity to inform the scope, analysis, or conclusions of the environmental assessment or licensing review now before the Commission. These deficiencies form the basis of MCFN's concerns regarding the adequacy and efficacy of consultation for the Project.

CNSC's Inadequate Consultation

The Crown's duty to consult arises from the honour of the Crown and requires the Crown to engage First Nations in a manner that is fair, timely, and meaningful. The duty is triggered where the Crown has knowledge, actual or constructive, of potential Aboriginal or Treaty rights and contemplates conduct that may adversely affect those rights. Consultation must occur at an early stage, be proportionate to the potential severity of the impacts, and be capable of informing and influencing decision-making.¹

Although the Crown suggested that the project sits outside Mikisew's traditional territory, the Crown's consultation with adjacent First Nations for the Project demonstrates constructive knowledge of potential rights holders in the region. Lands adjacent to Mikisew territory are increasingly important to MCFN members as development pressures grow and cumulative effects displace land use toward the boundaries of Mikisew territory. These circumstances support, rather than diminish, the need for consultation with MCFN.

In the case of the Project, the Crown had knowledge of MCFN's Treaty 8 rights and of the potential for Project-related impacts on lands, waters, and wildlife relied upon by MCFN members. Despite this, neither the Crown nor the proponent notified or consulted MCFN during project planning, scoping, or the environmental assessment process despite meetings held in Fort Chipewyan in 2023. At a minimum, MCFN should have been notified so that our Nation could self-determine whether consultation was required and to identify concerns, potential impacts, and mitigation measures. The Crown did not afford MCFN this opportunity as it did for other surrounding Nations.

MCFN initiated contact with the CNSC on March 18, 2025, after independently becoming aware of the Project. By that time, key stages of the regulatory process had already concluded, including scoping decisions, technical review, and acceptance of the final EIS. Prior to this outreach, neither the Crown nor the proponent had notified MCFN of the Project, and MCFN had no opportunity to participate during the formative stages of the environmental assessment or licensing review. This exclusion is particularly concerning to MCFN provided that Indigenous nations and communities were notified and invited to participate in the regulatory review process beginning in 2019,² and that Indigenous knowledge and concerns were incorporated into the EIS.

¹ *Mikisew Cree First Nation v. Canada (Governor General in Council)*, 2018 SCC 40; *Haida Nation v. British Columbia (Minister of Forests)*, 2004 SCC 73.

² 2025-11-19 – Phase 1 Hearing Transcript, p. 52.

Following MCFN's outreach, CNSC staff held a single introductory meeting with MCFN to provide an overview of the Project and the regulatory process. That meeting was largely informational and did not provide a meaningful opportunity for two-way dialogue. It did not provide MCFN with an opportunity to inform scoping, contribute Indigenous knowledge, or raise site-specific concerns prior to the completion of the environmental assessment. By the time this engagement occurred, CNSC staff had already completed their technical review and reached conclusions regarding the Project's environmental effects and provided notice of the upcoming hearing.

CNSC's draft consultation report relies on the Project's distance from MCFN's main reserve to explain why MCFN was not initially identified for consultation.³ The Crown is required to identify and consult with any Indigenous group whose Aboriginal or Treaty rights may be potentially affected by contemplated Crown conduct, regardless of whether impacts are ultimately confirmed.⁴ As a Treaty 8 First Nation with ongoing rights and interests in the region, MCFN was therefore entitled to early and meaningful consultation structured to inform the assessment of effects on its rights and to allow its perspectives to influence regulatory decisions. The location of a First Nation's reserve does not define the scope of its Aboriginal or Treaty rights, nor does it determine the extent of its traditional territory or contemporary land use.

While CNSC staff and NexGen have indicated a willingness to continue engagement with MCFN, future engagement cannot retroactively remedy in the omission of MCFN from the consultation process where decisions on environmental effects and licensing are now before the Commission. Meaningful consultation must occur before key regulatory conclusions are reached, not after those conclusions have already been formed. This includes the remedy of unaddressed and outstanding cumulative impacts currently existing or planned on MCFN's Treaty Rights.

MCFN also raises broader concerns with the consultation approach reflected in CNSC's report. The process described suggests that Indigenous Nations may be scoped out of consultation without direct engagement, explanation, or confirmation. Consultation cannot be satisfied through engagement with other Nations or regional bodies in substitution for Mikisew's distinct rights, nor can reliance on proponent-led engagement discharge the Crown's constitutional obligations. As a best practice, IAAC scopes all First Nations in until they are scoped out. Using this best practice would have prevented this omission from the consultation process and maintained consistency across departments of the federal crown.

For these reasons, MCFN maintains that the engagement described by CNSC staff reflects a late, minimal, and reactive process initiated by Mikisew rather than the Crown. The Crown's duty to consult with MCFN therefore remains outstanding.

MCFN Concerns Regarding Lack of Consultation

As outlined during the Part 1 hearing on November 19, 2025, the Project has proceeded through parallel federal processes under the former *Canadian Environmental Assessment Act, 2012* and the *Nuclear Safety and Control Act*. CNSC staff have now recommended that the Commission determine

³ CNSC Draft Consultation Report, s. 4.7, see enclosed.

⁴ *Haida Nation v. British Columbia (Minister of Forests)*, 2004 SCC 73.

that the Project is not likely to cause significant adverse environmental effects and issue a licence authorizing site preparation and construction.

We are concerned that these conclusions were reached without any substantive input from MCFN, despite our status as a Treaty 8 rights holder with ongoing interests in the broader Athabasca region. As a result, MCFN was not afforded an opportunity to identify or raise concerns regarding potential impacts to its rights, lands, or traditional activities prior to the completion of the environmental assessment. This includes potential effects on traplines and harvesting areas in the vicinity of Athabasca Lake and connected watersheds, which may be affected by Project activities, increased industrial access, wildlife displacement, and cumulative regional development pressures.

MCFN is further concerned that the cumulative effects analysis conducted as part of the environmental assessment did not account for MCFN's land use throughout its territory. The exclusion of MCFN from the assessment process necessarily resulted in an incomplete understanding of regional conditions and pressures, particularly in light of ongoing and foreseeable industrial development across northern Saskatchewan and northeastern Alberta. As a result, the cumulative effects analysis does not reflect the full range of Indigenous land use patterns, mobility, or inter-community interactions that constitute MCFN's exercise of Treaty rights.

MCFN submits that the assertion that Indigenous engagement was adequate is inconsistent with MCFN's exclusion from the consultation process. The absence of MCFN from the environmental assessment record creates a material gap, particularly given the Project's long-term footprint and the potential for interaction with wildlife populations, hydrologically connected water systems, and culturally significant areas relied upon by MCFN members for the exercise of their rights and stewardship obligations.

Conclusion

MCFN seeks standing to participate in Part 2 of the public hearing scheduled for February 9 to 13, 2026 including the opportunity to provide oral submissions at the hearing.

MCFN expressly reserves all rights, including the right to be consulted in a manner consistent with the honour of the Crown, to challenge the adequacy of consultation and accommodation, to participate in future licensing and regulatory decisions including any licence to operate, and to pursue its interests in any other appropriate forum. Nothing in this submission constitutes consent, acquiescence, or acceptance of the Project, the environmental assessment conclusions, or the consultation record.

Sincerely,

Sebastien Fekete

Director from Mikisew Government Industry Relations

Mikisew Cree First Nation

Cc: Chief and Council, Mikisew Cree First Nation
Erin Barnes, Legal Counsel for Mikisew Cree First Nation

Background on Mikisew Cree First Nation



Figure 1: MCFN logo

Mikisew Cree First Nation (MCFN) is a Treaty 8 signatory located in Northeastern Alberta near Fort Chipewyan. They have 176 members living on reserve, and a total registered population of 3,288. MCFN initially contacted the CNSC via email on March 18, 2025, expressing an interest in the Project. The Rook 1 Project is located approximately 160 km from the main MCFN reserve in a straight-line distance.

CNSC held an introductory meeting to provide an overview of the Rook I Project, the current stage of the regulatory process, and to understand MCFN's concerns and interests. CNSC followed up with MCFN to provide information on the Project, the regulatory review process, and the PFP funding opportunity to support their participation in the Commission hearing process. As part of their PFP application submitted to the CNSC, MCFN indicated that they have no traditional or current land use or rights in the area; however, their reason for intervening in the Commission hearing process is to impress upon the Commission that the Project area in northwestern Saskatchewan is becoming an increasingly important area for traditional use of Indigenous peoples located in northeast Alberta, as the core traditional territories for many Indigenous Nations and communities in Alberta are under intense pressures from industrial development, including oil sands development.

CNSC staff are committed to engaging and sharing information with MCFN on the Project, as per MCFN's direction. CNSC staff will continue to engage and work collaboratively with MCFN and NexGen and will provide an update on the status of engagement, as appropriate, as part of the supplemental submission to the Commission in advance of the NexGen Rook 1 Part-2 Commission hearing. CNSC staff encourage NexGen to continue discussions and collaboration with MCFN to address outstanding questions and concerns.