



# Record of Decision

DEC 23-H107

In the Matter of

Applicant Cameco Corporation

Subject Application for Acceptance of Cameco's Port  
Hope Conversion Facility Revised Financial  
Guarantee

Date of  
Decision May 7, 2024

**RECORD OF DECISION – DEC 23-H107**

Applicant: Cameco Corporation

Address/Location: 2121 – 11<sup>th</sup> Street West  
Saskatoon, Saskatchewan, Canada

Purpose: Application for acceptance of Cameco’s Port Hope  
Conversion Facility revised financial guarantee

Application received: September 30, 2022

Hearing: Public Hearing in Writing – Notice of Hearing in Writing  
published on October 6, 2023

Date of decision: May 7, 2024

Panel of Commission: Mr. Randall Kahgee, Presiding Member

**Financial Guarantee: Accepted**

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## 1.0 INTRODUCTION

1. On September 30, 2022, Cameco Corporation (Cameco) submitted an application to the Canadian Nuclear Safety Commission<sup>1</sup> (CNSC) for the acceptance of its proposed financial guarantee for the future decommissioning of Cameco's [Port Hope Conversion Facility](#) (PHCF). Cameco's PHCF is located in Port Hope, Ontario, on the traditional territory of the Wendat, Anishinabek Nation, and the territory covered by the Williams Treaties with the Michi Saagiig and Chippewa Nations. At the PHCF, Cameco converts UO<sub>3</sub> (uranium trioxide) powder produced by Cameco's [Blind River Refinery](#) into uranium dioxide (UO<sub>2</sub>) and uranium hexafluoride (UF<sub>6</sub>).
2. Cameco is required to maintain a financial guarantee for the future decommissioning of its Class IB facility, per licence condition 1.3 of its existing licence, FFOI-3631.00/2027. Cameco currently maintains a financial guarantee of approximately \$128.6 million to cover the future decommissioning costs for the PHCF. The financial guarantee, in the form of an irrevocable letter of credit, was accepted by the Commission at the time of Cameco's [licence renewal in November 2016](#).<sup>2</sup> Cameco's current licence, FFOI-3631.00/2027, is valid until February 28, 2027.
3. Cameco is also required to review and revise its financial guarantee at least every 5 years, when requested by the Commission, or following a revision to its preliminary decommissioning plan (PDP). As described in CNSC [REGDOC-2.11.2, Decommissioning](#),<sup>3</sup> a PDP is used for planning and cost estimation purposes and is to be progressively updated over the lifetime of a facility.
4. In September 2022, Cameco submitted a revised PDP for its PHCF to the CNSC, in accordance with licence condition 12.2 of its licence. The revision to the PDP resulted in an updated financial guarantee cost estimate. Cameco is now seeking the Commission's acceptance of a revised financial guarantee in the amount of \$138.2 million, in the form of an irrevocable letter of credit. Cameco is not seeking authorization to undertake any decommissioning activities at this time.

### Issue

5. The Commission is considering whether to accept Cameco's proposed financial guarantee for the PHCF in the amount of \$138.2 million, in the form of an irrevocable letter of credit.
6. Under subsection 24(5) of the [Nuclear Safety and Control Act](#)<sup>4</sup> (NSCA):

*A licence may contain any term or condition that the Commission considers necessary for the purposes of this Act, including a condition that the applicant provide a financial guarantee in a form that is acceptable to the Commission.*

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<sup>1</sup> 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.

<sup>2</sup> Record of Decision, *Application to Renew the Nuclear Fuel Facility Operating Licence for the Port Hope Conversion Facility*, February 27, 2017.

<sup>3</sup> REGDOC-2.11.2, *Decommissioning*, CNSC, January 2021.

<sup>4</sup> S.C. 1997, c. 9.

7. Licence condition 1.3 of FFOI-3631.00/2027 requires that:

*The licensee shall maintain a financial guarantee for decommissioning that is acceptable to the Commission.*

- Licence condition 12.2 of FFOI-3631.00/2027 requires that:

*The licensee shall implement and maintain a decommissioning strategy.*

8. As an agent of the Crown, the Commission recognizes its role in fulfilling the Crown's constitutional obligations, along with advancing reconciliation with Canada's Indigenous peoples. The Commission's responsibilities include the duty to consult and, where appropriate, accommodate Indigenous interests where the Crown contemplates conduct which may adversely impact potential or established Aboriginal<sup>5</sup> or treaty rights.<sup>6</sup> As such, the Commission must determine what engagement and consultation steps and accommodation measures are called for respecting Indigenous interests.

#### Panel

9. Pursuant to section 22 of the NSCA, the President established a panel of the Commission consisting of Mr. Randall Kahgee to consider the application. A notice of hearing in writing was published on [October 6, 2023](#).<sup>7</sup> The Commission, in conducting a public hearing based on written materials, considered written submissions from CNSC staff ([CMD 23-H107](#) and [CMD 23-H107.A](#)) and Cameco ([CMD 23-H107.1](#), [CMD 23-H107.1A](#) and [CMD 23-H107.1C](#)). The Commission also considered written submissions from 10 intervenors (see Appendix A).

#### Request for Confidentiality

10. Following a request by Cameco under rule 12 of the [Canadian Nuclear Safety Commission Rules of Procedure](#),<sup>8</sup> the Commission [decided](#)<sup>9</sup> that certain information filed by Cameco in respect of this hearing, namely Cameco's PDP, would remain confidential. Cameco summary PDP was filed as CMD 23-H107.1A.

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<sup>5</sup> "Aboriginal" is the term used in this document when referring to the Crown's duty to consult as that is the term used in s. 35 of the *Constitution Act, 1982*. In all other cases, "Indigenous" is the preferred terminology and used accordingly.

<sup>6</sup> *Haida Nation v. British Columbia (Minister of Forests)*, 2004 SCC 73; *Taku River Tlingit First Nation v. British Columbia (Project Assessment Director)*, 2004 SCC 74.

<sup>7</sup> *Notice of hearing in writing, Cameco Corporation - Request for the acceptance of the revised preliminary decommissioning plan and financial guarantee for the Port Hope Conversion Facility - Ref. 2023-H-107*, October 6, 2023.

<sup>8</sup> SOR/2000-211.

<sup>9</sup> *Commission Ruling on Request to Protect Confidential Information*, CMD 23-H107, December 4, 2023.

## 2.0 DECISION

11. Based on its consideration of this matter, as described in more detail in the following sections of this Record of Decision, the Commission is satisfied that:
- The amount of Cameco's revised financial guarantee is sufficient for the purpose of the future decommissioning of the PHCF
  - The financial instrument for the revised financial guarantee, in the form of an irrevocable letter of credit, is appropriate

Therefore,

the Commission accepts the revised financial guarantee proposed by Cameco Corporation for its Port Hope Conversion Facility located in Port Hope, Ontario.

12. With this decision, the Commission accepts Cameco's revised financial guarantee amount of \$138.2 million in the form of an irrevocable letter of credit. The Commission directs Cameco to provide to CNSC the original financial instruments within 90 calendar days of the issuance of this decision.

## 3.0 ISSUES AND COMMISSION FINDINGS

13. The Commission assessed the evidence submitted on the record for this hearing to consider the acceptability of Cameco's proposed revised financial guarantee. The Commission considered whether the proposed financial guarantee met the criteria set out in REGDOC-2.11.2, [REGDOC-3.3.1, \*Financial Guarantees for the Decommissioning of Nuclear Facilities and Termination of Licensed Activities\*](#)<sup>10</sup> and [CSA N294:19, \*Decommissioning of Facilities Containing Nuclear Substances\*](#),<sup>11</sup> and whether Cameco would satisfy the applicable licence conditions for its facility.

### 3.1 Preliminary Decommissioning Plans and Cost Estimates

14. Cameco submitted information on its revised PDPs and cost estimates. Cameco submitted updated PDPs to the CNSC in September 2022, in accordance with the required 5-year review under licence condition 12.2 of its licences. Cameco submitted that its revised PDPs were in accordance with REGDOC-2.11.2 and the requirements set out in CSA N294:19.

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<sup>10</sup> REGDOC-3.3.1, *Financial Guarantees for Decommissioning of Nuclear Facilities and Termination of Licensed Activities*, CNSC, January 2021.

<sup>11</sup> CSA Standard N294-19, *Decommissioning of facilities containing nuclear substances*, CSA Group, 2019.

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e-Doc 7275335 (PDF)

15. Cameco's operating licence condition 16.1 requires that "*The licensee shall implement and maintain a program to carry out clean-up, decontamination and remediation work.*" Cameco started the [Vision in Motion](#) project to clean up and renew the site. The project is a large, long-term investment and Cameco is working closely with the [Port Hope Area Initiative](#) to manage the historic low-level waste and coordinate remediation and redevelopment of the conversion facility. This revision resulted in the increase of the proposed financial guarantee to reflect labour rates, progress on the Vision in Motion project, and costs associated with the Centre Pier remediation and harbour retaining wall.
16. As described in CMD 23-H107.1A, Cameco submitted that the end-state objectives of its decommissioning strategy for PHCF were:
- to return the facility site to the conditions that existed prior to the processing and storage of radioactive materials, to the extent practical for future development
  - to return the Centre Pier property to the conditions that existed prior to the processing and storage of radioactive materials, to the extent practical for use by the Municipality of Port Hope
  - to clean-up the Dorset Street property and buildings for use as a non-licensed industrial site.

In CMD 23-H107.1, Cameco submitted that the current estimated cost for decommissioning the PHCF assumes the construction of a centralized waste management facility for Cameco's operations in Blind River.

17. Cameco explained that its cost estimate included allocations for demolition, soil excavation, fill replacement, landscaping, waste management and disposal, and for project-related costs including regulatory activities, Indigenous consultation, public consultation, engineering, construction management, radiological and other monitoring, as well as an escalation provision and contingency funds. Based on the revised PDP, Cameco estimated the cost for decommissioning to be \$138.2 million for the PHCF. Cameco noted that the total cost estimate for decommissioning increased about \$9.6 million from its current financial guarantees. Cameco is requesting that the Commission accept its proposed revised financial guarantee.
18. In CMD 23-H107, CNSC staff submitted information on its assessment of Cameco's revised PDPs and associated cost estimates for the future decommissioning of the PHCF. CNSC staff reported that Cameco's revised PDP provided an acceptable strategy and credible cost estimate, and was consistent with REGDOC-2.11.2 and CSA N294:19.
19. In section 2.2 of CMD 23-H107, CNSC staff reported that the increase in the cost estimate is attributed to the following changes:
- increase in labour rates
  - demolition of the buildings at the Centre Pier
  - accumulated waste disposal and changes to infrastructure
  - Centre Pier remediation and harbour retaining wall
  - indirect costs including contingency, engineering, and construction management

20. Many intervenors commented on the availability of information regarding the PDP. Intervenors, such as the Port Hope Community Health Concerns Committee ([CMD 23-H107.12](#)), A. Franche ([CMD 23-H107.8](#)) and the Nuclear Transparency Project ([CMD 23-H107.9](#)), expressed concerns on the availability of information regarding the PDP and on Cameco's confidentiality request. The Council of Canadians Kitchissippi-Ottawa Valley ([CMD 23-H107.6](#)), S.G. Baron ([CMD 23-H107.3](#)) and G. Provost ([CMD 23-H107.4](#)) expressed concerns that Cameco indicated that it plans to dispose of radioactive waste in Blind River and the lack of Indigenous consent for the disposal of decommissioning wastes in Blind River. Northwatch ([CMD 23-H107.7](#)) expressed concerns that the cost estimates for the PHCF did not include the costs for the disposal of the decommissioning wastes, as Cameco has assumed that these costs would be covered under the cost of decommissioning its Blind River Refinery.
21. The Commission notes that the disposal of decommissioning wastes at a waste facility in Blind River is used in Cameco's PDP as a basis for its cost estimate, as it was in 2016. Cameco has not put forward an application for such a facility. Should Cameco decide to apply for authorization to construct a waste facility – in Blind River or elsewhere – that application would be subject to the CNSC's licensing process, including Indigenous and public consultation. The Commission accepted Cameco's financial guarantee for the Blind River Refinery [in 2022](#).<sup>12</sup>
22. The Commission further notes that Cameco has not indicated any intention to decommission the PHCF at this time. Prior to the decommissioning stage, Cameco will be required to develop a detailed decommissioning plan (DDP). As described in REGDOC-2.11.2, if and when a licensee intends to decommission a facility, the licensee is required to apply for a licence to decommission and submit a DDP, which must include a report of any public and Indigenous engagement undertaken in its preparation. The Commission would consider an application for a licence to decommission a facility in a public hearing, with the possibility for interventions.

### **3.2 Financial Guarantee**

23. Cameco currently maintains financial guarantees totalling approximately \$128.6 million, in the form of an irrevocable letter of credit. For its updated financial guarantee, Cameco is proposing a financial guarantee in the amount of \$138.2 million, in the form of an irrevocable letter of credit.
24. In section 2.3 of CMD 23-H107, CNSC staff provided the Commission with information on its assessment of Cameco's proposed revised financial guarantee amount and instrument. CNSC staff informed the Commission that the proposed financial instrument, an irrevocable letter of credit, is the same as that currently in place. CNSC staff confirmed that the proposed financial instrument satisfies the criteria of liquidity, certainty of value, adequacy of value, and continuity set out in REGDOC-3.3.1.

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<sup>12</sup> Record of Decision DEC 21-H9, *Cameco Corporation's Application to Renew the Class IB Fuel Facility Licence for Cameco Corporation's Blind River Refinery*, February 16, 2022.

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### 3.3 Indigenous Engagement and Consultation

25. The common law duty to consult is grounded in the key principle of the honour of the Crown. The duty is engaged when the Crown contemplates conduct that may adversely affect established or potential Aboriginal and/or treaty rights of which the Crown has real or constructive knowledge.<sup>13</sup> The Commission acknowledges its obligation to fulfill the duty to consult and ensure that it considers impacts to Aboriginal and/or treaty rights, pursuant to section 35 of the [Constitution Act, 1982](#)<sup>14</sup> in the matter before it. Furthermore, the CNSC, as an agent of the Crown and as Canada's nuclear regulator, recognizes and understands the importance of building relationships and engaging with Canada's Indigenous Nations and communities.
26. In section 3 of CMD 23-H107, CNSC staff submitted that the request for acceptance of the revised financial guarantee is an administrative change and is not expected to cause any new adverse impacts to potential or established Indigenous and/or Treaty rights.
27. In its intervention, [CMD 23-H107.11](#), the Mississauga First Nation (MFN) submitted that:
- ...MFN did not receive any outreach from the CNSC providing us with direct notice of the hearing in writing nor engagement seeking to consult...*<sup>15</sup>
- MFN also noted that:
- MFN has not been consulted by Cameco on its decommissioning plans.*<sup>16</sup>
28. By way of [CMD 23-H107-Q](#), the Commission asked Cameco and CNSC staff for more information on their respective engagement and consultation efforts with Indigenous Nations and communities, particularly MFN, with respect to this matter. Cameco and CNSC staff provided information related to the Commission's questions in [CMD 23-H107.1C](#) and [CMD 23-H107.A](#), respectively. Cameco listed the different meetings it held with MFN as well as the subjects that were discussed. CNSC staff submitted that it responded to MFN's concerns and questions on the PHCF PDP during a meeting with MFN held on December 8, 2023, where CNSC staff clarified that the PDP is a preliminary plan at this time and there is no specific project proposal to construct a waste management facility at the Blind River Refinery site.
29. The Commission concludes that the proposed revision to the financial guarantee does not include any new licensed activities that could cause new impacts on the environment or changes in the ongoing licensed activities at the PHCF, and therefore, will not cause any new adverse impacts to any potential or established Indigenous and/or treaty rights.<sup>17</sup> As such, the Commission's responsibility to uphold the honour of the Crown and its constitutional obligations with regard to engagement and the duty to consult respecting Indigenous interests have been satisfied.

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<sup>13</sup> *Haida Nation v. British Columbia (Minister of Forests)*, 2004 SCC 73, at para 35.

<sup>14</sup> Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

<sup>15</sup> [CMD 23-H107.11](#), section 1

<sup>16</sup> [CMD 23-H107.11](#), section 2

<sup>17</sup> *Rio Tinto Alcan v. Carrier Sekani Tribal Council*, 2010 SCC 43, at paras 45 and 49.

30. Notwithstanding the above, the Commission has heard MFN's concerns regarding the potential for a future waste facility in Blind River. The Commission notes that although the acceptance of a financial guarantee may be considered to be administrative in nature from the CNSC's regulatory perspective, MFN's concerns are real and ought to be addressed by the licensee. The Commission expects that Cameco will meaningfully engage on what it has publicly stated about its plans and the concerns raised by MFN. The Commission expects Cameco to follow best practices in this regard in the spirit of reconciliation.
31. The Commission appreciates that CNSC staff and MFN are holding regular meetings. The Commission encourages CNSC staff to continue to build its relationship with MFN and address its concerns in the spirit of reconciliation.

### **3.4 Commission Findings**

32. Following the Commission's analysis of the information submitted on the record for this hearing, the Commission concludes that Cameco's proposed financial guarantee instruments and revised financial guarantee amount are acceptable. The Commission notes that Cameco's proposed financial guarantee instruments are, apart from the amounts, unchanged from its existing financial guarantee. The Commission is satisfied that Cameco's revised PDP provides the basis for a credible cost estimate. The Commission is also satisfied that Cameco continues to meet its licensing requirements related to maintaining a financial guarantee. The Commission comes to these conclusions on the basis that:
  - Cameco's revised PDP provides a credible cost estimate for the future decommissioning of Cameco's PHCF and meets the requirements of REGDOC-2.11.2 and CSA N294-19
  - Cameco's proposed revised financial guarantee amount is adequate for the future decommissioning of Cameco's PHCF and is consistent with REGDOC-3.3.1
  - the proposed financial instrument, in the form of an irrevocable letter of credit, satisfies the criteria of liquidity, certainty of value, adequacy of value, and continuity set out in REGDOC-3.3.1.
33. The Commission expects to be informed should there be an impact on decommissioning cost estimates due to a future revision to the PDP.
34. The Commission acknowledges the importance of transparency and encourages Cameco and CNSC staff to continue to make relevant information available to the public, as appropriate. The Commission notes the concerns raised by intervenors about the level of detail in Cameco's PDP summary and encourages Cameco consider these comments and provide additional details in future updates.

#### 4.0 CONCLUSION

35. The Commission concludes that Cameco's proposed revised financial guarantee will continue to provide for the future decommissioning of Cameco's PHCF. Therefore, the Commission accepts Cameco's proposed revised financial guarantee for the PHCF in the amount of \$138.2 million in the form of an irrevocable letter of credit.



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Mr. Randall Kahgee  
Presiding Member  
Canadian Nuclear Safety Commission

May 7, 2024

Date

## Appendix A – Intervenors

Evelyn Gigantes	23-H107.2
Sarah Gabrielle Baron	23-H107.3
Gilles Provost	23-H103.4
Susan O'Donnell	23-H107.5
Council of Canadians Kitchissippi-Ottawa Valley	23-H107.6
Northwatch	23-H107.7
Alexandra Franche	23-H107.8
Nuclear Transparency Project	23-H107.9
Mississauga First Nation	23-H107.11
Port Hope Community Health Concerns Committee	23-H107.12