



Canadian Nuclear
Safety Commission

Commission canadienne
de sûreté nucléaire

Record of Proceedings, Including Reasons for Decision

In the Matter of

Proponent Cameco Corporation

Subject Proposed Project-Specific Guidelines Scoping Document for the Preparation of an Environmental Impact Statement for the Proposed Rabbit Lake Tailings North Pit Expansion Project

Hearing Date May 24, 2012

RECORD OF PROCEEDINGS

Proponent: Cameco Corporation

Address/Location: 2121 – 11th Street West, Saskatoon, Saskatchewan S7M 1J3

Purpose: Proposed Project-Specific Guidelines Scoping Document for the preparation of an Environmental Impact Statement for the proposed Rabbit Lake Tailings North Pit Expansion Project

Application received: June 20, 2011

Date of hearing: May 24, 2012

Location: Canadian Nuclear Safety Commission (CNSC) Public Hearing Room, 280 Slater St., 14th. Floor, Ottawa, Ontario

Members present: M. Binder, Chair

Secretary: M.A. Leblanc/K. McGee
Recording Secretary: M. Young

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Introduction

1. Cameco Corporation (Cameco) has notified the Canadian Nuclear Safety Commission¹ (CNSC) of its intention to extend the life of the Rabbit Lake Operation by extending the tailings storage capacity from the current nine million cubic metres (Mm³) to 12 Mm³. The Rabbit Lake Operation is a uranium mining and milling operation located 750 kilometres north of Saskatoon, Saskatchewan. The Rabbit Lake Operation site is operated by Cameco and consists of the active Eagle Point underground mine, milling facilities and mill utilities; other site infrastructure; and waste management facilities and systems, including the Rabbit Lake Tailings Management Facility (RLTMF).
2. The scope of the proposed project includes:
 - excavating an additional pit to the north of the existing RLTMF;
 - piping additions to support the project;
 - installing and modifying infrastructure to accommodate the project; and
 - changing the amount of water treated and waste rock management.
3. Before the Commission can consider authorizing the proposed project to go forward pursuant to the *Nuclear Safety and Control Act*² (NSCA), the Commission must, in accordance with the requirements of the *Canadian Environmental Assessment Act*³ (CEAA), make a decision on an environmental assessment (EA) of the proposal.
4. The CEAA requires that an EA be completed if there is both a “project” and a prescribed action by a federal authority (commonly referred to as a “trigger”). The proposal involves extending the tailings storage capacity of the RLTMF. This is an undertaking in relation to a physical work and as such is a “project” for the purposes of the CEAA.
5. The CNSC issues licences for activities involved in Cameco’s proposal under the authority of Section 24(2) of the NSCA, which is prescribed in the *Law List Regulations*⁴. Therefore, there is a “trigger” for an EA. The project is not of a type listed in the *Exclusion List Regulations*⁵ of the CEAA.
6. The Commission is currently the sole responsible authority⁶ (RA) for this EA, although Transport Canada may also have a “trigger” pursuant to the *Navigable Waters Protection Act*⁷ (NWPA). As a responsible authority under the CEAA, the Commission must first determine the *scope of the project* and the *scope of the*

¹ The *Canadian Nuclear Safety Commission* is referred to as the “CNSC” when referring to the organization and its staff in general, and as the “Commission” when referring to the tribunal component.

² Statutes of Canada (S.C.) 1997, chapter (c.) 9.

³ S.C. 1992, c.37.

⁴ Statutory Orders and Regulations (SOR) /94-636.

⁵ SOR/2007-108.

⁶ Responsible Authority in relation to an EA is determined in accordance with subsection 11(1) of the CEAA.

⁷ Revised Statutes of Canada (R.S.C.), 1985, c. N-22

assessment for the project. To assist the Commission in this regard, CNSC staff prepared a draft Project-Specific Guidelines Scoping Document (EA Guidelines) in consultation with other government departments, the public and other stakeholders.

7. The draft EA Guidelines “*Proposed Project-Specific Guidelines Scoping Document for the Preparation of an Environmental Impact Statement, Rabbit Lake Tailings North Pit Expansion Project, Cameco Corporation*” contains draft statements of scope for the approval of the Commission. The draft EA Guidelines also contain recommendations and instructions for the approach to be used in completing the EA, including for the conduct of further public and stakeholder consultations. The draft EA Guidelines are presented in CNSC staff document CMD 12-H102.

Issues

8. In considering the EA Guidelines, the Commission was required to decide, pursuant to subsections 15(1) and 16(3) of the CEEA respectively:
 - a) the *scope of the project* for which the EA is to be conducted; and
 - b) the *scope of the factors* to be taken into consideration in the conduct of the EA.
9. The Commission also considered whether it would, at this time, recommend to the federal Minister of the Environment, pursuant to section 25 of the CEEA, to refer the project to a mediator or a review panel.
10. The Commission considered whether it would, pursuant to subsection 17(1) of the CEEA, delegate the conduct of technical support studies to Cameco and the writing of the technical Report to CNSC staff or the proponent.
11. Furthermore, the Commission undertook to decide whether or not the Commission’s consideration of the completed EA Screening Report (Screening Report) would be by way of a public or abridged hearing held by the Commission.

Hearing

12. Pursuant to section 22 of the NSCA, the President of the Commission established a Panel of the Commission to review the application. The Commission, in making its decision, considered information presented for a hearing held on May 24, 2012 in Ottawa, Ontario. The hearing was conducted in accordance with the Commission’s process for determining matters under the CEEA. During the hearing, the Commission considered written submissions from CNSC staff (CMD 12-H102) and Cameco (CMD 12-H102.1).

Decision

13. Based on its consideration of the matter, as described in more detail in the following sections of this *Record of Proceedings*,

the Canadian Nuclear Safety Commission, pursuant to sections 15 and 16 of the CEAA, approves the *Proposed Project-Specific Guidelines Scoping Document for the Preparation of an Environmental Impact Statement, Rabbit Lake Tailings North Pit Expansion Project, Cameco Corporation*.

14. The Commission decides that it will not, at this time, refer the project, pursuant to section 25 of the CEAA, to the federal Minister of the Environment for his referral to a mediator or review panel.
15. The Commission decides that, subject to comments received in the context of consultations during the review process, it will delegate the conduct of technical support studies to the proponent, Cameco.
16. The Commission decides that it will consider the completed EA Screening Report in the context of an abridged hearing of the Commission, based solely on written submissions.

Issues and Commission Findings

Type of Environmental Assessment Required

Screening vs. Comprehensive Study, Review Panel or Mediation

17. The project is not of a type identified in the *Comprehensive Study List Regulations*⁸. Furthermore, there are no identified exclusions from the conduct of an EA for this project pursuant to section 7 of the CEAA, which includes Schedule 1 of the *Exclusion List Regulations*, nor do any previous EAs apply. Therefore, pursuant to subsection 18(1) of the CEAA, the CNSC is required to ensure that a screening EA of the project is performed and a Screening Report is prepared before the Commission can make a licensing decision under the NSCA to allow the project to proceed in whole or in part.
18. Other available types of assessment under the CEAA are a review panel or mediation appointed by the federal Minister of the Environment. To initiate either of these alternative assessment processes, the Commission would need to refer the project to the Minister pursuant to section 25 of the CEAA. In this regard, CNSC staff stated in its submissions that it is not aware at this time of any potentially significant environmental effects or public concern associated with this project which, in its opinion, would warrant having the project referred to a mediator or review panel.

⁸ SOR/94-638.

19. Based on the information received, the Commission concludes that a Screening EA of the project is required pursuant to the CEAA. The Commission further decides that, at this time, it will not refer the project to the Minister of the Environment for referral to a mediator or a review panel.

Consultations on the Draft EA Guidelines

20. As part of its review of the adequacy of the draft EA Guidelines and, in particular, to assess the level of public concern about the project for the purpose of considering the aforementioned options for mediation or review panel, the Commission took account of the views of the public and other stakeholders. In this regard, the Commission considered whether the consultations carried out thus far by CNSC staff and the proponent provided the public and other stakeholders with adequate opportunity to become informed and express their views about the EA.

Public and Aboriginal Consultation

21. With respect to public consultation on the draft EA Guidelines, CNSC staff reported that it had established a public registry for the assessment as required by Section 55 of the CEAA, including the identification of the EA in the Canadian Environmental Assessment Registry (CEAR), under #11-01-63818. CNSC staff noted that a Notice of Commencement was posted on the CEAR on September 15, 2011. CNSC staff stated that it would maintain a list of documents pertaining to the EA as part of the CEAR, and that the list as well as copies of the documents could be obtained by Aboriginal groups and members of the public upon request.
22. In accordance with subsection 18(3) of the CEAA, the CNSC is responsible for determining the need for and level of public participation of a project. CNSC staff stated that it determined that the project requires a “low level” of public participation. CNSC staff noted that milestone activities will be posted on the CEAR and on the CNSC Web site.
23. CNSC staff stated that it had identified 15 First Nations and Métis groups who may have an interest in the project. CNSC staff further stated that it sent project notification letters, including the project description and a request that the groups advise the CNSC of any issues or concerns they may have in relation to the project.
24. CNSC staff stated that, based on the information received to date, it has determined that there is a low risk for adverse impacts to potential or established Aboriginal treaty rights due to the proposed project. CNSC staff noted that it would continue to monitor the information received from the proponent and Aboriginal groups, and would adjust consultation efforts as appropriate.

25. CNSC staff further noted that it would continue to engage with Aboriginal groups and members of the public potentially affected by the project in order to disseminate information and address concerns.

Government Consultation

26. CNSC staff reported that, in accordance with the *CEAA Regulations Respecting the Coordination by Federal Authorities of Environmental Assessment Procedures and Requirements*⁹, CNSC staff identified Environment Canada (EC), Fisheries and Oceans Canada (DFO); Health Canada (HC), and Natural Resources Canada (NRCan) as Federal Authorities (FAs). CNSC staff noted that no other federal departments identified themselves as Responsible Authorities for the EA, or as expert FAs for the purpose of providing technical assistance. CNSC staff noted that Transport Canada (TC) may also be a RA for the EA, and that their role would be clarified as more information becomes available.
27. CNSC staff has also consulted the Saskatchewan Ministry of the Environment, which has confirmed that the *Environmental Assessment Act (Saskatchewan)*¹⁰ does apply to this project and that a provincial EA is required. CNSC staff stated that the Saskatchewan Ministry of the Environment and the CNSC will conduct a joint EA based on the *Canada-Saskatchewan Agreement on Environmental Assessment Cooperation (2005)*, in accordance with the CEAA and the *Environmental Assessment Act (Saskatchewan)*. CNSC staff noted that information requirements of both federal and provincial agencies have been included in the EA Guidelines, so that the information in the Environmental Impact Assessment and Environmental Impact Statement should be sufficient to address the environmental concerns of both the Government of Saskatchewan and the Government of Canada.

Conclusion on the EA Guidelines Consultation

28. The Commission is satisfied that the public and other stakeholders have been adequately consulted during the preparation of the draft EA Guidelines. The Commission is satisfied that CNSC staff has taken an active role in consulting the public. The Commission is satisfied that, for the purpose of considering whether to refer the project to the federal Minister of the Environment for a review panel or mediation, it had sufficient information to assess the current level and nature of public concern about the project.

⁹ SOR/97-181.

¹⁰ Statutes of Saskatchewan (S.S.) 1979-1980, c. E-10.1.

Process for Environmental Assessment Screening Report

29. CNSC staff recommended that the Screening Report be considered by the Commission in the context of a closed hearing based solely on written submissions. CNSC staff is of the view that consideration for the Screening Report in the context of an abridged hearing by the Commission is appropriate in the circumstances. CNSC staff based its recommendation on the nature of the proposed project, having limited environmental interactions on a site that is well characterized. CNSC staff noted that it would notify the Commission if it were to become aware of information that may change the above rationale.
30. Based on CNSC staff's recommendation and considering the level of public interest for this project, the Commission decided that, subject to comments received by CNSC staff in the context of consultations during the review process, the Screening Report for this project will not be reviewed in the context of a public hearing. The Commission decides that it will consider the completed Screening Report in the context of an abridged hearing of the Commission, based solely on written submissions.

Scope of the Project

31. "Scope" under the CEAA is expressed in two parts: the *scope of the project* (i.e., the physical works and activities proposed) and the *scope of assessment* (i.e., the scope of the factors to be considered in assessing the effects of the project). This section addresses only the issues relating to the *scope of the project*. The issues related to the *scope of assessment* are discussed below in the section entitled Scope of the Assessment.
32. Pursuant to section 15 of the CEAA, the scope of the project for the proposal to increase the approved capacity of the existing RLTMF from the current 9 Mm³ to 12 Mm³ includes:
 - excavating an additional pit to the north of the existing RLTMF
 - piping additions to support the project that are still subject to a feasibility study;
 - installing and modifying infrastructure to accommodate the project; and
 - changing the amount of water treated and waste rock management.
33. Based on the information received, the Commission accepts CNSC staff's recommendations concerning the *scope of the project* and approves the definition of the project scope as set out in section 2.4 of the draft EA Guidelines without change.

Scope of the Assessment

34. The other part of “scope” under the CEAA is the *scope of the assessment* – otherwise described in the CEAA as the scope of the factors that will be considered in assessing the environmental effects of the project.
35. The scope of a screening assessment under the CEAA must include the factors set out in paragraphs 16(1)(a) to (d) of the CEAA. Other factors may be included at the discretion of the Commission under paragraph 16(1)(e) of the CEAA.
36. The mandatory factors in subsection 16(1) of the CEAA are:
 - the environmental effects of the project, including the environmental effects of malfunctions or accidents that may occur in connection with the project and any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out;
 - the significance of the effects identified above;
 - comments from the public that are received in accordance with the CEA Act and its regulations; and
 - measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects of the project.
37. The proposed scope of the factors to be considered by the CNSC in the EA includes the following list of environmental components likely to be affected:
 - atmospheric environment (including air quality and noise)
 - geology, hydrology, hydrogeology and groundwater quality
 - aquatic environment (including aquatic ecology, fish and fish habitat, sediment, aquatic biota and water quality)
 - terrestrial environment (including habitat, fauna, flora and soil)
 - socio-economic environment (including land and resource use, First Nations and Métis interest, physical and cultural heritage and navigation)
 - human health and safety.

Temporal and Spatial Scope of the Project

38. The temporal boundaries will encompass the entire lifespan of the project, including site preparation, construction, operation, and decommissioning of the RLTMF.
39. The spatial boundaries to be used in the EA encompass the geographical areas of the environment that may be potentially affected by the project, or are relevant to the assessment of cumulative environmental effects. The spatial boundaries include the:
 - site study area – the project footprint;
 - local study area – where measurable changes to the environment resulting from the project activities may be anticipated; and
 - regional study area – where the potential effects of this project may interact with the effects of other projects (including abandoned, operating and/or proposed mines), resulting in the potential for cumulative effects.

Conclusion on the Scope of the Assessment

40. Based on the above information and considerations, the Commission concludes that the scope of the assessment, as described in section 2.4 of the draft EA Guidelines, is appropriate for the purpose of the environmental assessment of the proposed project.

EA Structure and Approach

41. CNSC staff recommended that, pursuant to subsection 17(1) of the CEEA, technical studies required to satisfy the requirements of the CEEA, as described in the EA Guidelines, be delegated to Cameco. CNSC staff noted that Cameco would then be required to submit an Environmental Impact Statement detailing the studies and results to both the CNSC and the provincial government. The EIS would be reviewed by CNSC staff and identified RAs and FAs. CNSC staff noted that it would prepare the Screening report following the technical review of the Environmental Impact Statement.
42. CNSC staff presented the information to be included in the Environmental Impact Statement, which would include the following:
- description of the project;
 - purpose of and need for the project;
 - environmental effects of the project, including the potential spills/malfunctions/accidents;
 - potentially affected First Nations and Métis communities and the project's potential to adversely impact potential or established Aboriginal or treaty rights and the carrying out of traditional uses;
 - any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out;
 - technically and economically feasible mitigation measures;
 - significance of the environmental impacts;
 - need for, and the requirements of, any follow-up program in respect of the project;
 - comments from the public and Cameco's responses; and
 - identification of uncertainties in regards to the project elements and/or environmental impacts of the project, including those of a chemical, physical, and/or radiological nature.
43. CNSC staff stated that the Saskatchewan Ministry of Environment would conduct a minimum 30-day public review concerning the Environmental Impact Statement, the province's technical review comments and the federal Screening Report. CNSC staff noted that the comments received would be analyzed, and the EA Screening Report revised as necessary. CNSC staff stated that the Screening Report would then be submitted to the Commission for consideration and decision prior to consideration of any licence application from Cameco in relation to the proposed project.

44. Based on the above information and considerations, the Commission is satisfied that the structure, approach, and other instructions for conducting the environmental assessment, as described in the EA Guidelines attached to CMD 12-H102, are acceptable. The Commission decides that it will delegate the conduct of technical support studies to the proponent, Cameco.

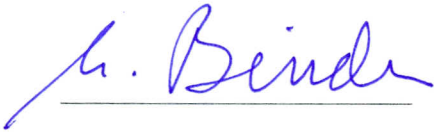
Public Concern on the Project

45. CNSC staff did not identify any concerns from the public or Aboriginal groups. CNSC staff stated that local communities and Aboriginal groups were provided with the opportunity to share relevant community and traditional knowledge and noted that Cameco intends to continue its dialogue with Aboriginal groups in northern Saskatchewan in regards to the project.
46. Based on the above information and considerations, the Commission is satisfied that, to date, no concerns regarding the project have been expressed. Further, the Commission is satisfied that the public and Aboriginal groups will have the opportunity to comment through the EA process.

Conclusion

47. The Commission has considered the submissions of CNSC staff as presented for reference on the record for the hearing.
48. The Commission, pursuant to sections 15 and 16 of the CEAA, approves the *Proposed Project-Specific Guidelines Scoping Document for the Preparation of an Environmental Impact Statement, Rabbit Lake Tailings North Pit Expansion Project, Cameco Corporation*, presented in CMD 12-H102.
49. The Commission concludes that, at this time, it will not refer the project to the federal Minister of the Environment for referral to a mediator or review panel in accordance with the provisions of the CEAA.
50. The Commission decides that, pursuant to subsection 17(1) of the CEAA, the conduct of technical support studies will be delegated to Cameco.
51. Furthermore, the Commission decides that, subject to comments received by CNSC staff in the context of consultations during the review process, it will consider the completed EA Screening Report in the context of an abridged hearing of the Commission, based solely on written submissions.

52. The Commission requests CNSC staff to report to the Commission on any issues arising during the conduct of the EA that could warrant the Commission giving further consideration to the above scope and process decisions.



Michael Binder

Michael Binder
President,
Canadian Nuclear Safety Commission

MAY 24 2012

Date