



**Written submission from the  
Mississauga First Nation**

**Mémoire de la  
Première Nation Mississauga**

In the Matter of

À l'égard de

**Cameco Corporation**

**Cameco Corporation**

---

**Revised preliminary decommissioning plan  
and financial guarantee for Cameco  
Corporation's Port Hope Conversion  
Facility**

---

**Plan préliminaire de déclassement et la  
garantie financière révisés pour l'installation  
de conversion de Port Hope de Cameco  
Corporation**

Hearing in writing based on written  
submissions

Audience par écrit fondée sur des mémoires

**December 2023**

**Décembre 2023**

Tribunal Officer, Commission Registry  
Canadian Nuclear Safety Commission  
280 Slater St, PO Box 1046 Stn B  
Ottawa ON K1P 5S9

via email [interventions@cnsccsn.gc.ca](mailto:interventions@cnsccsn.gc.ca)

February 9, 2024

**Re: Comments of Mississauga First Nation regarding the written hearing for Cameco's uranium conversion facility in Port Hope (2023-H-107)**

---

These are the submissions of Mississauga First Nation ("MFN") with respect to the proposed revisions to Cameco's preliminary decommissioning plan ("PDP") and financial guarantee for its uranium conversion facility in Port Hope.<sup>1</sup> MFN is a member of the Anishinabek Nation and a signatory to the Robinson Huron Treaty (1850) with an inherent right to self-government. While we are one community within the broader Mississauga Nation, this submission to the CNSC is on behalf of our Indigenous community, Mississauga First Nation, for whom we speak and act in their best interest.

These submissions are provided to the Canadian Nuclear Safety Commission ("CNSC") without prejudice to our section 35 constitutional rights and do not constitute a waiver nor acceptance of the sufficiency nor meaningfulness of consultation undertaken by the CNSC. We also retain the right to provide further and more detailed comments on this matter following the opportunity for consultation.

In the reasons below, we detail our request that the CNSC reject Cameco's proposal to:

- Consolidate and dispose of all waste from its three facilities at the Blind River Refinery - (1) the Port Hope Conversion Facility, (2) Port Hope Fuel Manufacturing Facility and (3) Blind River Refinery<sup>2</sup>
- Transport and dispose of all uranium contaminated building materials, equipment and soils from the three Cameco sites at the Blind River Refinery<sup>3</sup>
- Construct a waste 'storage cell' at the Blind River Refinery with a base liner, leachate collection system and cap to house 148,000m<sup>3</sup> of radioactive waste<sup>4</sup>

MFN has never consented to these lands being used for nuclear activities and we firmly oppose any further or future use that would see our lands being used as disposal grounds for radioactive wastes.

---

<sup>1</sup> CNSC, "[Revised Notice of Hearing in Writing](#) – Ref. 2023-H-107" (14 December 2023)

<sup>2</sup> Cameco, "[Port Hope Conversion Facility: Public Summary – Preliminary Decommissioning Plan](#)"

<sup>3</sup> Cameco, "[Fuel Manufacturing: Public Summary – Preliminary Decommissioning Plan](#)"

<sup>4</sup> Cameco, "[Blind River Refinery: Public Summary – Preliminary Decommissioning Plan](#)"

**1. *The CNSC failed to engage with MFN and provide notice of Cameco's proposed PDP revision***

As we communicated to the CNSC by letter dated December 1, 2023, MFN did not receive any outreach from the CNSC providing us with direct notice of the hearing in writing nor engagement seeking to consult, despite the potential for impacts to our rights. The CNSC, acting on behalf of the Crown, has a duty to consult when it has knowledge about the potential existence of conduct that might adversely affect our Indigenous rights. The proposed revision to Cameco's uranium conversion facility PDP is an activity that directly engages our rights because of Cameco's proposal to consolidate and dispose of radioactive wastes from Cameco's nuclear facilities on our territory.

While an extension until February 9, 2024 was granted to facilitate the provision of our comments, we question the CNSC's ability to now undertake consultation in good faith, with an intention to substantially address our concerns.

**2. *MFN has not been consulted by Cameco on its decommissioning plans***

MFN wishes to clarify that contrary to Cameco's statement that "[t]he planning for the decommissioning of the Cameco PHCF is an ongoing and complicated process that involves consultation with...Indigenous rights holder communities,"<sup>5</sup> [emphasis added] Cameco has never sought our comments on its decommissioning plans.

However, as we discuss further in section 5 below, we have clearly expressed our position that no new risks or nuclear activities be brought to the Blind River site as it would prolong already existing impacts to our rights. Despite these concerns having been clearly communicated to both Cameco and the CNSC,<sup>6</sup> we see no reflection of these comments in Cameco's PDP and choice of decommissioning strategy. While MFN has made its position public, Cameco cannot rely on these comments as being engagement or consultation for the purposes of seeking our input into its PDP.

**3. *Plans to dispose of radioactive waste at the Blind River site will have detrimental impacts on our health and well-being, violating Treaty rights***

MFN has never given consent for our lands to be used for nuclear activities and nor have we consented to our lands being used as disposal grounds for radioactive wastes from other nuclear facilities and contaminated lands.

We strongly oppose Cameco's proposal to:

---

<sup>5</sup> Cameco, "[Port Hope Conversion Facility: Public Summary – Preliminary Decommissioning Plan](#)"

<sup>6</sup> MFN, "[Supplemental Information](#) to the CNSC for the Relicensing of Cameco's Blind River Refinery," (10 Nov 2021); MFN, "Written Submission to CNSC for the Relicensing of Cameco's Blind River Refinery," (26 Oct 2021)

- Consolidate and dispose of all waste from its three facilities at the Blind River Refinery - (1) the Port Hope Conversion Facility, (2) Port Hope Fuel Manufacturing Facility and (3) Blind River Refinery<sup>7</sup>
- Transport and dispose of all uranium contaminated building materials, equipment and soils from the three Cameco sites at the Blind River Refinery<sup>8</sup>
- Construct a waste 'storage cell' at the Blind River Refinery with a base liner, leachate collection system and cap to house 148,000m<sup>3</sup> of radioactive waste<sup>9</sup>

We submit the CNSC does not have the requisite legal basis to grant the proposed change to the PDP, as the proposed waste disposal therein would interfere with the exercise of our Treaty rights.

Our Treaty rights provide that our way of life, rights to hunt, fish, gather resources and our livelihood should not be interfered with. We continue to exercise our Indigenous rights as guardians of these lands and our authority to govern our lands and resources flows from people of the Mississauga First Nation according to the culture, tradition, customs and laws of our community.

Section 35 of the *Constitution Act* bestows on the Crown an obligation to act honourably. It also creates a fiduciary relationship wherein the Crown must uphold the honour of the Crown in all dealings affecting our rights, so that we can continue to meaningfully exercise our Treaty rights. As such, the Crown is obligated not to interfere with our Treaty rights nor prevent us from exercising our rights and access to lands within our territory.

Any agreement or decision by the CNSC to permit the disposal of radioactive waste in our lands will leave us without the meaningful ability to exercise our Treaty rights. The preservation of these lands and their return to their former state – prior to the siting of the refinery – is essential to our ability to exercise our Treaty rights.

#### **4. *The non-disclosure of the PDP and finding it to be confidential is not justified in the circumstance***

MFN requested the full text of Cameco's current and proposed preliminary decommissioning plan but was denied access by the CNSC. According to reasons provided by the CNSC, "the protection of the information outweighs in importance the public interest in public hearings and disclosure of evidence."<sup>10</sup>

---

<sup>7</sup> Cameco, "[Port Hope Conversion Facility: Public Summary – Preliminary Decommissioning Plan](#)"

<sup>8</sup> Cameco, "[Fuel Manufacturing: Public Summary – Preliminary Decommissioning Plan](#)"

<sup>9</sup> Cameco, "[Blind River Refinery: Public Summary – Preliminary Decommissioning Plan](#)"

<sup>10</sup> Canadian Nuclear Safety Commission, "[Record of Decision – Commission Ruling on Request to Protect Confidential Information](#)" (4 December 2023)

MFN does not support the CNSC's rationale finding the PDP to be confidential and thus not publicly disclosable. We furthermore submit the CNSC failed to consider how the non-disclosure of this information would impact our constitutionally protected Indigenous and Treaty rights.

MFN submits the public interest is too vague and broad to constitute a valid objective to justify the non-disclosure of documents,<sup>11</sup> especially when those documents directly impact our Indigenous rights. The CNSC has not met minimum standards of consultation necessary to accommodate our Treaty rights which require the CNSC, as the Crown, to disclose relevant information in its possession regarding a proposed decision.<sup>12</sup> Without all of the facts first being disclosed, MFN is unable to make an informed assessment of the impacts of the proposed PDP revisions.

**5. *Cameco has mischaracterized the radioactive waste disposal lands as being 'available' and having 'strong community support'***

MFN strongly objects to Cameco's statements that the Blind River Refinery is the ideal location for a low-level radioactive waste management facility because it has "available land" and "strong community support."<sup>13</sup>

*a. Available Lands*

MFN strongly contests the lands at Blind River as being 'available' for a radioactive waste facility when in perpetuity, the siting of a facility at this location would remove our access to lands and waters central to our culture and well-being, infringing on our Treaty rights.

We remind the CNSC that Cameco's refinery is less than 1 km from our community and is located on our Treaty lands. The people of Mississauga First Nation have resided in and held a special custodian relationship with the lands of Mississauga First Nation ancestral territory since time beyond memory. These lands are mentioned specifically in the Robinson Huron Treaty, as lands set aside between the River Mississauga and the River Penebawabecong, up to the first rapids.

Before the development of the Blind River refinery, the MFN community used these lands as summer residence and a place to collect traditional foods, including cranberries, small mammals and rainbow smelt. We recall a time when many of these things were plentiful. Now, access to traditional foods and resources has been limited because these plants and animals are not as prevalent or no longer fit to be consumed.

---

<sup>11</sup> [R v Sparrow](#), [1990] 1 SCR 1075, p 1113

<sup>12</sup> [Mikisew Cree First Nation v Canada](#), 2005 SCC 69, para 34

<sup>13</sup> Cameco, "[Port Hope Conversion Facility: Public Summary – Preliminary Decommissioning Plan](#)," p 2

Since AD 800,<sup>14</sup> these lands have been the site of vibrant Indigenous occupation and life. The Mississagi Delta, where the refinery is located, was MFN's traditional summering area or retreat, where we would harvest traditional foods to supplement our diet, after spending the winter months further north. The Elders of MFN recall picking blueberries and cranberries at the site that is now a refinery. There is recorded evidence of large, cultivated berry areas which formed through controlled burns. These controlled burns then led to larger berry areas and the establishment of seasonal berry-picking camps.

This same site at the mouth of the river, was also the location of much interaction with European colonists including the French, with whom we traded. The sandy soils of the delta also supported extensive garden production and corn horticulture.<sup>15</sup> The flora also provided traditional uses for internal and external medicines, eating in seasonal dishes, obtaining fibers and dyes, and for use as water resistant coverings and shelters.<sup>16</sup>

#### *b. Community Support*

MFN strongly contests Cameco's contention that the site for radioactive waste disposal at the Blind River refinery has 'strong community support.'

As MFN shared with the CNSC and Cameco during the 2021 licensing hearing, when the refinery was first built, community members recall '*promises were made*' that it would only be there for 20 -25 years. Now, more than thirty years on, they question Cameco's plans and ask to be informed. As a People that are responsible to and think about the next seven generations, community members asked about the refinery's plan: '*What would it mean for the next seven generations? What was going to happen when operations shut down?*'

In regard to the site and its long-term contamination, community members also expressed that they '*want to make it better*' and the site should never be used to support the development of additional nuclear operations or facilities, which would introduce new risks and prolong existing impacts to their rights. As one community member remarked, '*Anything that goes on on that land, affects our inherent Treaty rights.*'

While we have made these concerns known to the CNSC and Cameco – including that any decisions regarding decommissioning require our early and full engagement<sup>17</sup> - we see no reflection of these comments in Cameco's PDP and choice of decommissioning strategy. Instead, Cameco has made a unilateral statement that the site has 'community support' without due regard for our prior comments.

---

<sup>14</sup> Archaeology Unlimited, "Eldorado on the Mississagi – An Evaluation of Cultural Resources on the Eldorado Nuclear Ltd Property Near Blind River, Ontario" (circa 1980)

<sup>15</sup> *Ibid*, p 18

<sup>16</sup> *Ibid*, p 24

<sup>17</sup> See Mississauga First Nation submission to the CNSC dated October 26, 2021

To prevent a further violation of our Indigenous rights, we submit the CNSC has not undertaken meaningful consultation and does not have the requisite basis to grant the revision to the PDP as proposed by Cameco.

**6. MFN has the right to say no and to set out how these lands are to be used and accessed by others**

It is incumbent that in upholding the Honour of Crown and exercising your jurisdiction under the *Nuclear Safety and Control Act*, the CNSC exercise its statutory authority, including the decision on this PDP, in a way that upholds international human rights, including the *United Nation's Declaration on the Rights of Indigenous People (UNDRIP)*.<sup>18</sup>

The articles set out in *UNDRIP* provide a minimum threshold for protecting Indigenous rights. These minimum standards also provide a starting point for the establishment and promotion of harmonious relationships, such as between MFN and CNSC.

In order for MFN to exercise its rights and honour our law and special relationship with the lands, MFN requires the right to say no, and that there be Free, Prior and Informed Consent ("FPIC") in decision making in respect of lands, their use and access by others.

FPIC is a principle protected by international human rights standards which stands for 'all peoples have the right to self-determination.' FPIC is linked to the right to self-determination, namely that 'all peoples have the right to freely pursue their economic, social and cultural development'.<sup>19</sup> Pursuant to Article 29.2 of UNDRIP, no storage nor disposal of hazardous materials can occur on our lands absent our Free, Prior and Informed Consent:

States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.

In order to exercise our rights and honour our laws, MFN is active in preventing future degradation so that our use of these lands is not entirely extinguished. This means in all aspects of CNSC decision making, including on this PDP revision, we have the right to say no and to set out how these lands are to be used and accessed by others.

---

<sup>18</sup> See Mississauga First Nation submission to the CNSC dated October 26, 2021, p 4 - 12

<sup>19</sup> United Nations, "[Free Prior and Informed Consent – An Indigenous Peoples' right and a good practice for local communities](#)," (2016)

## **7. The siting of a radioactive waste facility on MFN lands amounts to environmental racism**

MFN submits the CNSC must consider the revision proposed by Cameco, including the proposals within the PDP, from an environmental justice perspective. It is our position that should the CNSC accept Cameco's proposal to site and consolidate its radioactive waste facility at the Blind River Refinery, it would exacerbate existing environmental injustices.

As Bill C-226, *An Act respecting the development of a national strategy to assess, prevent and address environmental racism and to advance environmental justice*, recognizes "a disproportionate number of people who live in environmentally hazardous areas are members of an Indigenous, racialized or other marginalized community" and that "establishing environmentally hazardous sites, including landfills and polluting industries, in areas inhabited primarily by members of those communities could be considered a form of racial discrimination."<sup>20</sup> Similar conclusions were made by the United Nations' special rapporteur on human rights and toxics, who concluded environmental injustices persist in Canada, with Indigenous peoples being the worst affected.<sup>21</sup>

While the existence of nuclear operations on our ancestral lands has contributed to our loss of culture and spiritual traditions, and has been detrimental to our health and well-being of our First Nation, Cameco has materially benefitted and continues to benefit, from the operations at Blind River, which remains the world's largest uranium refinery. The proposal to now site radioactive wastes on our lands would perpetuate an existing environmental injustice. We strongly encourage the CNSC to work with affected communities, including MFN, to assess, prevent and respond to the environmental justices caused by nuclear operations.

### **Requested Actions**

MFN submits the CNSC has not upheld the Honour of the Crown and given the significant impact to our constitutionally protected rights, the CNSC does not have the requisite legal basis to approve the PDP revisions.

We request the CNSC:

- Deny Cameco's proposed revision to its PDP and defer of any decision regarding their PDP strategies, including plans to consolidate and dispose of radioactive wastes at the Blind River Refinery

---

<sup>20</sup> Canada, [Bill C-266](#), *An Act respecting the development of a national strategy to assess, prevent and address environmental racism and to advance environmental justice*, 1 Parl, 2023 (first reading in Senate March 30, 2023)

<sup>21</sup> United Nations Human Rights Office of the Commissioner, "[Canada's inaction on toxic exposure a disturbing sign of discrimination: UN expert](#)" (7 June 2019)



- Reconsider its Record of Decision finding the PDP to be confidential taking into account impacts to Treaty rights; we request the PDPs for all three of Cameco's facilities be released in full within 30 days
- Promptly commence meaningful consultation on all three PDP's for Cameco's facilities, prioritizing considerations of impacts to our rights, the transparent sharing of information and communications to date between the CNSC and Cameco
- Issue a notice of public hearing with accompanying participant funding to enable the full, transparent and public review of all three of Cameco's PDPs, following the disclosure of the PDPs in full
- Work with affected communities, including MFN, to assess, prevent and respond to the environmental justices caused by nuclear operations.

Thank you for the consideration of our comments.