

**From:** Steven Gunn <[sjgunn37@gmail.com](mailto:sjgunn37@gmail.com)>  
**Sent:** Monday, November 10, 2025 5:01 PM  
**To:** Binegar, Brenda <[Brenda.Binegar@state.sd.us](mailto:Brenda.Binegar@state.sd.us)>  
**Cc:** Matthew Naasz <[mnaasz@gpna.com](mailto:mnaasz@gpna.com)>; Blair, Steven <[Steven.Blair@state.sd.us](mailto:Steven.Blair@state.sd.us)>;  
McVey, David <[David.McVey@state.sd.us](mailto:David.McVey@state.sd.us)>; Neyhart, Melissa  
<[Melissa.Neyhart@state.sd.us](mailto:Melissa.Neyhart@state.sd.us)>  
**Subject:** [EXT] Clean Nuclear Energy Corp. EXNI 453

Dear Ms. Binegar:

Attached please find the Cheyenne River Sioux Tribe and Oglala Sioux Tribe's Objections and Responses to Clean Nuclear Energy Corp.'s Interrogatories and Requests for Production of Documents.

Steven J. Gunn  
Special Counsel to the Cheyenne River Sioux Tribe  
In-house Counsel to the Oglala Sioux Tribe  
1301 Hollins Street  
St. Louis, MO 63135  
Telephone: (314) 920-9129  
Facsimile: (800) 520-8341  
Email: [sjgunn37@gmail.com](mailto:sjgunn37@gmail.com)

**STATE OF SOUTH DAKOTA  
DEPARTMENT OF AGRICULTURE & NATURAL RESOURCES  
BOARD OF MINERALS AND ENVIRONMENT**

IN THE MATTER OF CLEAN  
NUCLEAR ENERGY CORP.  
URANIUM EXPLORATION  
PERMIT APPLICATION

EXNI 453

**CHEYENNE RIVER SIOUX TRIBE  
AND OGLALA SIOUX TRIBE'S  
OBJECTIONS AND RESPONSES TO  
CLEAN NUCLEAR ENERGY CORP.'S  
INTERROGATORIES AND  
REQUESTS FOR PRODUCTION OF  
DOCUMENTS**

**GENERAL OBJECTIONS**

1. The Cheyenne River Sioux Tribe and the Oglala Sioux Tribe object to the discovery requests to the extent they seek information that is irrelevant, unduly burdensome, outside the scope of SDCL § 45-6D-29, or not proportional to the needs of this administrative proceeding.
2. The Cheyenne River Sioux Tribe and the Oglala Sioux Tribe object to the discovery requests to the extent they are premature. The Tribes just deposed Clean Nuclear Energy Corp. on November 6, 2025, and have not yet received the transcript of the deposition. Further, the Tribes are in the process of securing expert reports from disclosed expert witnesses. The responses below are based on presently available information and are subject to supplementation as investigation, expert disclosures, or third-party discovery progresses.

**RESPONSES TO INTERROGATORIES**

**Interrogatory No. 1**

Describe in detail all adverse effects you allege will be caused by the proposed uranium exploration project operation on the historic, archaeologic, geologic, scientific, or recreational aspects of affected or surrounding land.

**Response:**

The Cheyenne River Sioux Tribe and the Oglala Sioux Tribe are signatories to the Fort Laramie Treaties of 1851 and 1868 and constituent tribes of the Great Sioux Nation, which is referred to in the *Lakota* language as the *Oceti Sakowin*, which means Seven Council Fires. In the Fort Laramie Treaty of 1868, the *Oceti Sakowin* reserved to itself the territory known as the Great Sioux Reservation, a tract of land including the sacred Black Hills, which is referred to as *Pahá Sápa* or

*He Sapa* in *Lakota*. The United States promised that this territory would be “set apart for the absolute and undisturbed use and occupation” of the *Oceti Sakowin* as a “permanent home.” See Fort Laramie Treaty of 1868, arts. II, VII. The United States also promised in the Treaty that war shall “forever cease” with the *Oceti Sakowin*. See Fort Laramie Treaty of 1868, art. 1.

The United States broke the treaty when it invaded Lakota lands and waged war against the Lakota people. After the defeat of the United States and the Seventh Cavalry at the Battle of Little Bighorn in June 1876, Congress attached a “Sell or Starve” rider to the Indian Appropriations Act of 1876, 19 Stat. 176, which cut off rations in an attempt to coerce the people into selling the Black Hills. Yet, the Lakota stood firm, and the United States was unable to secure consent to the sale of the Black Hills. The Lakota said then—and the Cheyenne River Sioux Tribe and Oglala Sioux Tribe have repeated for generations—that the Black Hills are not for sale.

In the Act of February 28, 1877, 19 Stat. 254, the United States stole the Black Hills and other lands from the *Oceti Sakowin*. The United States Supreme Court acknowledged the illegality of the taking of the Black Hills in the case of *U.S. v. Sioux Nation*, 448 U.S. 371 (1980). In that case, the Supreme Court held that the Sioux Nation was entitled to compensation for the taking of the Black Hills. The Oglala Sioux Tribe and other tribes of the Sioux Nation have not accepted the compensation awarded for the Black Hills, insisting to this day that the United States stole the Black Hills and that it should return the Black Hills.

The Black Hills are sacred to Cheyenne River Sioux Tribe and Oglala Sioux Tribe. The Tribes are committed, now and forever, to protecting the Black Hills and preserving their claim to these sacred lands. To that end, several Sioux tribes purchased the sacred lands known as *Pe’ Sla* in the heart of the Black Hills. The United States approved an application made by the tribes to take the sacred *Pe’ Sla* lands into trust. The tribes intend to keep the lands in their original and natural state, reintroducing buffalo and other natural species, and preserving the area for traditional cultural and religious ceremonies.

The tribes of the *Oceti Sakowin* repeatedly have called upon the United States to return federal lands in the Black Hills, yet for over 40 years, the United States has not acted to provide justice for the *Oceti Sakowin* in respect to the Black Hills.

The Tribes are opposed to all mineral exploration and mineral development in the Black Hills that would infringe on the Tribes’ aboriginal and treaty rights and rights under other laws, as well as mining that would spoil the land, endanger the health and safety of the people, leave the land unusable for future uses, or pose danger to water, natural, and cultural resources. Specifically, and without limitation, the Tribes are opposed to any exploration or development of minerals in the Black Hills that would:

- Harm the sacred Black Hills, including the sacred site known as *Pe’ Sla*, and traditional, cultural, and religious use of those lands; or
- Harm archeological, historical, cultural, and sacred sites in the Black Hills; or
- Harm the land, water, air, natural resources, and fish and wildlife in the Black Hills.

The Tribes consistently have opposed environmentally destructive mineral exploration and development projects in the Black Hills. The Tribes also consistently have asserted that the United States should recognize that the Black Hills are not within the scope of the General Mining Act of 1872 and remove the Black Hills from all federal mining and mineral leasing laws. The *Oceti Sakowin* never consented or agreed to mining in *Pahá Sápa*.

The Tribes seek to protect their aboriginal and treaty rights, sacred sites, archaeological, historical, cultural, and religious resources, and the environment from potential adverse effects from the proposed mineral exploration project in the Black Hills.

The Tribes have treaty rights to land, water, fish, wildlife, and other natural, cultural, and other resources in the Black Hills, and mineral exploration and development in the Black Hills threatens those rights.

*Pahá Sápa* and *Pe' Sla* are sacred sites. The proposed uranium exploration project is in *Pahá Sápa*. The project threatens to have significant adverse impacts on *Pahá Sápa*, including pollution, noise, and disturbances caused by mineral exploration and development activities. In addition, pollution of the surface water and groundwater in the Black Hills threatens to make the Tribe's sacred sites unholy.

Mineral exploration and development in the Black Hills threaten to harm *Lakota* archeological, historical, cultural, and religious resources in the Black Hills, as well as to the free exercise of *Lakota* religion in *Pahá Sápa*. Allowing mining activities to occur anywhere in *Pahá Sápa*, poses a continuous and cumulative threat to cultural, religious, medicinal, and ceremonial practices, and should be prevented.

Craven Canyon and surrounding areas contain rock art and other artifacts that are up to seven thousand years old, and are of inestimable cultural, archeological, and scientific value. Many artifacts and sites of interest have been found in unprotected areas in and around the Canyon. Further, there are or may be burial sites within or surrounding the project area.

The proposed mineral exploration project poses a risk of harm to the land, water, air, natural resources, fish, and wildlife in *Pahá Sápa*, and risks negative impacts on the environment. Past mining activities in *Pahá Sápa* have had devastating impacts on the environment, causing extraordinary harms to the land, water, natural resources, and fish and wildlife in the Black Hills, including surface lands, subsurface structures, water, threatened and endangered species, and other natural resources. The Tribes cannot allow this to happen again.

The Cheyenne River Sioux Tribe and Oglala Sioux Tribe assert that the proposed uranium exploration project that is the subject of this contested case threatens to cause multiple adverse effects, including:

- Disturbance or destruction of indigenous rock art sites, petroglyph sites, and sacred sites in and around Craven Canyon, including sites documented by federal and tribal sources, by visual, fluid, vibratory, and auditory effects and contamination;

- Soil erosion, compaction, and loss of stratigraphic context in areas of archaeological significance;
- Introduction of industrial activity into a landscape used for religious and ceremonial purposes by the Lakota *Oyate* and other indigenous peoples and tribes;
- Degradation of the scenic, recreational, and spiritual value of the area, which forms part of a known cultural corridor;
- Alteration of geologic features through exploratory drilling and associated surface disruption;
- Inadequate safeguards to: prevent the waste and spoilage of the land which would deny its future use and productivity; ensure that the health, safety, and general welfare of the people are not endangered and that upon completion of any uranium exploration, the affected land is usable for cultural, religious, and recreational purposes; ensure that water and other natural resources are not endangered; and ensure that aesthetics are maintained.

The Cheyenne River Sioux Tribe and Oglala Sioux Tribe reserve the right to supplement this response following the completion of expert reports by its disclosed expert witnesses.

## **Interrogatory No. 2**

Describe in detail all information relating to any alleged loss or reduction of long-range productivity of watershed lands, public and domestic water wells, aquifer recharge areas, or significant agricultural areas you allege will be caused by the proposed project.

### **Response:**

Exploratory drilling could introduce contaminants, sediments, or other materials that contaminate and degrade water quality and impair long-range aquifer recharge, particularly if such exploratory drilling intersects aquifers and groundwater pathways. Given the known characteristics of the area, there is a high risk, if not a certainty, that exploratory drill holes will intercept aquifers and groundwater pathways and disrupt recharge areas. CNEC has admitted that exploratory drilling for EXNI 453 may intersect groundwater within the Inyan Kara or related aquifers. Its drilling may intersect groundwater separated by impermeable barrier layers, resulting in groundwater contamination and the potential mixing and leakage of groundwater and pollutants between layers.

The introduction and failure to control drilling waste and other hazardous materials (such as fuel, oil, and grease) and the failure to surface runoff could impact downstream water users and prairie ecosystems dependent on stable hydrological inputs. It could also pollute the surface lands and adversely affect agricultural areas.

CNEC may use polymer-based or synthetic additives in connection with its exploratory drilling, but it has not identified the additives it may use or their formulas or chemical compositions. The use of such additives may cause contamination of groundwater, other water resources, and agricultural areas.

The response to Interrogatory No. 1 is incorporated herein by reference. The Cheyenne River Sioux Tribe and Oglala Sioux Tribe reserve the right to supplement this answer.

### **Interrogatory No. 3**

Explain in detail all information relating to any alleged adverse effects to threatened or endangered wildlife indigenous to the area that you allege will be caused by the proposed uranium exploration operation.

#### **Response:**

Publicly available data suggests that the proposed exploration area may overlap or adjoin habitat for threatened species such as the northern long-eared bat (*Myotis septentrionalis*) and the black-footed ferret (*Mustela nigripes*), as well as other sensitive species including burrowing owls and ferruginous hawks.

Exploration activities—such as noise from drilling, increased vehicular access, and vegetation clearing—can disrupt habitat use, nesting patterns, and predator-prey balances. The Cheyenne River Sioux Tribe and Oglala Sioux Tribe are evaluating records from the South Dakota Natural Heritage Program and may submit additional species data prior to the hearing.

There is a risk that the Project will adversely affect threatened or endangered wildlife indigenous to the area. Threats to the groundwater, surface water, surface lands, and natural landscape would also pose a threat to threatened or endangered wildlife that live in the project area.

The response to Interrogatory No. 1 is incorporated herein by reference.

### **Interrogatory No. 4**

Please state the full name of the person or persons answering these interrogatories and the person's position, title, and/or relationship to the named intervenor.

#### **Response:**

The responses to these Interrogatories have been prepared and reviewed by Ryman LeBeau, Chairman of the Cheyenne River Sioux Tribe, and Frank Star Comes Out, President of the Oglala Sioux Tribe.

### **Interrogatory No. 5**

Prior to answering these Interrogatories, have you made a due and diligent search of your books, records, papers, and documents, and a due diligent inquiry of your employees, agents, or representatives and their books, records, papers, and documents, for the purpose of eliciting and securing all of the information which is required to answer these Interrogatories?

#### **Response:**

Yes, to the extent reasonably practicable given the time, scope, and limited access to CNEC's technical information, the Cheyenne River Sioux Tribe and Oglala Sioux Tribe have undertaken a

good faith and diligent search of their books, records, papers, and documents. The Cheyenne River Sioux Tribe and Oglala Sioux Tribe will seasonably supplement their responses to these discovery requests if and when additional documents and information become available.

### **Interrogatory No. 6**

Please identify any person you expect to call to testify at the time of trial. For each potential witness, please identify:

- (a) Full legal name and aliases;
- (b) Occupation and employer;
- (c) Present residence address;
- (d) Subject matter of expected testimony.

### **Response:**

The Cheyenne River Sioux Tribe and Oglala Sioux Tribe anticipate calling the following witness(es), subject to supplementation:

1. Steven H. Emerman, Ph.D.  
Malach Consulting  
785 N 200 W  
Spanish Fork, Utah 84660
2. David Chambers, Ph.D., P. Geog.  
Center for Science and Public Participation  
224 North Church Ave.  
Bozeman, MT 59715
3. Richard B. White, P.E.  
13441 South Lone Peak Lane  
Draper, UT 84020
4. Paul Robinson  
Research Director  
Southwest Research and Information Center  
P.O. Box 4524  
Albuquerque, NM 87196
5. Chris Shuey  
Environmental Health Specialist  
Director, Uranium Impact Assessment Program  
Southwest Research and Information Center  
P.O. Box 4524  
Albuquerque, NM 87196

6. Ryman LeBeau, Chairman  
Cheyenne River Sioux Tribe  
P.O. Box 590  
Eagle Butte, SD 57625
7. Steven K. Vance  
Tribal Historic Preservation Officer  
Cheyenne River Sioux Tribe Cultural Preservation Office  
P.O. Box 590  
Eagle Butte, SD 576625
8. Frank Star Comes Out, President  
Oglala Sioux Tribe  
P.O. Box 2070  
Pine Ridge, SD 57770
9. Reno Red Cloud  
Director  
Oglala Sioux Tribe Water Resources Department  
P.O. Box 2070  
Pine Ridge, SD 57770
10. Trina Lone Hill  
Fifth Member  
Oglala Sioux Tribe  
P.O. Box 2070  
Pine Ridge, SD 57770
11. Mike Catches Enemy  
Environmental Specialist/Archaeologist  
Oglala Lakota Housing Authority  
P.O. Box 2070  
Pine Ridge, SD 57770

The addresses listed above are business addresses.

All witnesses will testify as to: the adverse effects of the proposed uranium exploration operation on the historic, archaeologic, geologic, scientific, or recreational aspects of affected or surrounding land and whether those effects outweigh the benefits of the proposed uranium exploration operation; the extent to which the proposed uranium exploration operation will result in the loss or reduction of long-range productivity of watershed lands, public and domestic water wells, aquifer recharge areas, or significant agricultural areas; and/or the extent to which the proposed uranium exploration operation will adversely affect threatened or endangered wildlife indigenous to the area.

Witnesses 6-7 will testify as to the Cheyenne River Sioux Tribe's opposition to mineral exploration

in the Black Hills and the harms such exploration poses to: the Tribe and its members; the Tribe's historical, archaeological, natural, wildlife, fish, mineral, cultural, religious, sacred, and burial sites, properties and resources; and the Tribe's aboriginal and treaty rights, including its rights under the Fort Laramie Treaties of 1851 and 1868.

Witnesses 8-11 will testify as to the Oglala Sioux Tribe's opposition to mineral exploration in the Black Hills and the harms such exploration poses to: the Tribe and its members; the Tribe's historical, archaeological, natural, wildlife, fish, mineral, cultural, religious, sacred, and burial sites, properties and resources; and the Tribe's rights, including its rights under the Fort Laramie Treaties of 1851 and 1868.

The Cheyenne River Sioux Tribe and Oglala Sioux Tribe reserve the right to call additional fact or rebuttal witnesses.

### **Interrogatory No. 7**

Have you made any investigations, examinations, tests, or analyses concerning any matter relating to the subject matter of the pending action? If so, please state:

- (a) Nature and method;
- (b) Subject matter;
- (c) Name and address of person conducting it;
- (d) Time and place;
- (e) Purpose.

### **Response:**

The Cheyenne River Sioux Tribe and Oglala Sioux Tribe have engaged in preliminary cultural and environmental assessments, including document review and data analysis. The Tribes have also engaged experts to perform such analyses and assessments. These efforts have been undertaken for the purpose of evaluating potential environmental and cultural impacts of the proposed permit under SDCL § 45-6D-29.

## **RESPONSES TO REQUESTS FOR PRODUCTION**

### **Request for Production No. 1**

Please provide a copy of all investigations, examinations, tests or analysis identified in Interrogatory No. 7.

### **Response:**

Nonprivileged, responsive materials will be produced upon finalization of expert reports and consultant documentation. The Cheyenne River Sioux Tribe and Oglala Sioux Tribe anticipate producing nonprivileged, relevant portions of expert declarations, site analysis summaries, and references to government datasets relied upon.

## **Request for Production No. 2**

Please produce a copy of all documents related to your responses to Interrogatories Nos. 1-3.

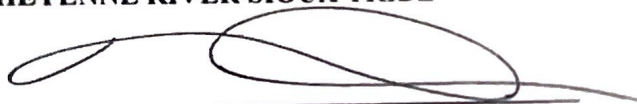
### **Response:**

The Cheyenne River Sioux Tribe and Oglala Sioux Tribe will produce relevant, non-privileged documents expert reports, documents relied upon by experts, government and archival references on species and aquifer sensitivity, and any responsive declarations or affidavits prepared for pre-hearing submission. Privileged communications and work product will be withheld. A privilege log will be provided upon request.

Dated: November 10, 2025

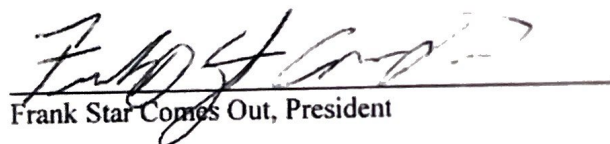
Signed:

**CHEYENNE RIVER SIOUX TRIBE**

A handwritten signature in dark ink, appearing to read 'Ryman LeBeau', written over a horizontal line.

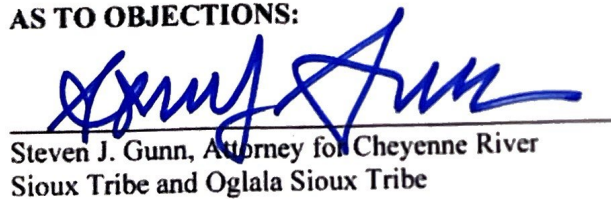
Ryman LeBeau, Chairman

**OGLALA SIOUX TRIBE**

A handwritten signature in dark ink, appearing to read 'Frank Star Comes Out', written over a horizontal line.

Frank Star Comes Out, President

**AS TO OBJECTIONS:**

A handwritten signature in blue ink, appearing to read 'Steven J. Gunn', written over a horizontal line.

Steven J. Gunn, Attorney for Cheyenne River  
Sioux Tribe and Oglala Sioux Tribe

### **CERTIFICATE OF SERVICE**

I certify that on October 14, 2025, I caused a true and correct copy of the foregoing to be served electronically and by U.S. mail, postage prepaid, for filing upon the following:

Brenda Binegar  
Department of Agriculture & Natural Resource  
523 E Capitol Ave.  
Pierre, SD 57501  
Email: [Brenda.Binegar@state.sd.us](mailto:Brenda.Binegar@state.sd.us)

I further certify that on October 14, 2025, I caused a true and correct copy of the foregoing to be served upon the following by electronic mail, facsimile, and U.S. mail, postage prepaid:

Matthew Naasz  
Gunderson, Palmer, Nelson and Ashmore, LLP  
506 6th Street  
P.O. Box 8045  
Rapid City, SD 57709  
Facsimile: (605) 342-9503  
Electronic mail: [mnaasz@gpna.com](mailto:mnaasz@gpna.com)

I further certify that on October 14, 2025, I caused true and correct copies of the foregoing to be served upon the following by U.S. mail, postage prepaid:

Steven R. Blair  
Deputy Attorney General  
P.O. Box 70  
Rapid City, SD 57702

David McVey  
Beverly Katz  
Assistant Attorneys General  
1302 East SD Highway 1889, Suite 1  
Pierre, SD 57501-8501

Cherry Angel  
1212 Columbus Street  
Rapid City, SD 57701

Ruddell Bear Shirt  
P.O. Box 88  
Wounded Knee, SD 57794

Robert Bordeaux  
740 University Street  
Apartment 3  
Spearfish, SD 57783

Candi Brings Plenty  
725 Saint Charles Street  
Rapid City, SD 57701

Mashanaposhe Camp  
P.O. Box 339  
Porcupine, SD 57772

Marla Cooley  
145 South Garden Street  
Hot Springs, SD 57747

Jeremiah Davis  
130 East Centennial Street  
Rapid City, SD 57701

Seth Eagle Bear, Jr.  
P.O. Box 44  
Wounded Knee, SD 57794

Bruce Ellison  
P.O. Box 2508  
Rapid City, SD 57709

Brenda Gamache  
2337 Wilson Avenue  
Hot Springs, SD 57747

Denise Giago  
221 East Jackson Street  
Rapid City, SD 57701

Great Plains Tribal Water Alliance  
P.O. Box 271  
Pine Ridge, SD 57770

Taylor Gunhammer  
221 East Jackson Street  
Rapid City, SD 57701

Darlene Hawk Wing  
P.O. Box 25  
Wounded Knee, SD 57794

Chase Iron Eyes  
P.O. Box 393  
Pine Ridge, SD 57770

Lilias Jones Jarding  
P.O. Box 591  
Rapid City, SD 57709

Beverly Larson  
P.O. Box 82  
Wounded Knee, SD 57794

Caryn Lerman  
337 South 5<sup>th</sup> Street  
Hot Springs, SD 57747

Elizabeth Lone Eagle  
P.O. Box 656  
Kyle, SD 57752

Susan McPhail Pang  
28017 Cascade Road  
Hot Springs, SD 57747

Ailine Maea  
715 Haines Avenue, Apt. 3  
Rapid City, SD 57701

Michelle Melius  
Black Hills Group Sierra Club  
P.O. Box 1624  
Rapid City, SD 57709

Thomas O'Connor  
4601 Mohawk Street  
Lincoln, NE 68510

Gena Parkhurst  
514 Americas Way #20805  
Box Elder, SD 57719

Sarah Peterson  
510 Jennings  
Hot Springs, SD 57747

Julie Plachta  
P.O. Box 635  
Hot Springs, SD 57747

Reno Red Cloud  
P.O. Box 4052  
Pine Ridge, SD 57770

Helen Red Feather  
P.O. Box 173  
Wounded Knee, SD 57794

Jean Roach  
3711 Ivy Avenue  
Rapid City, SD 57701

Sanders Schaller  
322 4<sup>th</sup> Street  
Smithwick, SD 57782

Ben R. Sharp  
28290 West Flagpole Road  
Hot Springs, SD 57747

Tanya Stands  
202 Bald Eagle Lane #8  
Rapid City, SD 57701

Michelle Tyon  
P.O. Box 1838  
Pine Ridge, SD 57770

Susan Hey  
312 North 40<sup>th</sup> Street  
Rapid City, SD 57702

Peter Caposela  
P.O. Box 10643  
Eugene, OR 97440

George Nelson  
2640 Jackson Boulevard, Suite 1  
Rapid City, SD 57702

  
\_\_\_\_\_  
Steven J. Gunn