



**CMD 25-H9.2A**

Date: 2025-11-28

## **Supplementary Information**

## **Renseignements supplémentaires**

### **Presentation from the Birch Narrows Dene Nation**

### **Présentation de la Nation des Dénés de Birch Narrows**

In the matter of

À l'égard de

#### **Denison Mines Corporation**

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Licence Application to Prepare Site and  
Construct for Denison Mines' Wheeler  
River Mine and Mill Project

#### **Denison Mines Corporation**

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Demande de permis pour la préparation de  
l'emplacement et la construction du projet  
de mine et d'usine de concentration  
d'uranium Wheeler River de Denison Mines

#### **Commission Public Hearing Part 2**

#### **Audience publique de la Commission Partie 2**

December 8-11, 2025

8-11 décembre 2025

# Birch Narrows Dene Nation



## Intervenor Presentation CNSC Hearing for the Denison Mines Wheeler River Project



December 9, 2025





# About Birch Narrows Dene Nation

- Proud Denesųłiné First Nation and signatory to Treaty #10
  - Located near Turnor Lake, SK
  - Population: 1,001
- Deep cultural, land-based, and stewardship traditions
- Progressive and self-determined Nation
- Rights include: **hunting, fishing, trapping, gathering, cultural continuity, governance, and land protection**



# BNDN Traditional Territory

- The Wheeler River Project is located within our Ancestral lands and Treaty lands.
- BNDN members exercise our rights around the proposed Wheeler River Project presently and historically.
- Denison, CNSC, and other Indigenous groups **do not have the right or knowledge to tell BNDN where our Territory is.**



# Our Rights

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## Section 35 Rights

- **Hunting, Fishing, Trapping, and Gathering:** These are fundamental rights to access and utilize traditional lands and resources for sustenance and cultural practice.
- **Cultural Practices & Land Stewardship:** The right to practice and pass on cultural traditions, and to steward and protect the land in a way that sustains future generations.

## Treaty 10 Rights

- **Right to Pursue Traditional Livelihoods:** The right to live and make a living from the land in accordance with traditional practices, free from interference.
- **Crown's Duty to Uphold Treaty Obligations:** The Crown is legally and morally obligated to protect and fulfill the promises made in Treaty 10, ensuring that our rights are respected and upheld.

## Inherent Rights

- **Not Conditional or Abstract:** These rights are inherent and do not need to be “proven” or validated.
- **Constitutionally Protected:** Our rights are entrenched in the Constitution and the Treaties, and they are exercised directly on the land.





# BNDN as a Treaty 10 Signatory

*“We have to use Treaty 10, because that’s in Treaty 10 area, right? [...] So all these bands are in Treaty 10 [...] including all our area and all their area, so why, why make us fight when we signed the same treaty, and it’s Treaty 10 area – we’re all eligible to the same thing.”*

*“Patuanak, the same thing, they should have a say in Treaty 10. But what they’re doing is trying to isolate their thinking, Treaty 10 is what supersedes the whole thing. [...] So anything happens in Treaty 10 - everyone should be consulted that signed that Treaty 10. [...] And we can say that if we’re not included, we can take it to court. Why are you doing it? Why are you shunning us out when we’re part of Treaty 10? Where is our signature? Is it valid what our chief signed, is no good no more today? [...] What does it say in Treaty 10? Lands and resources, that’s what Treaty 10 is all about, right? So we sign Treaties, so that should be significant because Treaties are what hold us in place, with the Crown and everything.”*





# EIS/EA Participation

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- BNDN wrote to CNSC and Denison in 2021 expressing interest in the Project and the need for meaningful consultation
- BNDN completed a Technical Review of the Project in 2023 and submitted 89 technical comments
  - As of Dec. 2025, 64 comments remain unresolved
  - Denison provided additional responses in Oct 2025 BNDN's comments
- BNDN still working with Denison/CNSC to address all unresolved issues including mitigation and accommodation measures



# Overview of Main Concerns

1. Lack of meaningful consultation & engagement
2. Impacts to Aboriginal and Treaty rights
3. Impacts to water resources
4. Risks related to ISR Method
5. Impacts to wildlife
6. No commitment to involve BNDN in environmental monitoring and management





# Lack of Meaningful Consultation & Engagement

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- Denison has not undertaken meaningful consultation and engagement with BNDN on the Wheeler River Project
  - No in-person community meetings held with BNDN
  - No site visits offered to BNDN by Denison
  - No funding provided (or offered) to BNDN to:
    - Participate in consultation activities or meetings with Denison
    - Participate in the EA/CNSC licensing process
    - Collect Indigenous Knowledge related to the Project
  - No formal agreements in place on consultation or accommodation
  - Denison dismissive and disrespectful of our rights

**BNDN was not provided the conditions necessary for meaningful consultation or participation**



# Lack of Meaningful Consultation & Engagement

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- Denison's position is that BNDN must provide Denison with sensitive IK data to be consulted in a meaningful way – despite providing no funding for such research
- CNSC and Denison repeatedly ask BNDN to “prove” rights, despite:
  - Constitution and Treaty 10 Protections
  - Documented Use & Oral history
- CNSC staff consultation limited primarily to online meetings. No visits to the community or project site. No formal BNDN specific mitigation or accommodation measures proposed.

**BNDN rights exist regardless of Indigenous Knowledge studies — IK supports, but does not determine, recognition**



# Lack of Meaningful Consultation & Engagement

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- Denison’s “systematic and comprehensive process” to consultation ignores:
  - Territory-wide hunting & travel networks
  - Watershed connectivity
  - Altered wildlife distribution
  - Cultural avoidance
  - Cultural and cumulative pathways
  - Historical and familial ties between Dene communities
  - Oral history and Indigenous Knowledge

**Distance is not a proxy for impacts — nor a lawful basis to diminish consultation**





# Impacts to Aboriginal and Treaty Rights

- EIS lacks BNDN-specific land use and cultural data
- The very existence of the project will have a clear and direct impact on our rights from environmental impacts and the taking up of our Treaty land.
- BNDN seeks recognition as an Indigenous Community of Interest – we are as close to project than other communities designated as such + Treaty 10 rights
- Need for formal agreements to establish a meaningful process for consulting, mitigating and accommodating impacts to BNDN rights.
  - For example: Establishment of Environmental Committee for oversight and transparency.





# Water Resources Concerns

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- Concerns around contamination to groundwater and surface water
  - Serious risks to pumping lixiviant into the ground – reasonable potential for mining fluids escaping the ore zone (e.g. accidents)
- Long-term uncertainty about movement and flow of contaminants in "restored" groundwater post-closure
  - Mobilized contaminants (uranium, arsenic, radionuclides) could persist for decades
  - Based on the EIS modeling, groundwater expected to have 6,000x CWQG guidelines for uranium once “restored”



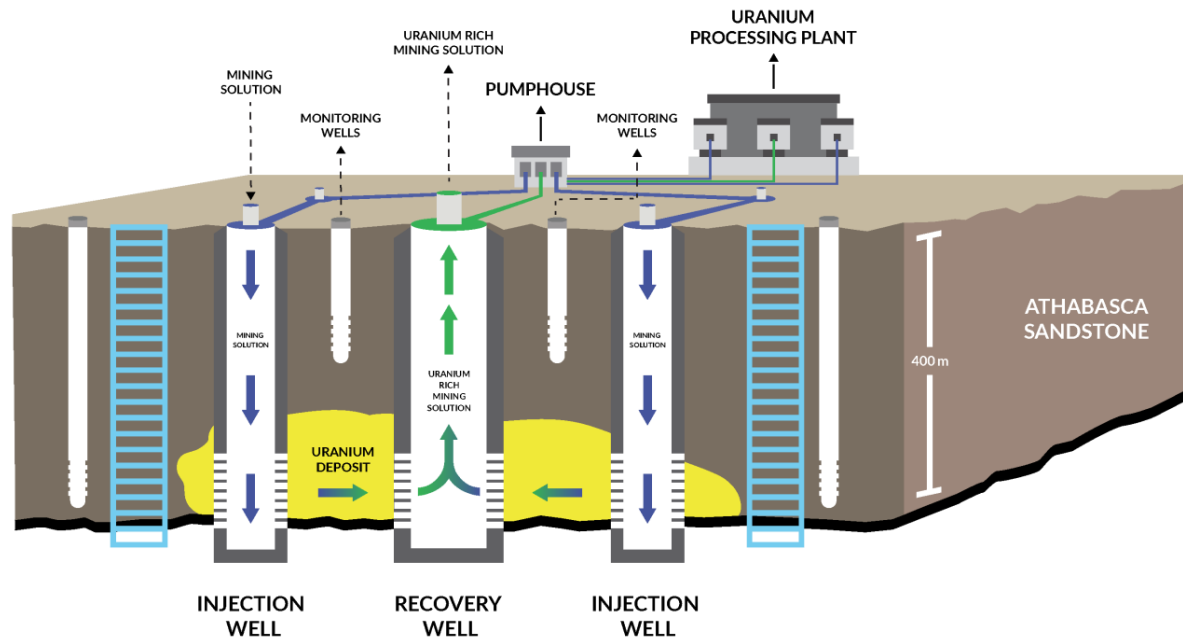


# Water Resources Concerns

- Potential for methylmercury formation affecting fish & harvesting
- Denison and CNSC have told us that their “experts” say this operation is safe, despite this never having been done before in the Athabasca Basin



# Risks Related to ISR Method



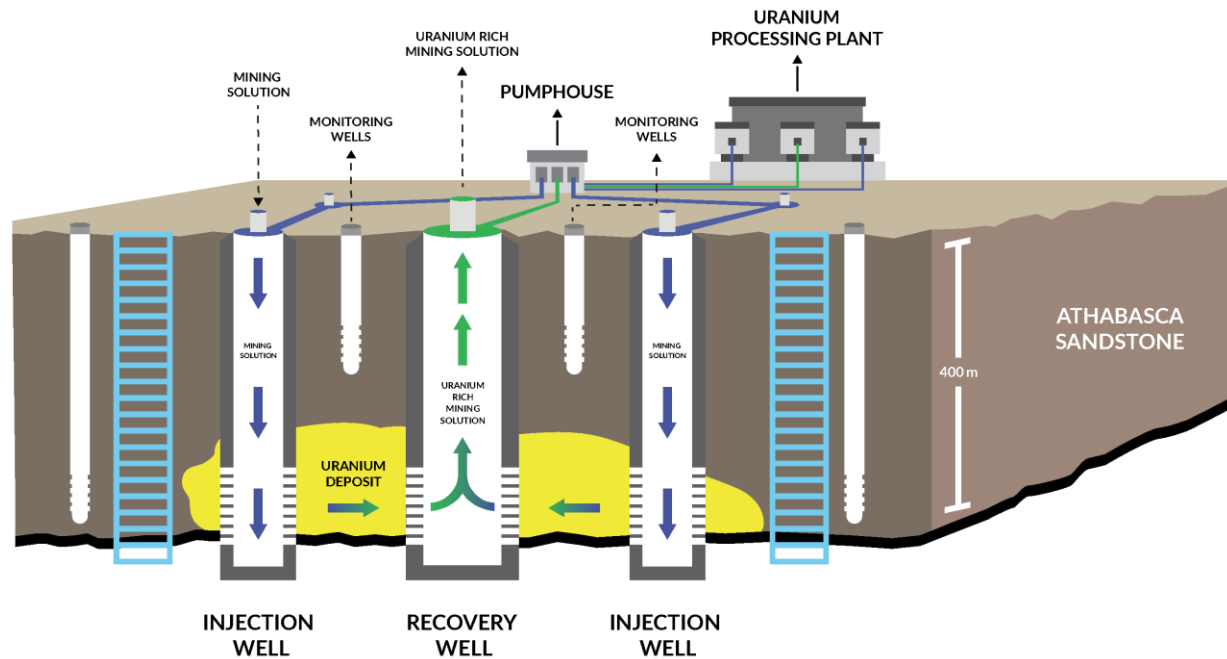
## New and Largely Untested Technology in the Region

- Wheeler River would be the first ISR uranium mine in Canada – **our Treaty lands are the “guinea pig”**
- The freeze-wall containment approach has never been used for uranium ISR at this scale
- Limited real-world experience means unknown or unforeseen failure and impacts = RISK on BNDN Treaty Lands

## Risk of Spills and Equipment Failures

- Extensive wellfields, pipelines, pumps, and chemical storage create many points of failure
- Corrosion, pressure loss, casing failures, or pipeline leaks could release of acidic lixiviant or contaminated water
- Surface spills can flow into wetlands, muskeg, and wildlife areas used for harvesting

# Risks Related to ISR Method



## Malfunctions in Critical Control Systems

- ISR depends on precise control of injection and extraction
- Failures in pressure control, monitoring wells, or valves can cause rapid excursions of mining fluids
- Equipment breakdowns—due to power outages, mechanical failures, or thawing—could lead to loss of containment underground

## Challenges with Early Detection & Response

- Subsurface failures may not be detected until contamination has migrated
- Delayed detection increases consequences for water quality, ecosystems, and Treaty rights
- Community oversight and independent verification are essential but not guaranteed



# Spills & Environmental Compliance

- *“Spills and contamination. I don’t care how you work it, something’s going to fail. I’ve been in the oil industry now for 18 years, and there’s no foolproof plan—it’s inevitable; it’s going to happen.”*
- *“They can say they’ll implement all the preventative measures they want, but at the end of the day [...] they’ll always find a way to hide it—always. I’ve been a part of it, so I know how that works.”*





# Wildlife Concerns

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- Cree Lake region is **critical Woodland Caribou habitat**
- Project risks fragmentation, sensory disturbance, increased predator access
- Denison underestimates habitat alteration and cumulative impacts
- **Impacts directly affect subsistence harvesting, culture, and food security**



# Environmental Concerns

*“Hunting that close to a mine kind of makes you think about what you’re bringing back for your kids to put on the table, that’s the biggest concern.”*

*“The method that they’re using, because it’s new to Canada, it’s new to us. What damage is it going to do? [...] are we going to be like the guinea pigs? [...] if this method is no good, then after they’ve done it to us, they go back [...] and say we can’t do this, because this is what happened in Canada. [...] Uncertainty, yeah [...] because it’s new.”*





# Environmental Monitoring

- Despite repeated requests from BNDN since 2021 to participate in the design and monitoring of the Wheeler River's environmental monitoring program – **Denison nor the CNSC has made any formal commitments to work in collaboration on environmental monitoring with BNDN.**
  - Denison denied this request in Nov 2023 and Oct 2024
  - “Denison continues to work with its Indigenous Communities of Interest with reserves and residential communities most proximal to the Project, Denison has committed to collaborating with English River First Nation and Kineepik Métis Local on a community specific monitoring regime, suited to each of their interests and needs, in an agreed-upon fashion (...) Denison does not anticipate separate funding for BNDN at this time.”





# BNDN's Role in the Project

- *“But you’ve got to work with the companies, I guess, because if they go around us, Birch Narrows is going to lose out big time. If we don’t work with them, then we’ll lose out big time. But if we work with them, then we can keep an eye on what’s going on there.”*
- *“I would say we should be the one that’s monitoring. We as First Nations should be policing what’s going on from the get-go. Train our own people for environmental...be land guardians, or whatever you want to call it.”*



# Hopes for the Project

- *“Since they’re taking something from us, I would really appreciate it if they would give us something in return. That’s what I would really appreciate. Instead of taking it all and going. Because it’s our land, and we should be able to get something out of it.”*
- *“In my mind I think it would be good for the younger generation to maybe get jobs there, or maybe to better their education. To make their lives better. Now you look at it, you come to town, and it’s like our roads are crappy. Maybe give some for that—you know what I mean? Maybe give something to fix the road. And something in our community where the young people can enjoy, some kind of recreation place. Just to give something to our community, not to make promises and not to follow them. I’m raising my grandson, and I want my grandson to have a good future. These companies need to give something in return, not to just take and run.”*





# Hopes for the Project

- *“I think revenue-sharing, and the monitoring, even from the get-go monitoring, after, during. [...] work together, getting benefits from it, work, and sharing their concerns, and our concerns. That’s what I’d like to see. [...] if we sit together with our plan and their plan, maybe it’s the same, you don’t know.”*
- *“Work together and bring jobs for our kids, and our future generation to come, and not trying to chase us out of the place where we hunt, our traditional land. That’s mostly the big concern, yeah. It’s like reaching across our dinner plate.”*

# Pathways to Impacts on BNDN Rights

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- “Pathways to Impacts” are the chains of cause-and-effect linking project activities (e.g., land clearing, water use, noise, dust) to changes in the environment, which in turn affect the ability of BNDN to exercise our constitutionally protected Section 35 and Treaty 10 rights.
- Under Section 35 of the Constitution Act, 1982 and CEAA 2012 Subsection 19(3), the CNSC is legally required to assess and respond to any project effects that may impact the health, socio-economic conditions, cultural heritage, or traditional land use of Aboriginal peoples.
- Integrating BNDN knowledge is crucial according to CEAA and CNSC guidance to ensure all risks to rights and culture are understood, measured, and meaningfully addressed throughout environmental review process.



# Pathways to Impacts on BNDN Rights

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# Pathways to Impacts on BNDN Rights

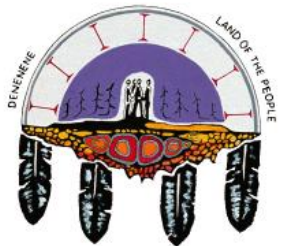
Pathway	Description	Impact on BNDN Rights
<b>Disturbance to Wildlife and Habitat</b>	Mining causes habitat fragmentation and displacement of key species like Woodland Caribou.	Affects hunting, cultural practices, and food security
<b>Restricted Land Access and Territorial Fragmentation</b>	Exclusion zones and infrastructure disrupt traditional travel, traplines, and access to sacred sites.	Limits land use, travel, and cultural connection
<b>Environmental Contamination (Air, Water, and Soil)</b>	Dust with heavy metals, water pollution, Mill emissions, and spills threaten safe berries, medicinal plants, fish, water.	Impacts gathering, fishing, drinking water, and health rights
<b>Cultural and Cumulative Effects</b>	Continuous industrialization erodes knowledge transmission, language, and cultural identity.	Undermines Section 35 and Treaty 10 rights
<b>Socioeconomic Impacts and Exclusion from Benefits</b>	Limited local jobs and revenue sharing reduce community benefits and trust.	Affects economic opportunities and community well-being
<b>Exclusion from Meaningful Consultation</b>	Insufficient funding and process limit BNDN participation in consultations.	Threatens Crown's duty to consult and accommodate
<b>Groundwater Contamination from ISR Mining</b>	ISR mining injects chemicals that may release uranium, radium, arsenic into groundwater aquifers.	Risks safe drinking water, fish habitat, ecosystem health, and related rights

# Crown's Constitutional Obligations

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- Section 35 duty triggered where *potential* impact exists—not only confirmed impacts
- Duty cannot be delegated to the proponent
- Crown must ensure consultation is:
  - Meaningful
  - Responsive
  - Substantive
  - Capable of influencing outcomes

**Duty includes accommodation, not just information sharing**



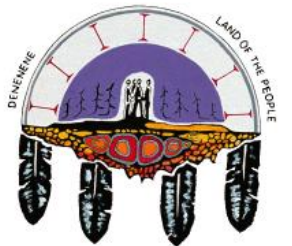
# Consultation Requirements

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Case law establishes that:

- *Haida*: Honour of the Crown sets a high standard; Crown must consult in good faith whenever rights may be affected.
- *Mikisew*: Crown must protect Treaty rights from cumulative industrial pressure
- *Rio Tinto*: Duty to consult is triggered by potential adverse impacts, regardless of project size or distance from Indigenous lands.
- *Taku River*: The consultation process must meaningfully address Indigenous concerns, not be a formality

**The current process falls below the standard required by the courts**





# UNDRIP & FPIC Commitments

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- UNDRIP Act (2021) requires *alignment of federal processes* with FPIC standards
- FPIC principles require:
  - Early Involvement
  - Full Information
  - Participation in shaping mitigation, monitoring and decision making

**Current Process is late, under-resourced, and excludes BNDN from decision-shaping roles**



# Legal and Cultural Foundations for Recognition

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- Treaty 10 rights apply across the Wheeler River area; BNDN members have equal rights to harvest and access lands within it.
- Project activities that limit access or change the environment directly interfere with rights recognized under Section 35 of the Constitution Act and Treaty 10.
- Meaningful consultation and accommodation is required by Denison and CNSC.



# Conclusion and Required Action

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**Conclusion:** BNDN has demonstrated land use and occupation, established treaty and constitutional rights, and clear, evidence-based pathways by which Project activities may infringe those rights. This satisfies the legal threshold requiring elevated consultation.

**Legal obligation:** Under Section 35 and CEAA 2012, and pursuant to established case law, the CNSC must ensure consultation is commensurate with the seriousness of the potential infringement to fulfill the Duty to Consult

**Requested action:**

- 1) Re-evaluate BNDN's consultation tier and formally recognize Birch Narrows Dene Nation as an Indigenous Community of Interest for the Wheeler River Project.
- 2) Establish meaningful process to address BNDNs unresolved environmental issues through mitigation and/or accommodation measures.
- 3) Ensure meaningful consultation and accommodation measures are in place to fulfill CNSCs Duty to Consult







MARSI CHO