



Oral presentation

Written submission from the Ya'thi Néné Land and Resource Office

In the Matter of the

Cameco Corporation, Rabbit Lake Operation

Application for the renewal of uranium
mine/mill licence for Rabbit Lake Operation

Commission Public Hearing

June 7-8, 2023

Exposé oral

Mémoire du Bureau des terres et des ressources de Ya'thi Néné

À l'égard de

Cameco Corporation, établissement de Rabbit Lake

Demande visant le renouvellement du permis
d'exploitation de mine et d'usine de
concentration d'uranium pour l'établissement
de Rabbit Lake

Audience publique de la Commission

7-8 juin 2023

YA'THI NÉNÉ LANDS AND RESOURCES INTERVENTION

*In the matter of the Cameco Corporation's request to renew operating
licenses for Key Lake, McArthur River, and Rabbit Lake Operations for
20-year Terms*



1 May 2023

Introduction

Cameco Corporation (hereafter, Cameco) has applied to the Canadian Nuclear Safety Commission (CNSC) to renew its Uranium Mine and Mill Licences for Rabbit Lake, Key Lake, and McArthur River Operations (UML-MINEMILL-RABBIT.01/2023, UML-MILL-KEY.01/2023, UML-MINE-MCARTHUR.01/2023). The current 10-year licences allow Cameco to operate these facilities until 31 October 2023.

Cameco transitioned the Rabbit Lake Operation into a state of care-and-maintenance in 2016; timing of resumption of production at this facility is yet to be determined. Nonetheless, the proposed licence would allow Cameco to operate the Rabbit Lake Operation until 31 October 2043.

The Key Lake and McArthur River Operations are separate facilities but are operationally connected as uranium ore from the McArthur River mine is processed at the Key Lake mill. As for Rabbit Lake, the proposed renewed licences would allow Cameco to operate the Key Lake and McArthur River Operations until 31 October 2043.

Cameco originally requested license renewals for these facilities for indefinite terms but then revised their request for 20-year terms for each facility. CNSC staff is recommending that 20-year licenses are granted for Key Lake and McArthur River and a 15-year license for Rabbit Lake.

Ya'thi Néné Lands and Resources (YNLR) holds two Participant Funding Contribution Agreements (for Key Lake and McArthur River separate from that for Rabbit Lake) with the CNSC to provide a written submission related to Cameco's applications to renew their current licenses for 20-year terms (hereafter, the Application).

The purpose of YNLR's intervention is to provide information and context of the Athabasca Denesų́iné and Basin Residents' perspective and concerns regarding this Application, as all three Operations lie within Nuhenéné (the traditional territory of the Athabasca Denesų́iné).

Background of Nuhenéné and YNLR

YNLR works to protect the lands and waters of Nuhenéné for the long-term benefits of its member Denesų́liné First Nations and Athabasca communities, guided by their knowledge, traditions, and ambitions, while being a respected partner in relations with industries, governments, and organizations who seek to operate in Nuhenéné. YNLR is governed by an independent Board of Directors appointed by the elected community leaders and operates five offices in Saskatchewan (Saskatoon, Fond du Lac, Black Lake, Hatchet Lake, and Uranium City).

The organization is mandated by the Hatchet Lake, Black Lake, and Fond du Lac Denesų́liné First Nations, as well as the municipalities of Wollaston Lake, Stony Rapids, Camsell Portage, and Uranium City to act as the initial point of contact for consultation and engagement from Government and Proponents. In addition to protection of lands and waters within Nuhenéné, YNLR works to promote the interests of the region's residents through training, employment, and procurement opportunities.

The First Nation members of YNLR are all signatories to treaties with the Crown.¹ A significant majority of the residents of the municipalities represented by YNLR are also Aboriginal persons,² with Aboriginal and/or Treaty rights protected by section 35 of the *Constitution Act, 1982*.

References in this intervention to “the Aboriginal and Treaty rights of YNLR members”, refers to the Aboriginal and/or Treaty rights held by the First Nations, and/or exercised by the Aboriginal persons resident in the municipalities.

The seven Athabasca Basin communities are partnered with Cameco and Orano in a Collaboration Agreement (CA) and YNLR provides support for the implementation of this Agreement on behalf of the seven Athabasca Basin communities. YNLR participates as either a member or observer on several committees established through the CA including the Joint

¹ Fond du Lac and Black Lake Denesų́liné First Nations are both signatories to Treaty 8. Hatchet Lake Denesų́liné First Nation is a signatory to Treaty 10.

² According to the 2016 census, 89.5% of Wollaston Lake residents, 78% of Stony Rapids residents, and 60% of Uranium City residents are Aboriginal. Data for Camsell Portage is not available.

Implementation Committee (JIC), Business Advisory Committee (BAC) and the Athabasca Joint Environmental Subcommittee (AJES). Community representatives are also appointed to each respective committee. As a member of AJES, YNLR participates in quarterly meetings and various activities throughout the year from exploration to decommissioning with respect to Cameco and Orano sites.

Document Timeline and Submission

YNLR was officially notified by the CNSC of this Application on 26 September 2022 and applied for funding to intervene in the Application soon thereafter. However, YNLR was made aware of the license renewal application process earlier through our participation on the AJES committee as well as through our Terms of Reference with the CNSC. YNLR received fully executed funding agreements with the CNSC on 19 January 2023. Commission Member Documents (CMD) submitted by CNSC Staff and Cameco were made available on 24 February 2023.

With respect to these CMDs, YNLR undertook the following tasks:

- Participated in joint in-person and virtual meetings with the YNLR Board of Directors and Athabasca Land Protection Committee (ALPC) on 15 December 2022, 16 March 2023, and 20 April 2023.
- Participated in a virtual meeting with Leadership of Athabasca Basin Denesų́łn  First Nations and Communities on 24 and 29 April 2023.
- Conducted interviews with Athabasca Basin residents in March 2023.
- Conducted focus group meetings in Uranium City, Camsell Portage, Fond du Lac, Stony Rapids, Black Lake, and Hatchet Lake/Wollaston Lake Post on 11-13 April 2023.
- Conducted a legal review.

The goal of these discussions and engagements was to generate a better understanding of the needs, interests, and knowledge of community members and those most directly affected by the projects. As such, YNLR is providing this submission on behalf of its member communities. This intervention is intended to provide the Commission with a summary of key issues relevant to the

Application. YNLR and its advisors have engaged in as much analysis as possible within the allotted time frame. In reviewing these submissions, **YNLR reminds the Commission that an absence of analysis or documented concern or discussion should not be taken to indicate that YNLR has no concerns on that issue.** The information contained in the following written document is incomplete and an absence of data does not indicate an absence of value or perspective.

YNLR requested an extension for two weeks beyond the intervention submission deadline of 24 April 2023 to 8 May 2023, and was granted an extension to 1 May 2023. YNLR requested this additional time to support resource and governance planning within YNLR due to the multitude of license and permit applications the YNLR office processes.

Results of Community Survey: Interviews

YNLR Community Land Technicians (CLTs) conducted interviews in Fond du Lac, Black Lake, and Hatchet Lake Denesųfiné First Nations and Uranium City. Residents were asked questions about their familiarity with Key Lake, McArthur River, and Rabbit Lake, their knowledge about Cameco's request to secure operating licences for 20-year terms for these facilities, how they expected land use and harvested species to be affected by 20-year licenses, whether they felt that future generations would be more accepting of mining if licenses were granted for 20 years, and importantly, whether they support Uranium Mine and Mill licenses for 20-year terms. Thirty residents were interviewed in March 2023 throughout the seven Athabasca Basin communities.

Familiarity with Key Lake, McArthur River, and Rabbit Lake. Nearly all interviewed residents are familiar with these sites. Most have visited the mines and mills or conduct land use in the regions surrounding the Operations. Many respondents are or have been employed by these mines and mills, particularly at Rabbit Lake.

Awareness that Cameco has requested licenses for 20-year terms, prior to the interview.

About one third of interviewees were aware of Cameco's license renewal requests, primarily through community meetings hosted in November 2022 by Cameco and CNSC.

Changes to land use if licenses are 20 years in duration as opposed lesser duration. Overall, two-thirds of respondents expressed concerns about potential additional changes to land use and adverse impacts on the environment. All Basin residents recognized impacts from Cameco's Operations, and one third of respondents felt that no additional changes in land use would occur for Basin residents beyond those impacts to Treaty rights that have already occurred. However, of the latter group, these respondents felt there would be no change to land use because the mines and mills have been in operation for many years and Cameco has demonstrated an adequate history of monitoring environmental impacts. The larger group of respondents requested a cautionary approach to license renewals owing to potential impacts to lands and waters and that long-term licenses do not allow communities to provide regular feedback and oversight as to how Cameco conducts their Operations.

Impacts to harvested species (mammals, birds, fish) if licenses are 20 years in duration as opposed to 10 years. One-quarter of respondents expressed no concerns about changes to harvested species with longer term licenses. However, three-quarters of those interviewed expressed concerns about potential adverse effects on wildlife due to air and water pollution, loss of habitat, and disruption of migration (e.g., caribou).

Thoughts on effects of longer licenses on acceptance of mining by future generations and concerns about information loss over time. About half of respondents felt that 20-year license terms would result in a disconnect between younger generations and knowledge of mining operations in Nuhenéné, and therefore younger generations would more readily accept mining

and would overall become less informed and engaged. However, a few respondents felt that longer licenses would benefit future generations through opportunities for secure employment.

Level of support for 20-year licenses. Two-thirds of Nuhenéné residents interviewed strongly opposed Cameco's request to renew Cameco's licenses for Key Lake, McArthur River, and Rabbit Lake for 20-year terms.

Other feedback. Other insights and requests generated through the interview process included requests that Cameco regularly provide information to and engage with Basin communities, ongoing and transparent environmental monitoring, employment opportunities provided to Basin residents including higher level positions, and investment in community infrastructure.

Overall, most respondents felt that shorter license durations allow Athabasca Basin communities more control and oversight regarding mines and milling Operations in their traditional territory.

Results of Community Survey: Focus Group Meetings

YNLR staff conducted focus group meetings with invited residents in Nuhenéné communities during 11-13 April 2023.

Concerns. Focus group meeting attendees expressed many concerns directly and indirectly related to 20-year license terms for Cameco's mining and milling Operations. Residents unanimously agreed that 20-year licenses would result in lost opportunities for Athabasca Basin communities to influence mining activities; they expressed fear that once 20-year licenses were granted that Cameco would rarely return to communities for reporting, consultation, and engagement. Related to this point, many felt that 20-year licenses would reduce the ability of younger generations to provide input to Cameco on the nature of their operations due to their

long duration, and that 20-year licenses will set a precedent for all other mining companies operating within Nuhenéné.

Environmental concerns associated with license renewals for 20-year terms were expressed at focus group meetings in all communities. Attendees stated that 20-year licenses would inhibit Basin communities' oversight of environmental monitoring at Cameco's facilities. Related to the above point on community engagement, residents expressed concern that environmental monitoring would become less of a priority to Cameco if licenses were granted for 20 years, and that Basin communities would receive less information about monitoring results nor would be involved in such efforts. Concerns about mining impacts interacting with climate change were also mentioned at focus group meetings, as were concerns about effectiveness and availability of Cameco's community liaisons to Basin residents. Lastly, several attendees felt that Cameco employees were not free to speak of or report environmental concerns or mishaps for fear of losing their employment, resulting in a call for community-led, independent monitoring of Cameco's Operations.

Pertaining to Rabbit Lake, residents expressed significant concern for the "ongoing state" of care-and-maintenance for this facility and would like to receive an explicit timeline for Rabbit's care-and-maintenance status or alternatively, a plan for decommissioning.

License duration recommendations. Not one attendee at any community focus group meeting stated support for 20-year licenses as requested by Cameco. Instead, all attendees expressed support for Cameco's mining and milling Operations but were in favour of shorter license durations. The license duration idealized by focus group attendees varied by community and ranged from 5 to 15 years with the majority's preference on 5 to 10 years.

Other requests. Focus group meeting attendees stated numerous requests directly and indirectly related to Cameco's request for 20-year licenses for Key Lake, McArthur River, and Rabbit Lake. Residents requested more frequent (~quarterly) visits by Cameco to Basin

communities to not only inform residents of Cameco's Operations at these facilities, but also to listen to concerns of community members and work collaboratively to develop solutions.

Several attendees suggested that meetings should occasionally be held at the mines and mills to allow residents the opportunity to become more familiar with Cameco's Operations.

Focus group meeting hosted in all communities requested community-led independent monitoring of Cameco's Operations and lands and waters surrounding these Operations via YNLR Community Land Technicians. Residents of some communities requested that Cameco commit more effort and resources to restoration and remediation of other sites for which they hold licenses (e.g., Beaverlodge) in exchange for support of longer licences; they felt that Cameco should first demonstrate a "better track record" before being granted 20-year licenses for existing facilities. Regarding environmental monitoring conducted by Cameco, residents would like to receive more frequent reporting to communities in language more readily understandable by residents (i.e., in layman's terms), perhaps partnered with YNLR and CNSC in community meetings.

On training and employment, all communities requested that Cameco commit to hiring of more Athabasca Basin residents and that hiring is distinct and separate from other communities of northern Saskatchewan. To facilitate increased employment of Basin residents, attendees stated that it would be extremely helpful to establish training facilities and opportunities located in Basin communities. In-community training would reduce alienation of students attempting to assimilate in unfamiliar societies (i.e., large southern cities) and thereby increase the rate of successful completion of educational pursuits; this would apply not only to training specific to uranium mining, but to education in all vocations.

Results of Legal Review

YNLR's legal team suggested that Cameco's request for 20-year licenses for Key Lake, McArthur River, and Rabbit Lake is unreasonable and should not be entertained by CNSC. A 20-year license is generational, and rather than ensuring accountability and transparency, such a license

that will last for a generation will lock-in impacts for an extended period. This will disconnect communities from projects operating in Nuhenéné and insulate Cameco from precautionary adaptive management of its Operations. Instead, shorter licenses will allow CNSC and Athabasca Basin communities to maintain more active ongoing supervision of these Operations and will ensure that Cameco is applying best practices throughout the entirety of their license duration. Best practices, discussed further below, will likely change and improve over time and therefore shorter licenses will allow Basin communities to more actively and frequently participate in Nuhenéné's management.

The traditional territory in which Cameco's Operations are located, and the resources impacted by the Operations, are the lands, waters, and resources which YNLR members have used and occupied since time immemorial. The Dene Laws of many of YNLR's members make specific provision for stewarding and caring for their traditional territory. Ensuring that the communities and residents maintain ongoing and regular oversight of Cameco's Operations through in-depth regulatory proceedings (not just regulatory oversight reports, but comprehensive proceedings) is an important aspect of the sharing relationship which the Crown (whom the CNSC represents) agreed to when it entered into Treaty with YNLR's First Nation member communities. The Treaty relationship is an ongoing relationship. The "promise" of the Treaties, "is not fulfilled definitively." The Treaty promises were "easy to fulfill initially but difficult to keep as time goes on and development increases."¹³ Keeping that promise over time requires that the Crown act honourably and engage in proper land use management in collaboration with their First Nation Treaty partners. Granting proponents such as Cameco generational licenses to profit off the lands and territories of Indigenous peoples is not honourable or consistent with the ongoing fulfillment of the Treaty promise.

The CNSC ought to uphold Article 26 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which requires that; "Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use...". Limiting license renewal periods to shorter periods is more consistent with UNDRIP. Instead of setting in motion a lengthy

period of alienation from their territories, shorter renewal periods will also ensure that the licenses for the projects can remain consistent with best engineering and environmental practices as those develop and change over time. For example, in the 20 years prior to 2023, Canada's own environmental assessment standards have been entirely rewritten twice (the *Canadian Environmental Assessment Act, 2012* and the *Impact Assessment Act*). 20 years ago, Canada's *Nuclear Safety and Control Act* had only just come into force two years prior, and the CNSC had only recently been established out of the former Atomic Energy Control Board. Twenty years ago, Canada's courts had not yet recognized the Duty to Consult and Accommodate,^[4] and regulatory tribunals like the CNSC had barely begun to contemplate the sort of involvement that YNLR and its Indigenous member communities now have in CNSC and similar proceedings.^[5] As such, the changes that will take place between 2023 and 2043, the duration of the proposed license renewal for Key Lake, McArthur River, and Rabbit Lake are impossible to predict. This concern only sharpened following the passage into law of UNDRIP^[6]. UNDRIP creates a legal requirement that "all measures necessary" must be taken "to ensure that the laws of Canada are consistent with" UNDRIP. Given that UNDRIP includes a requirement that Canada must obtain the free, prior and informed consent of Indigenous peoples "prior to the approval of any project affecting their lands or territories and other resources",^[7] these anticipated changes to the law must be taken into consideration when considering Cameco's application.

Recommendation by Athabasca Denesųłiné First Nations and Community Leadership

Ya'thi Néné Lands and Resources reviewed research obtained from the communities from interviews and focus group meetings and considered feedback from our legal teams, which is detailed in preceding sections. These insights were presented to YNLR's governance structure including the YNLR Board of Directors, Athabasca Land Protection Committee, and elected leadership from the seven Athabasca Basin communities. As such, direction was provided to YNLR to recommend to the CNSC Commission that the seven Athabasca Basin communities

support 10 -year licenses for Key Lake and McArthur River and a 5-year license for Rabbit Lake. The seven Athabasca Basin communities also require the following conditions to be applied to the license renewals including:

1. When implemented, full adherence to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)
2. Increased frequency of visits (quarterly) to Athabasca Basin communities to listen to concerns and develop innovative solutions
3. Independent, community-based monitoring of Cameco's Operations by YNLR's Community Land Technicians
4. Increased investment into Athabasca Basin education and training to support employment of Athabasca Basin residents

Closing Remarks

The seven Athabasca Basin Communities (Denesūłiné First Nations of Hatchet Lake, Black Lake, and Fond du Lac, and municipalities of Wollaston Lake, Stony Rapids, Camsell Portage, and Uranium City) are signatories to a Collaboration Agreement with Cameco and Orano. As such, the Basin communities support Cameco's (and Orano's) mining and milling Operations in Nuhenéné in accordance with the Agreement.

YNLR appreciates our communications with the CNSC regarding this Application. This document summarizes YNLR's research with Basin residents and YNLR's governance structure and states our recommendations for renewal of Uranium Mines and Mills Licenses for Key Lake, McArthur River, and Rabbit Lake.

^[3] *Fort McKay First Nation v Prosper Petroleum Ltd* 2020 ABC 163 at para 80.

^[4] *Haida Nation v British Columbia (Minister of Forests)* 2004 SCC 73.

^[5] *Clyde River (Hamlet) v Petroleum Geo-Services Inc*, 2017 SCC 40.

^[6] SC 2021, c 14 [UNDRIPA].

^[7] UNDRIP, Article 32.2.