



Record of Decision

DEC 24-H108

In the Matter of

Applicant Saskatchewan Research Council

Subject Application to Renew the Waste Nuclear
Substance Licence for the Gunnar Legacy
Uranium Mine for an 18-Month Period

Date of
Decision October 31, 2024

RECORD OF DECISION – DEC 24-H108

Applicant: Saskatchewan Research Council

Address/Location: Bay 2D, 820 51st Street East, Saskatoon, SK, S7K 0X8

Purpose: Application to Renew the Waste Nuclear Substance Licence for the Gunnar Legacy Uranium Mine for an 18-Month Period

Application received: October 20, 2023 and revised on July 4, 2024

Hearing: *Notice of Hearing in Writing* published on September 13, 2024

Date of decision: October 31, 2024

Panel of Commission: P. Tremblay, President

Licence: Renewed

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1.0 INTRODUCTION

1. On October 20, 2023, the Saskatchewan Research Council (SRC) submitted an [application](#)¹ to the Canadian Nuclear Safety Commission² (CNSC), under subsection 24(2) of the [Nuclear Safety and Control Act](#)³ (NSCA), for the renewal of the waste nuclear substance licence for the [Gunnar Legacy Uranium Mine Site](#) (Gunnar site) for a 10-year period. On July 4, 2024, SRC submitted a [revised application](#)⁴ requesting a shorter, 18-month licence period. The current licence, WNSL-W5-3151.00/2024, was [issued](#)⁵ for a period of 10 years and is valid until November 30, 2024. The Gunnar site is located in northern Saskatchewan, in historic Treaty 8 territory, the Homeland of the Métis, and within the traditional territories of the Dene, Cree, and Métis people.
2. The Gunnar site was operated by the former Gunnar Mining Limited from 1955 to 1963 and was decommissioned in 1964. The Gunnar site consisted of open and underground mine workings, mining infrastructure, 3 mine tailings deposits covering over 70 hectares of land, and waste rock piles. At decommissioning, the open pit and underground workings were flooded, and the mine shaft and associated openings were plugged with concrete. SRC is currently in Phase 2 of the 3-phase Gunnar Remediation Project (the remediation project) at the Gunnar site:
 - Phase 1 involved characterizing and monitoring the onsite waste and developing remediation plans
 - Phase 2 consists of implementing the remediation plans
 - Phase 3 will involve long-term monitoring and maintenance to verify that the site remains stable and safe

Transition to a new project phase is subject to Commission authorization. The Commission authorized transition to Phase 2 through decisions taken in [2015](#)⁶ and [2016](#).⁷ SRC anticipates completing Phase 2 by November 2025.

3. SRC is requesting an 18-month licence renewal in order to complete the remaining remedial work under Phase 2 of the remediation project. Prior to the end of this 18-

¹ Letter to D. Pandolfi (CNSC) from D. Sanscartier (SRC) *RE: Renewal of the Waste Nuclear Substance Licence WNSL-W5-3151.00/2024 – Saskatchewan Research Council Gunnar Legacy Uranium Mine Site*, October 20, 2023.

² 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.

³ Statutes of Canada (S.C.) 1997, c. 9

⁴ Letter to C. Salmon (CNSC) from D. Sanscartier (SRC) *RE: Renewal of the Waste Nuclear Substance Licence WNSL-W5-3151.00/2024 – Saskatchewan Research Council Gunnar Legacy Uranium Mine Site*, July 4, 2024.

⁵ *Record of Proceedings, Including Reasons for Decision in the Matter of the Saskatchewan Research Council’s Request for an Environmental Assessment and Licensing Decision for the Gunnar Remediation Project*, CNSC, January 14, 2015.

⁶ *Record of Proceedings, Including Reasons for Decision in the Matter of the Saskatchewan Research Council’s Request for the Partial Removal of a Hold Point for the Gunnar Remediation Project*, CNSC, November 27, 2015.

⁷ *Record of Decision in the Matter of the Saskatchewan Research Council’s Request to Remove the Hold Point for Phase 2 of the Gunnar Remediation Project*, CNSC, November 29, 2016.

month period, SRC intends to apply for a longer-term licence renewal and for authorization to transition to Phase 3 of the remediation project.

Issues

4. In considering SRC's licence renewal application, the Commission is first required to determine whether and what requirements the *Impact Assessment Act*⁸ (IAA) imposes in relation to the activities sought to be authorized.
5. Pursuant to paragraphs 24(4)(a) and (b) of the NSCA, in considering whether to renew the licence, the Commission must be satisfied that:
 - a) SRC is qualified to carry on the activities that the renewed licence would authorize; and
 - b) in carrying on that activity, SRC will make adequate provision for the protection of the environment, the health and safety of persons and the maintenance of national security and measures required to implement international obligations to which Canada has agreed.
6. 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 Aboriginal⁹ or treaty rights.¹⁰ As such, the Commission must determine what engagement and consultation steps and accommodation measures are called for, respecting Indigenous interests.

Public Hearing in Writing

7. Pursuant to section 22 of the NSCA, the President of the Commission established a Panel of the Commission with himself as the single Panel member to consider the licence renewal application. The President determined to conduct this public hearing in writing, and a [notice of hearing in writing](#)¹¹ was published on September 13, 2024.
8. In determining whether a public hearing will be an oral hearing or a hearing in writing, the Commission is guided by the direction in subsection 20(3) of the NSCA that "all proceedings before the Commission must be dealt with as informally and expeditiously

⁸ S.C. 2019, c. 28, s. 1.

⁹ "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.

¹⁰ *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.

¹¹ *Notice of Hearing in Writing*, 2024-H-108, CNSC, September 13, 2024.

as the circumstances and considerations of fairness permit”, and it considers such things as whether the proposed licensing action would authorize new or different activities or take novel or controversial approaches, the complexity of the matter under consideration, the proposed timing and steps in the life cycle of the facility or operation, and the level and degree of likely or anticipated participation from intervenors. For this matter, given where in its 3-phase remediation project the licensee currently is, and the proposed shorter licence term to coincide with completion of Phase 2, the Commission determined that a hearing in writing would be the most expeditious and fair.

9. The Commission, in conducting a public hearing based on written materials, considered written submissions from SRC ([CMD 24-H108.1](#)) and CNSC staff ([CMD 24-H108](#)).

Confidentiality Request

10. Alongside its application, SRC submitted a request for confidentiality in accordance with rule 12 of the [Canadian Nuclear Safety Commission Rules of Procedure](#).¹² On October 8, 2024, the Commission issued its [decision](#)¹³ on SRC’s request for confidentiality, setting out the measures it would and would not take to protect information, pursuant to subrule 12(3).

2.0 DECISION

11. Based on its consideration of this matter, the Commission concludes the following:
 - an impact assessment under the IAA is not required
 - the contemplated licence renewal does not present any novel adverse impact on any potential or established Aboriginal claim or right
 - the Commission’s responsibility to uphold the honour of the Crown and its constitutional obligations with regard to engagement and consultation respecting Indigenous interests have been satisfied
 - SRC is qualified to carry on the activity that the renewed licence will authorize
 - SRC, in carrying out that activity, will make adequate provision for the protection of the environment, the health and safety of persons and the maintenance of national security and measures required to implement international obligations to which Canada has agreed.

Therefore,

¹² SOR/2000-211.

¹³ *Record of Decision regarding the Commission Ruling on SRC’s Request to Protect Confidential Information*, CNSC, October 8, 2024.

the Commission, pursuant to section 24 of the *Nuclear Safety and Control Act*, renews the waste nuclear substance licence issued to the Saskatchewan Research Council for the Gunnar Legacy Uranium Mine located in northern Saskatchewan. The renewed licence, NSL-W5-3151.0/2026 is valid until May 31, 2026.

12. The Commission renews the licence for a period of 18-months as recommended by CNSC staff in CMD 24-H108. The renewed licence contains no changes to the authorized activities of the current licence. The licence format and the title of the licence have been updated to meet the CNSC's new standardized licensing template requirements. The Commission directs CNSC staff to update the proposed licence to reflect SRC's new business address:

Bay 2D, 820 51st Street East, Saskatoon, SK S7K 0X8

13. The Commission delegates its authority, for the purposes described in licence condition 2.1, Reporting Requirements to the following CNSC staff:
- Director, Uranium Mines and Mills Division
 - Director General, Directorate of Nuclear Cycle and Facilities Regulation
 - Executive Vice-President and Chief Regulatory Operations Officer, Regulatory Operations Branch.
14. The Commission notes that the renewed licence authorizes the continuation of Phase 2 remediation activities for the Gunnar Remediation Project. Authorization to progress to Phase 3 of the remediation project would be subject to a future public hearing. The Commission further notes that, should SRC apply for a longer-term licence renewal as it has indicated, there will be opportunities for Indigenous Nations and communities and the public to intervene and provide their views directly to the Commission. The CNSC will also offer participant funding for any future public hearing process on this matter.

3.0 APPLICABILITY OF THE IMPACT ASSESSMENT ACT

15. In coming to its decision, the Commission was first required to determine whether any requirements under the IAA applied to the licence renewal application and whether an impact assessment was required.
16. Pursuant to the IAA and the *Physical Activities Regulations*¹⁴ made under it, impact assessments are to be conducted in respect of projects identified as having the greatest potential for adverse environmental effects in areas of federal jurisdiction. A licence renewal is not a project designated under the *Physical Activities Regulations*.

¹⁴ SOR/2019-285.

17. The Commission concludes that there is no requirement under the IAA for an impact assessment to be completed. The Commission is also satisfied that there are no other applicable requirements of the IAA to be addressed in this matter.¹⁵

4.0 ISSUES AND COMMISSION FINDINGS

18. In making its decision, the Commission considered a number of issues and submissions relating to SRC's qualification to carry out the activities that the renewed licence would authorize. The Commission also considered the adequacy of SRC's proposed measures for protecting the environment, the health and safety of persons, national security and international obligations to which Canada has agreed.
19. The matter before the Commission is an application to renew the waste nuclear substance licence for the Gunnar site for an 18-month period. The Commission's decision focuses on the issues that it considers the most relevant for this short-term licence renewal application, specifically:
- assessment of the licence renewal application
 - SRC's qualification to carry on the licensed activities
 - Indigenous consultation and engagement
 - other matters of regulatory importance
 - the proposed licence
 - the proposed delegation of authority

4.1 Assessment of the Application

20. In order to be complete, SRC's licence renewal application must meet the requirements of the NSCA, the [*General Nuclear Safety and Control Regulations*](#)¹⁶ (GNSCR), and other applicable regulations made under the NSCA. The GNSCR call on an applicant for a licence renewal to provide information regarding any changes in information to the CNSC as part of its application. Section 5 of the GNSCR provides that an application for the renewal of a licence shall contain:
- a) the information required to be contained in an application for that licence by the applicable regulations made under the Act; and
 - b) a statement identifying the changes in the information that was previously submitted.

¹⁵ The IAA can impose other requirements on federal authorities in respect of authorizing projects that are not designated as requiring an impact assessment, including projects that are to be carried out on federal lands, or projects outside of Canada. This licence renewal does not engage any such applicable IAA requirements.

¹⁶ SOR/2000-202.

21. In each section of its application, SRC noted the applicable clauses of the GNSCR and other applicable regulations made under the NSCA. SRC also provided information to satisfy the requirements set out in each clause.
22. In Appendix B.2 of CMD 24-H108, CNSC staff detailed its assessment of SRC's licence application. CNSC staff reported that SRC's application satisfied all completeness, sufficiency, and technical requirements.
23. The Commission concludes that SRC's application includes the information necessary for it to come to a decision on this matter, pursuant to subsection 24(2) of the NSCA.

4.2 SRC's Safety and Control Measures with Respect to the SCAs

24. The Commission examined SRC's proposed safety and control measures for the proposed licence renewal. The Commission's evaluation includes consideration of the proposed safety and control measures of relevance to the application, as well as SRC's performance at the Gunnar site with respect to the CNSC's [safety and control area](#) (SCA) framework. In section 3 of CMD 24-H108, CNSC staff submitted information related to SRC's programs and performance under 9 of the 14 SCAs. CNSC staff reported that the human performance management, safety analysis, security, safeguards and non-proliferation,¹⁷ and packaging and transport SCAs are not relevant to CNSC staff's assessment of SRC's application.
25. In section 3 of CMD 24-H108, CNSC staff submitted that it rated SRC as "satisfactory" in each of the relevant SCAs throughout the current licence period. A rating of "satisfactory" means that SRC's compliance with the SCA meets regulatory requirements and that any deviation from expectations is minor, with appropriate improvements planned. CNSC staff based its SCA ratings for SRC on risk-informed regulatory oversight activities including inspections and documentation reviews.
26. Given that SRC is requesting a short-term licence with no new authorizations, the Commission will focus its assessment on the following SCAs to evaluate SRC's qualification to carry on the continued Phase 2 remediation activities that the renewed licence would authorize:
 - Operating performance
 - Radiation protection
 - Conventional health and safety
 - Environmental protection

The Commission notes that CNSC staff did not report any notable safety events or regulatory concerns related to the remaining SCAs.

¹⁷ CNSC staff clarified that SRC is required to grant access to the Gunnar site to International Atomic Energy Agency (IAEA) inspectors, if requested. There have been no inspections of the Gunnar site by IAEA inspectors over the current licence term.

27. The Commission is satisfied that the information submitted by SRC with respect to the relevant SCAs demonstrates that SRC has adequate programs in place at the Gunnar site to ensure that the health and safety of workers, the public and the environment will be protected over the proposed 18-month licence term.

4.2.1 *Operating Performance*

28. The operating performance SCA requires that the licensee implement and maintain an operating performance program for the conduct of licensed activities. For the Gunnar Remediation Project this involves managing the radioactive and hazardous material left on the Gunnar site from legacy mining operations.
29. Paragraph 3(1)(a) of the [*Nuclear Substances and Radiation Devices Regulations*](#)¹⁸ stipulates that an application for a licence in respect of a nuclear substance shall contain the methods, procedures and equipment that will be used to carry on the activity to be licensed. [*REGDOC-3.1.3 Reporting Requirements for Waste Nuclear Substance Licensees, Class II Nuclear Facilities and Users of Prescribed Equipment, Nuclear Substances and Radiation Devices*](#)¹⁹ sets out requirements and guidance for reports and notifications that nuclear substance licensees must submit to the CNSC.
30. In section 4 of its application, SRC provided information on its operating performance program including information on its operating plans and procedures, reporting practices, and record keeping. In section 3.3 of CMD 24-H108, CNSC staff submitted that SRC has implemented and maintained a satisfactory operating performance program and has made adequate provision for the safe operation of the Gunnar site.
31. In section 3.3.3 of CMD 24-H108, CNSC staff provided information on SRC's performance at the Gunnar site. Over the current licence term, SRC reported 8 reportable events of low safety significance and CNSC inspectors issued 9 low-risk notices of non-compliance to SRC as a result of inspection findings. CNSC staff reported that SRC implemented sufficient corrective actions for each reportable event and that all non-compliances had been adequately addressed by SRC and are now closed.
32. The Commission concludes that SRC has appropriate programs and measures in place to conduct the licensed activities that the renewed licence would authorize in a manner that provides for the protection of the health and safety of persons and the environment. The Commission finds that:

¹⁸ SOR/2000-207.

¹⁹ REGDOC-3.1.3, *Reporting Requirements for Waste Nuclear Substance Licensees, Class II Nuclear Facilities and Users of Prescribed Equipment, Nuclear Substances and Radiation Devices*, CNSC, March 2020.

- SRC has implemented and maintains an operating performance program that satisfies regulatory requirements and makes adequate provision for the safe operation of the Gunnar site.
- SRC implemented appropriate corrective actions in response to reported events and CNSC regulatory findings over the current licence term.

4.2.2 Radiation Protection

33. The radiation protection SCA covers the implementation of a radiation protection program in accordance with the [Radiation Protection Regulations](#) (RPR).²⁰ The program must ensure that contamination levels and radiation doses received by individuals are monitored, controlled, and maintained as low as reasonably achievable (ALARA), taking into account social and economic factors.
34. Paragraph 3(1)(e) of the GNSCR states that a licence application shall include the proposed measures to ensure compliance with the RPR, and paragraph 3(1)(f) of the GNSCR states that a licence application shall include any proposed action level for the purpose of section 6 of the RPR. [REGDOC-2.7.1, Radiation Protection](#)²¹ sets out guidance and requirements for the application of the RPR.
35. The main source of radiological exposure at the Gunnar site is from mine tailings. The effective dose contributors to nuclear energy workers (NEWs) at the Gunnar site are gamma radiation, long-lived radioactive dust, and radon gas.²² In section 6 of SRC's application, SRC provided information on its radiation protection program at the Gunnar site. SRC also provided its *Phase II Radiation Protection Plan* and its contractor's *Radiation Protection Plan* in Attachment C and Attachment D of its application, respectively. SRC reported that the radiation protection plans include a hazard and risk assessment, set action and administration levels for radiation doses to workers and members of the public, set rules for ascertaining and recording radiation doses, and outline control measures and precautions.
36. In section 3.7 of CMD 24-H108, CNSC staff submitted that it verified SRC's radiation protection practices at the Gunnar site during 6 compliance inspections during the current licence term, including 1 focused radiation protection inspection in June 2018. CNSC staff reported that that SRC's radiation protection program meets regulatory requirements and effectively applies the ALARA principle.
37. CNSC staff reported that no worker at the Gunnar site had received a dose in exceedance of the regulatory dose limits²³ during the current licence period. The highest effective dose received by a worker at the Gunnar site during the last 5 years of

²⁰ SOR/2000-203.

²¹ REGDOC-2.7.1, *Radiation Protection*, CNSC, July 2021.

²² Section 3.7 of CMD 24-H108.

²³ Per the RPR, the regulatory effective dose limit for a NEW is 50 mSv/year and 100 mSv over a 5-year dosimetry period.

the current licence period was 2.08 mSv in 2019. CNSC staff further reported that there were no radiation protection related action level exceedances at the Gunnar site during the current licence period. CNSC staff noted that, as the remedial work has progressed at the Gunnar site, radiation hazards remain present but have been greatly reduced.

38. The Commission is satisfied that SRC has a radiation protection program in place to protect workers, the public and the environment from radiation hazards associated with the Gunnar site. The Commission bases its conclusion on the following:
- CNSC staff have performed inspections of SRC's radiation protection program at the Gunnar site and verified that it meets regulatory requirements.
 - Radiation doses to workers at the Gunnar site remained below regulatory limits during the current licence period.
 - No radiation protection related action levels were exceeded at the Gunnar site during the current licence period.

4.2.3 Conventional Health and Safety

39. The conventional health and safety SCA covers the implementation of a program to manage workplace safety hazards and to protect workers. [REGDOC-2.8.1, *Conventional Health and Safety*](#)²⁴ sets out information regarding conventional health and safety and the implementation and maintenance of a conventional health and safety program. SRC is required to implement a conventional health and safety program that complies with the [Canada Labour Code Part II](#)²⁵ and the associated [Canada Occupational Health and Safety Regulations](#).²⁶
40. SRC provided its *Occupational Health & Safety Program* and *Occupational Health & Safety Plan*, as well as its contractor's *Health and Safety Management Plan* in Attachment C and Attachment D of its application, respectively. These plans include information on hazard management, incident reporting and investigation, worker rights, and occupational health and safety rules and practices.
41. In section 3.8 of CMD 24-H108, CNSC staff reported that it verified SRC's conventional health and safety performance during each of its inspections at the Gunnar site during the current licence term. CNSC staff confirmed that SRC's conventional health and safety program, which will be maintained during the proposed 18-month licence term, meets regulatory requirements.
42. In section 3.8.3.1 of CMD 24-H108, CNSC staff submitted that SRC reported 1 lost-time injury (LTI) for the Gunnar site over the current licence period. The LTI occurred in July 2021 when an employee dislocated their ankle on a rocky path and required 6

²⁴ REGDOC-2.8.1, *Conventional Health and Safety*, CNSC, July 2019.

²⁵ R.S.C., 1985, c. L-2.

²⁶ SOR/86-304.

weeks of medical leave. CNSC staff reported that SRC investigated the incident and implemented corrective actions and safety reminders to prevent re-occurrence.

43. The Commission is satisfied that SRC has implemented a conventional health and safety program at the Gunnar site to protect the safety of workers and the public from non-radiological hazards over the proposed licence period. The Commission bases its conclusion on the following:
- CNSC staff have determined, through inspections, that SRC's conventional health and safety program meets regulatory requirements.
 - SRC adequately responded to the 1 LTI experienced during the licence period, and implemented sufficient corrective actions to prevent future similar injuries.

4.2.4 *Environmental Protection*

44. The environmental protection SCA covers programs that identify, control and monitor all releases of radioactive and hazardous substances and effects on the environment from facilities or as the result of licensed activities.
45. In accordance with the NSCA, licensees are required to make adequate provision for the protection of the environment. Paragraphs 12(1)(c) and (f) of the GNSCR require each licensee to take all reasonable precautions to protect the environment and the health and safety of persons, and to control the release of radioactive nuclear substances and hazardous substances within the site of the licensed activity and into the environment. The RPR prescribe dose limits for the public, which, pursuant to subsection 1(3), are 1 mSv per calendar year.
46. In section 8 of its application, SRC provided information on its environmental protection program at the Gunnar site, including its environmental monitoring plan. SRC reported that it conducts surface water, ground water, radon, and dust fall sampling as well as weather, surface hydrology, and gamma monitoring at the Gunnar site. SRC provided its *Environmental Protection Program*, *Environmental Management Plan*, and *Environmental Monitoring Plan* in Attachment C of its application. SRC also provided its contractor's *Environmental Management Plan* in Attachment D of its application.
47. In section 3.9.3.1 of CMD 24-H108, CNSC staff submitted that SRC has implemented and maintains an environmental monitoring program that adequately protects the environment and the public in accordance with regulatory requirements. CNSC staff reported that monitoring data collected to date indicates that ongoing remediation activities have not adversely affected water or ground water quality at the Gunnar site. CNSC staff noted that there are certain parameters which exceed provincial guidelines, however, these are generally within the long-term trends established during the

environmental assessment for the Gunnar Remediation Project,²⁷ or associated with the former mining and milling activities. SRC provides environmental monitoring data to CNSC staff in SRC's annual compliance report for the Gunnar site.

48. In section 4.1.1 of CMD 24-H108, CNSC staff reported that results from the CNSC's 2023 [Independent Environmental Monitoring Program \(IEMP\)](#) sampling campaign around the Gunnar site were consistent with the sampling results submitted by SRC.²⁸ CNSC staff submitted that the IEMP results support CNSC staff's view that SRC's environmental protection program is effectively protecting people and the environment in the vicinity of the Gunnar site.
49. The Commission is satisfied that SRC has an environmental protection program in place at the Gunnar site that has, and will continue to, protect the health and safety of persons and the environment. The Commission comes to its conclusion based on the following:
- CNSC staff have determined that SRC's environmental protection program meets regulatory requirements.
 - Environmental monitoring data has shown that ongoing remediation activities have not adversely impacted surface or ground water quality at the Gunnar site.
 - The results of the CNSC's 2023 IEMP campaign indicate that the health of persons and the environment around the Gunnar site remain protected.
 - In section 2.1 of CMD 16-H6,²⁹ which was submitted in support of the Commission's 2016 decision to authorize the transition to Phase 2 of the project, CNSC staff noted that dose to the public was below regulatory limits and would be further reduced following remediation activities.

4.2.5 SRC's Safety and Control Measures with Respect to the SCAs

50. The Commission is satisfied that SRC has adequate safety and control measures in place with respect to the relevant SCAs to ensure that the health and safety of workers, the public and the environment will be protected over the proposed 18-month licence term. The Commission comes to its conclusion noting that:
- SRC has operated the Gunnar site over the current licence period with no significant safety events.
 - SRC has implemented and maintained programs over the current licence period that satisfy regulatory requirements and provide for the safe operation of the Gunnar site.

²⁷ SRC conducted an environmental assessment for the Gunnar Remediation Project under the *Canadian Environmental Assessment Act, 2012*. The Commission accepted the environmental assessment in [January 2015](#).

²⁸ [IEMP results](#) for the Gunnar site are available on the CNSC website.

²⁹ Reference 4 of CMD 24-H108.

- CNSC staff conducted compliance verification activities over the current licence period, including inspections and documentation reviews at the Gunnar site, and rated SRC’s performance in each relevant SCA as “satisfactory”.
- CNSC staff verified that SRC implemented appropriate corrective actions in response to reported events and CNSC regulatory findings over the current licence term.

4.3 Indigenous Engagement

51. The Commission considered the information provided by CNSC staff and SRC regarding Indigenous consultation and engagement activities in respect of this short-term licence renewal application. Indigenous consultation refers to the common law duty to consult with Indigenous Nations and communities pursuant to section 35 of the [*Constitution Act, 1982*](#).³⁰
52. The common law duty to consult with Indigenous Nations and communities is engaged when the Crown contemplates action that may adversely affect established or potential Aboriginal and/or treaty rights. 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. The CNSC ensures that its licensing decisions under the NSCA uphold the honour of the Crown and consider potential impacts to claimed or established Aboriginal and/or treaty rights pursuant to section 35 of the *Constitution Act, 1982*.
53. The duty to consult is engaged wherever the Crown has “knowledge, real or constructive, of the potential existence of an Aboriginal right or title and contemplates conduct that might adversely affect it”.³¹ Licensing decisions of the Commission, where Indigenous interests may be adversely impacted, will therefore engage the duty to consult, and the Commission must be satisfied that the duty has been met prior to making the relevant decision.
54. The [*United Nations Declaration on the Rights of Indigenous Peoples Act*](#)³² (UNDA) came into force in Canada on June 21, 2021. The Government of Canada has clarified that “[t]he Act itself does not immediately change Canada’s existing duty to consult Indigenous groups.”³³ Nonetheless, the Commission acknowledges that its commitment to reconciliation, the [*United Nations Declaration on the Rights of Indigenous Peoples*](#) (UNDRIP),³⁴ and section 35 of the *Constitution Act, 1982*, including the Crown’s duty

³⁰ Schedule B to the *Canada Act, 1982* (UK), 1982, c. 11.

³¹ *Haida Nation v. British Columbia (Minister of Forests)*, 2004 SCC 73 at para 35.

³² S.C. 2021, c. 14.

³³ Department of Justice Canada, *Implementing the United Nations Declaration on the Rights of Indigenous Peoples Act, About the Act* (under “How the Act impacts the existing duty to consult”), retrieved from the Department of Justice – Government of Canada’s website: <https://www.justice.gc.ca/eng/declaration/legislation.html>, October 16, 2024.

³⁴ *United Nations Declaration on the Rights of Indigenous Peoples*, The United Nations Department of Economic and Social Affairs, September 2007.

to consult and accommodate, have aspects that intersect and that this is an evolving area of law. The Commission also acknowledges the need to consider the [*Principles Respecting the Government of Canada's Relationship with Indigenous Peoples*](#).³⁵ The statutory obligation to consult and cooperate in section 5 of UNDA is distinct from the constitutional duty to consult. The Commission recognizes the need to uphold the honour of the Crown during its review of this matter.

55. As recently articulated in *Thomas and Saik'uz First Nation v. Rio Tinto Alcan Inc.* (Thomas and Saik'uz), while the effect of UN Declaration legislation on the common law has yet to be determined by the courts, it supports a robust interpretation of Indigenous rights.³⁶ Additionally, the Supreme Court of Canada has stated that “through [UNDA] [...] the Declaration is incorporated into the country’s domestic positive law.”³⁷
56. In section 4.1.2 of CMD 24-H108, CNSC staff reported that the requested 18-month licence renewal does request any new authorizations and will not cause any new potential adverse impacts to any potential or established Aboriginal and/or treaty rights.

4.3.1 Indigenous Engagement by CNSC Staff

57. In section 4.1.1 of CMD 24-H108, CNSC staff identified the following Indigenous Nations and communities who may have an interest in SRC’s licence renewal application due to the proximity of their communities, treaty areas and/or traditional territories to the Gunnar site or due to their previously expressed interest:
 - Ya’thi Néné Land and Resource Office (representing Black Lake, Hatchet Lake, and Fond du Lac Denesūliné First Nations as well as the municipalities of Stony Rapids, Uranium City, Wollaston Lake, and Camsell Portage)
 - Athabasca Chipewyan First Nation
 - Métis Nation Saskatchewan (Northern Region 1: Métis Local #50 – Uranium City, and Métis Local #80 – Stony Rapids)
58. In section 4.1.1 of CMD 24-H108, CNSC staff reported that it sent letters of notification on July 15, 2024, to the identified Indigenous Nations and communities providing information regarding SRC’s licence renewal application. CNSC staff also conducted follow-up correspondence to ensure receipt of the letters and to answer any questions. CNSC staff reported that it had not received any specific feedback or concerns from the Indigenous Nations and communities on SRC’s licence renewal application.

³⁵ Department of Justice Canada, *Principles Respecting the Government of Canada's Relationship with Indigenous Peoples*, 2018.

³⁶ *Thomas and Saik'uz First Nation v. Rio Tinto Alcan Inc.*, 2022 BCSC 15 at para 212.

³⁷ *Reference re An Act respecting First Nations, Inuit and Métis children, youth, and families*, 2024 SCC 5 at para 15.

59. In addition to engagement conducted for SRC's current application, CNSC staff provided information regarding its ongoing engagement with the identified Indigenous Nations and communities for the past several years. CNSC staff noted that it established Terms of Reference for long-term engagement with both the Ya'thi Néné Land and Resource Office and the Athabasca Chipewyan First Nation, and conducts regular meetings with the Métis Nation Saskatchewan. CNSC staff added that it has invited interested Indigenous Nations and communities to participate in the CNSC IEMP. CNSC staff reported that individuals from the Ya'thi Néné Land and Resource Office and CanNorth³⁸ participated in the 2023 IEMP sampling campaign around the Gunnar site.

4.3.2 Indigenous Engagement by SRC

60. In section 10 of its application, SRC identified the stakeholders for SRC's Project CLEANS³⁹ sites, including the Gunnar site. Indigenous Nations and communities that SRC identified for engagement include:

- Black Lake Denesų́liné First Nation
- Fond du Lac Denesų́liné First Nation
- Hatchet Lake Denesų́liné First Nation
- Ya'thi Néné Land and Resource Office
- Métis Nation Saskatchewan
- Athabasca Chipewyan First Nation

61. In Attachment F of its application, SRC provided a table detailing its engagement activities with Indigenous Nations and communities and the public on Project CLEANS between 2008 and 2023. Activities include regular meetings and communications with the identified Indigenous Nations and communities. In section 10 of its application, SRC further reported that it employs an Indigenous Senior Advisor to conduct regular communications with Indigenous leaders in the Athabasca Basin Region and that SRC is working with the Ya'thi Néné Land and Resource Office to apply traditional knowledge to Project CLEANS.

4.3.3 Conclusion on Indigenous Engagement and Consultation

62. The Commission is satisfied that SRC's application for an 18-month licence renewal does not change the activities authorized under the current licence and will not cause novel adverse impacts to any claimed or established Aboriginal and/or treaty rights. The Commission notes that CNSC staff engaged with the identified Indigenous Nations

³⁸ Canada North Environmental Services (CanNorth) is a private environmental consulting company that is 100% owned by Kitsaki Management Limited Partnership, the business arm of the Lac La Ronge Indian Band.

³⁹ SRC is managing Project CLEANS (Cleanup of Abandoned Northern Sites) — a multi-year project to assess and remediate Gunnar Uranium Mine and Mill Site, Lorado Uranium Mill Site and 35 satellite mine sites in northern Saskatchewan.

and communities to notify them of SRC's licence renewal application and that the Indigenous Nations and communities did not raise any concerns regarding SRC's application. The Commission also acknowledges the efforts of SRC to communicate openly with Indigenous Nations and communities regarding Project CLEANS and the Gunnar site.

63. Efforts made by CNSC staff relating to Indigenous engagement are key to the important work of the Commission toward reconciliation and relationship-building with Canada's Indigenous peoples. The Commission is satisfied that, for this short-term licence renewal application, the Commission's responsibility to uphold the honour of the Crown and its constitutional responsibility with regard to the duty to consult has been satisfied. The Commission expects CNSC staff to continue to build meaningful long-term relationships with Indigenous Nations and communities throughout the licence term as part of the CNSC's reconciliation efforts.
64. The Commission notes that, should SRC apply for a longer-term licence renewal as it has indicated, there will be further opportunities for Indigenous Nations and communities to intervene and provide their views directly to the Commission. The CNSC will also offer participant funding for any future public hearing process.

4.4 Other Matters of Regulatory Importance

4.4.1 Financial Guarantee

65. Pursuant to paragraph 3(1)(l) of the GNSCR, an application for a licence shall contain a description of any proposed financial guarantee related to the activity for which a licence application is submitted. Requirements and guidance for establishing and maintaining and financial guarantee are provided in [REGDOC-3.3.1, *Financial Guarantees for Decommissioning of Nuclear Facilities and Termination of Licensed Activities*](#).⁴⁰ As part of its [2015 licensing decision](#),⁴¹ the Commission accepted the financial guarantee for the current licence in the form of an expressed commitment from the Government of Saskatchewan.
66. In Attachment E of its application, SRC provided a financial assurance letter from Saskatchewan's Ministry of Energy and Resources dated October 5, 2023. In the letter, the Ministry of Energy and Resources confirmed its commitment to cover all aspects of decommissioning, reclamation, monitoring, and maintenance of the Gunnar site as required under a CNSC licence. In section 5.2.2 of CMD 24-H108, CNSC staff submitted that SRC's financial guarantee, as an expressed commitment from a Canadian provincial government, is an acceptable financial guarantee instrument to cover all aspects of decommissioning a site for which the government has assumed

⁴⁰ REGDOC-3.3.1, *Financial Guarantees for Decommissioning of Nuclear Facilities and Termination of Licensed Activities*, CNSC, January 2021.

⁴¹ *Record of Proceedings, Including Reasons for Decision in the Matter of the Saskatchewan Research Council's Request for an Environmental Assessment and Licensing Decision for the Gunnar Remediation Project*, CNSC, January 14, 2015.

liability, meets the guidance of REGDOC-3.3.1, and is acceptable to cover the liabilities associated with the Gunnar site.

67. Based on the information provided, the Commission is satisfied that the letter of commitment from Saskatchewan's Ministry of Energy and Resources meets regulatory requirements and is acceptable for the activities that the renewed licence would authorize. The Commission notes that the proposed licence includes a standardized licence condition for SRC to maintain a financial guarantee for decommissioning that is acceptable to the Commission.

4.4.2 Cost Recovery

68. Regulation of the Gunnar site is not subject to cost recovery. Pursuant to paragraph 2(e) of the [*Canadian Nuclear Safety Commission Cost Recovery Fees Regulations*](#)⁴² (CRFR), the CRFR do not apply to an agency of the provincial government if the agency applies for, or holds, a licence from the Commission in respect of a contaminated site that is abandoned on the coming into force of the CRFR and the contamination did not result from the activities of the applicant or licensee. The SRC is an agent of the Provincial Crown and is discharging the responsibilities of the Province of Saskatchewan with respect to remediating a Legacy contaminated site, therefore the CRFR do not apply.

4.4.3 Nuclear Liability Insurance

69. The Gunnar site has not been designated as a nuclear installation for the purposes of the [*Nuclear Liability and Compensation Act*](#).⁴³ Therefore, there are no requirements for nuclear liability insurance associated with the Gunnar site.

4.5 The Proposed Licence

4.5.1 Licence Conditions and Licence Length

70. SRC has applied for the renewal of its licence for an 18-month period in order to complete the remaining remedial work under Phase 2 of the Gunnar Remediation Project. SRC has not requested any new licence authorizations in its application. SRC has noted that, prior to the end of the 18-month period, it intends to apply for a longer-term licence renewal and authorization to transition to Phase 3 of the remediation project.

⁴² SOR/2003-212

⁴³ S.C. 2015, c. 4, s. 120.

71. In CMD 24-H108, CNSC staff recommended that the Commission renew SRC's licence for the Gunnar site for an 18-month period, as requested. CNSC staff provided a copy of the proposed licence (NSL-W5-3151.0/2026) which has an updated format that follows the CNSC's standardized licensing template requirements. CNSC staff noted that the proposed licence also removes completed environmental assessment licence conditions which are no longer required.
72. The Commission is satisfied that an 18-month licence term is appropriate, as it aligns with SRC's plan to complete the remaining remedial work under Phase 2 of the Gunnar Remediation Project. The Commission notes SRC's intention to apply for a longer-term licence renewal for the Gunnar site prior to the end of this 18-month period, and that a Commission authorization would be required before SRC could progress to Phase 3. The Commission accepts the proposed licence with standardized licence conditions, as recommended by CNSC staff in CMD 24-H108. The Commission directs CNSC staff to update the proposed licence to reflect SRC's new business address:

Bay 2D, 820 51st Street East, Saskatoon, SK S7K 0X8

4.5.2 Delegation of Authority

73. In order to provide adequate regulatory oversight of changes that do not require a licence amendment nor Commission approval, CNSC staff recommended that the Commission delegate authority as contemplated in licence conditions that contain the phrase "a person authorized by the Commission." There is 1 licence condition in the proposed licence that contain the phrase "the Commission or a person authorized by the Commission":

"2.1 Reporting Requirements

The licensee shall implement and maintain a program for reporting to the Commission or person authorized by the Commission."

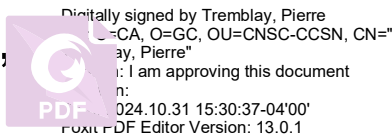
74. In section 5.5 of CMD 24-H108, CNSC staff recommend that the Commission delegate its authority for the purposes described in licence condition 2.1 to the following CNSC staff:
- Director, Uranium Mines and Mills Division
 - Director General, Directorate of Nuclear Cycle and Facilities Regulation
 - Executive Vice-President and Chief Regulatory Operations Officer, Regulatory Operations Branch
75. The Commission delegates its authority for the purposes described in licence condition 2.1, as recommended by CNSC staff. The Commission notes that the delegation of

authority of licence condition 2.1 is for the purpose of the administration of that licence condition. The Commission is satisfied that this approach is reasonable.

5.0 CONCLUSION

76. The Commission has considered SRC's application for the renewal of the waste nuclear substance licence for the Gunnar site for an 18-month period. The Commission has also considered the information submitted by CNSC staff. Based on its consideration of the evidence on the record for this hearing, the Commission, pursuant to section 24 of the *Nuclear Safety and Control Act*, renews the waste nuclear substance licence issued to the Saskatchewan Research Council for the Gunnar site located in northern Saskatchewan. The renewed licence, NSL-W5-3151.0/2026, is valid until May 31, 2026.

Tremblay,
Pierre



Pierre Tremblay
Commission President,
Canadian Nuclear Safety Commission

Date