



**Oral Presentation**

**Exposé oral**

**Submission from the  
Métis Nation of Saskatchewan**

**Mémoire de la  
Nation métisse de la Saskatchewan**

In the Matter of the

À l'égard d'

**Orano Canada Inc. – Cluff Lake Project**

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**Orano Canada Inc. – Projet de Cluff Lake**

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Application for the renewal of the Uranium  
Mine Decommissioning Licence for the  
Cluff Lake Project

Demande de renouvellement du permis  
de déclassement de la mine d'uranium de  
Cluff Lake

**Commission Public Hearing**

**Audience publique de la Commission**

**May 15, 2019**

**Le 15 mai 2019**

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MÉTIS NATION OF SASKATCHEWAN

WRITTEN EVIDENCE: ORANO CANADA INC. APPLICATION FOR THE  
RENEWAL OF THE UNRANIUM MINE AND MILL DECOMMISSIONING  
LICENSE FOR THE CLUFF LAKE PORJECT

APRIL 15, 2019

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## INTRODUCTION AND PURPOSE

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The Metis Nation of Saskatchewan (MN-S) is pleased to provide a written submission with regards to the Orano Canada Inc.'s (Orano) application for the renewal on the uranium mine and mill decommissioning license for the Cluff Lake Project. The MN-S will be attending the hearings in Ottawa on May 15, 2019 and intends to refer to the data contained in this report as a basis for an oral presentation. Given the relatively short turn-around time and anticipated site visit which will take place in early May under snow free conditions, other oral evidence may be submitted.

Citizens of MN-S have a unique culture that has evolved from people of North American Indian and European ancestry who coalesced into a distinct nation in the northwest in the late 18th century. "Historic Métis Nation Homeland" means the area of land in west central North America used and occupied as the traditional territory of the Métis or Half-Breeds as they were then known. The MN-S includes values of both rural and urban citizens. Citizenship is predicated on individuals demonstrating this genealogy and cultural connection to that time and place and is governed by MN-S through the citizenship registry. Under Section 35 of the Constitution Act of 1982, citizens of MN-S are defined as Indigenous. This confers all respective rights and obligations as defined therein to MN-S as a Rights Bearing Nation and to the Crown and/or it's agents.

The MN-S has available on it's website guidelines and principles concerning engagement, consultation and accommodation (<https://www.metisnationsk.com/land/#duty>). These are summarized below:

- The fulfillment of the duty requires good faith on the part of all parties and consultations must be conducted in equitable, transparent and respectful manner.
- Timelines must be reasonable and provide sufficient opportunity for the Métis to review and assess the information provided by the Crown or industry.
- The Crown must recognize and support the unique capacity needs and realities of the Métis people and their elected governance structures at the local, regional and provincial levels.
- The Crown must provide the necessary funding/capacity to Métis government or ensure the necessary funding/capacity is provided to Métis government to engage with government and/or industry, as well as with Métis citizens.
- Consultations must be with the Métis government structures that are elected and supported by the Métis citizens. Consultations with individual Métis, service delivery organizations, mayors and municipal councils, and pan-Aboriginal structures cannot discharge the duty owed to the Métis, as a rights-bearing people.
- Métis government has the responsibility to consult with its citizens and represent its citizens, not the Crown or industry.
- Métis consultation processes must provide all Métis citizens the opportunity to participate and be heard (i.e. public meetings, timely information, etc.)
- Ultimate decision-making with respect to consultation and accommodation must rest with the affected rights-bearing Métis community and its citizens.

MN-S has decided to intervene in this project due to our assessment that there may be real or potential impacts stemming from the proposed project that may impact membership in Northern Region 2. Our evidence is based on an assessment of the available information from the Canadian Nuclear Safety

Commission (CNSC), Orano and MN-S membership and Knowledge Keepers. The review consists of both Indigenous Knowledge and a technical review. We have also met with Orano on April 10, 2019 to pose questions regarding the project. Since the time period from the hearing being called and the hearing date is only two months we anticipate the inclusion of additional Indigenous Knowledge as consultation is ongoing and a field visit will take place.

Our goal for this intervention is to work with the Crown and the Proponent to address proactively concerns that may impact the rights of the MN-S, work to improve engagement and consultation and to suggest how Indigenous Knowledge may be integrated into the technical scopes of ongoing monitoring that will be required over multiple generations. The MN-S asserts stewardship obligations over this project and as Rights Holders and land users may bear the brunt of negative outcomes realized over the next 500 years.

## LITERATURE REVIEWED

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As part of the review of this project, several documents were reviewed, and are listed below. Specific data from certain sections on the following documents are referenced in the findings section.

AREVA Resources Canada Inc. Cluff Lake Project Environmental Performance Technical Information Document (TID) Volume 1 of 2, Version 1 Revision 0, Sept 2015.

AREVA Resources Canada Inc. Cluff Lake Project Environmental Performance Technical Information Document (TID) Volume 2 of 2 - Environmental Risk Assessment Update, Version 1 Revision 0, Sept 2015.

Cluff Lake Project, Technical Information Document, Hydrogeology and Groundwater Modelling, Volume 1/Revision 0 June 2015.

Orano Canada Inc. Cluff Lake Project. Detailed Post-Decommissioning Plan - Post-Closure Monitoring and Maintenance. Version 4 Revision 1, March 2019.

Orano Canada Inc. Cluff Lake Decommissioning Project. Public Information Program CSR-101, March 2019.

Orano Canada Inc. Cluff Lake Project. 2018 Annual Report, March 2019

Orano Canada Inc. Cluff Lake Project. Surface Gamma Clearance Report, October 2018

Submission from CNSC Staff on Application by Orano for a License Renewal – Cluff Lake Project, March 2019.

Submission from Orano Canada Inc, - Application for renewal of license for Cluff Lake Project, March 2019.

## FINDINGS

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Our experience in other large regulated projects such as the Enbridge Line 3 Replacement Project suggests that there has been a significant effort on the part of the proponent and regulator to ensure that appropriate due diligence and technical review were undertaken to ensure that the site was well understood and monitored. Our understanding of the overall goal of the site reclamation plan is to isolate vectors, primarily surface and ground waters, that may contain contaminants of potential concern from the surrounding natural environment. Our concerns lie primarily in two areas, as detailed below:

### Indigenous Knowledge and Metis Rights

As with all other large regulated projects the Crown considers consultation as accommodation. The level and type of consultation ranges from engagement which may be as simple as correspondence to impacted Rights Holders in letter format, with no need for Crown follow up to obtain feedback to the triggering of duty to consult. It is clear within the mandate of this federal government, and in the language of Bills C-68 and C-69 that there has been a recognition that Indigenous Peoples must be engaged early and effectively in projects. We understand that the regulatory requirements for this hearing do not require any change from the status quo, but we strongly assert that understanding that timely and meaningful inclusion into sensitive projects such as this yield better results for Rights Holders, the Crown, regulator(s) and the proponent.

With respect to this hearing, we encountered barriers with both time allocated to review and assess information as well as resourcing from the Crown. While we are appreciative of the participant funding program support afforded us, we are well aware that this amount would be a tiny proportion of the amounts expended by the proponent and regulator in preparation for this hearing. We understand that because of the roles of those parties overall effort will require additional resources, but all recent precedent has shown that when Rights Holders cannot demonstrate that they have been resourced and/or engaged in a manner that allows for community engagement and technical and Indigenous Knowledge due diligence it creates a risk for both the Crown and the proponent. We do not necessarily agree with the regulator that the decision for license renewal for this project does not raise the duty to consult (*Submission from CNSC Staff on Application by Orano for a License Renewal – Cluff Lake Project, March 2019., page 25*), and request that the CNSC provides their evidence to MN-S which brought them to this conclusion.

### Site Characterization

We have reviewed the above listed documents and are generally satisfied with the findings. We do have some specific concerns listed below:

- Inclusion of Indigenous Knowledge: It is clear from the technical documents reviewed that there was no systematic way to obtain, assess or include Indigenous Knowledge into the decommissioning plan. Through other work the MN-S has identified significant gaps in regulatory processes and legislation which may directly impact Rights Holders. For example, very few Metis heritage sites would be identified and protected under the provincial Heritage Resources Act, and many species of plants which are culturally significant would not be protected as species of concern. Without engaging local Rights Holders it is impossible to assess these impacts, which can create significant risk to the Crown and proponent.

- Ongoing improvement: The CNSC has rated Orano's performance in key areas as satisfactory (SA). This category is defined as:

*'Safety and control measures implemented by the licensee are sufficiently effective. In addition, compliance with regulatory requirements is satisfactory. Compliance within the SCA meets requirements and CNSC expectations. Any deviation is minor and any issues are considered to pose a low risk to the achievement of regulatory objectives and CNSC expectations. Appropriate improvements are planned.'*

Based on this definition we request that the CNSC provides us with their criteria and ongoing improvement plan as it pertains to Cluff Lake. We feel that many of the suggestions we have provided in this document will help with appropriate improvements.

- Baseline data: There is a significant amount of baseline data that has been gathered for this project and notwithstanding our concerns regarding the inclusion of Indigenous Knowledge, we have some other comments:
  - Baseline limnological data: We feel it is appropriate to gather data in impacted lakes such as bathymetry, sediment grain size characterization and depth to bedrock, lake sediment organic content and chemical analysis, and derive variables such as residence time. For example, it is stated *"With 23% organic carbon, by mass, the sediments of Claude Lake have the capacity to reduce and precipitate almost the entire inventory of uranium on the Claude rock pile if only 5% of the carbon is available for reaction with uranium* (Cluff Lake Project, Technical Information Document, Hydrogeology and Groundwater Modelling, Volume 1/Revision 0 June 2015. page 2-12)". This sort of modeling is useful but could be verified through lake sediment collection and analysis.
  - Sampling location and interval: It is clear from the available meteorological data that there is significant variability in precipitation year over year. Since the site model relies on estimations of standard hydrological conditions over time verification for the model and for continuous risk assessment can only be informed by the collection of data at critical locations and times. Our understanding is that during the next phase of the decommissioning which transfers the bulk of regulatory responsibility to the Province of Saskatchewan a significant reduction in the frequency of sampling is proposed. Given the variability of yearly precipitation we would propose that sampling occurs over the range of yearly conditions to better understand impacts during extreme high and low flow regimes.
- Extreme events and climate change: Our review of the document indicates that extreme events are poorly understood and that long-term changes from climate change are not accounted for. These may pose the most significant risks given the centennial outlook for final impacts to be naturally attenuated. It is accepted in the scientific community that climate is changing and significant warming is forecasted for northern Saskatchewan. The premise of managing this site is to create landscape and hydrological stability which may be impacted through extreme events or changes in time in the hydroclimatological conditions. In the document Cluff Lake Project, Technical Information Document, Hydrogeology and Groundwater Modelling, Volume 1/Revision 0 June 2015 (page 2-9) it is stated: *"The sensitivity of net infiltration to an extreme climate event was also investigated. The model showed that net infiltration can vary substantially from the median weather record infiltration results in this case."* Based on this statement we feel further modeling is warranted to address extreme events.

Of possibly greater concern is understanding the impacts of a changing climate. There is the potential that the modeling assumptions used may no longer represent baseline conditions within the time frame anticipated for natural attenuation to bring this site to acceptable standards. We feel that further modeling using accepted forecasts for the region under a number of emission scenarios would potentially highlight future risk and allow for the regulator and proponent to proactively address prior to impacts to the environment.

## RECOMMENDATIONS

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The MN-S has the following specific recommendations to address our concerns with the Cluff Lake project:

- **Engagement:** Co-develop a Crown, regulator and proponent engagement strategy for the decommissioning in preparation for next steps and hearings anticipated in 2019. Ideally this plan can be adopted to work with all impacted Rights Holders.
- **Monitoring:** Retain Metis Monitors to meaningfully participate in all monitoring activities at Cluff Lake. We foresee these monitors being local to Northern Region 2 and being trained to mutual standards agreed to by the proponent, regulator and MN-S. MN-S and it's identified agents will also be afforded the opportunity to assess, review and comment on all technical data gathered.
- **Inclusion of Indigenous Knowledge:** Re-assess monitoring plans to ensure that Indigenous Knowledge is included. This will require community engagement, identification of key resources and sites, and contribution from the MN-S to the current sampling plan.
- **Review of Site Characterization:** Our recommendations are:
  - Meaningfully include Indigenous Knowledge into future modeling and sampling plans.
  - Understand the CNSC's program for continuous improvement and provide comment.
  - Identify gaps in baseline data and provide recommendations for the regulator and proponent to gather and assess from an Indigenous Knowledge and technical perspective.
  - Update site models to include provisions for extreme events and under a range of forecasted climate change scenarios.

We would like to thank the CNSC in advance for their careful consideration of our position informed by our unique Indigenous Knowledge and technical assessment and look forward to presenting on May 15, 2019.