



Record of Decision

DEC 20-H4

In the Matter of

Applicant Canadian Nuclear Laboratories Limited

Subject Application to amend the Waste Facility
Decommissioning Licence for the Douglas Point
Waste Facility to include phase 3
decommissioning activities

Public Hearing
Dates November 25-26, 2020

Record of
Decision Date March 12, 2021

RECORD OF DECISION – DEC 20-H4

Applicant: Canadian Nuclear Laboratories Limited

Address/Location: 286 Plant Road, Chalk River,
Ontario K0J 1J0

Purpose: Application to amend the Waste Facility Decommissioning
Licence for the Douglas Point Waste Facility to include phase 3
decommissioning activities

[Application received:](#) July 18, 2019

Dates of public hearing: November 25-26, 2020

Location: Virtual Hearing

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Intervenors	
See appendix A	
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Licence: Amended

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1.0 INTRODUCTION

1. Pursuant to subsection 24(2) of the [Nuclear Safety and Control Act](#) (NSCA), Canadian Nuclear Laboratories Ltd. (CNL) has applied to the Canadian Nuclear Safety Commission¹ (CNSC) for the amendment of its Waste Facility Decommissioning Licence for the Douglas Point Waste Facility (DPWF) located in Tiverton, Ontario. The current licence, WFDL-W4-332.02/2034, expires on December 31, 2034. CNL has requested an amendment to its licence to allow for phase 3 decommissioning activities, including the decommissioning and dismantlement of certain facilities and structures at the DPWF.
2. The DPWF is located on federal land and therefore, the proposed decommissioning activities at the DPWF are subject to the federal lands provision of section 67 of the [Canadian Environmental Assessment Act, 2012](#) (CEAA 2012). Subsection 24(4) of the NSCA provides the conditions under which the Commission may amend a licence following receipt of an application.
3. Prior to 2014, the DPWF was operated pursuant to a licence held by Atomic Energy of Canada Limited (AECL). In July 2014, AECL applied for the replacement of its three waste facility decommissioning licences for three prototype reactors - Gentilly-1 Waste Facility, Nuclear Power Demonstration Waste Facility and the DPWF - with a single Waste Facility Decommissioning Licence (WFDL). The Commission made the decision to consolidate the authorized activities under a single licence, without any other change. CNL, a wholly-owned subsidiary of AECL, was established in 2014 to manage AECL owned properties. The licence was later transferred to CNL and, in 2018, CNL requested that a separate licence be issued for each facility with no changes to the existing terms and conditions. The Commission issued separate licences in respect of each facility on February 8, 2019.
4. Pursuant to paragraph 21(1)(b.1) of the [NSCA](#), the Commission has established a [Participant Funding Program](#) (PFP) to facilitate the participation of Indigenous peoples, members of the public and stakeholders in Commission proceedings. In [February 2020](#), up to \$75,000 in funding to participate in this licence amendment process was made available through the CNSC's PFP. A Funding Review Committee (FRC) – independent of the CNSC – recommended that up to \$97,158 in participant funding be provided to [7 applicants](#). These applicants were required, by virtue of being awarded participant funding,² to submit a written intervention and make an oral presentation at the public hearing respecting [CNL's application](#).

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

² As per the requirements of the contribution agreements, participants are required to submit written interventions to receive final payments

5. The DPWF consists of a 200-megawatt electric (MWe) prototype Canada deuterium uranium (CANDU) power reactor that was put into service in 1968 and permanently shut down in 1984. Following its shutdown, a deferred decommissioning strategy was selected which involved bringing the facility into a safe state suitable for long-term storage with surveillance (SWS). This was achieved in 1988.
6. The current DPWF licence solely authorizes activities associated with continued SWS of the reactor building. The requested amendment would authorize CNL to enter an active phase of decommissioning, that is, CNL would be authorized to clear-out the reactor building. The decommissioning project is broken into five planning envelopes (PEs) – CNL’s request is to proceed with the first three (PEs A, B and C). The scope of the requested amendment does not include decommissioning of the Spent Fuel Canister Area or the Reactor – these activities are contemplated to be the subject of a future licence application process.

Issues

7. At issue in this application is the amendment of CNL’s licence to authorize active decommissioning at the DWPF. In respect of this matter, active decommissioning at the DPWF would include removal of all systems and components and the clear-out of the reactor building.
8. The Commission is first required to determine which environmental assessment process is engaged. Prior to making its determination in that matter, the Commission was required to determine whether [CEAA 2012](#) or the *Impact Assessment Act* is the applicable legislation. The Commission finds that the proposed decommissioning activities are subject to the federal lands provision of the [CEAA 2012](#). Pursuant to section 67 of [CEAA 2012](#), the Commission must determine whether allowing CNL to carry out the proposed decommissioning activities at the DPWF is likely to cause significant adverse environmental effects.
9. The Commission also considered the issue of licence term, as CNSC staff recommended that CNL’s licence also be amended to expire on December 31, 2030, instead of the current date of expiry of December 31, 2034.
10. As an agent of the Crown, the CNSC is aware of 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 Indigenous or treaty rights.³ As such, the Commission must determine whether the duty to consult is engaged and what consultation steps and accommodation measures are called for, respecting impacted Indigenous interests.

³ *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. Finally, in exercising its authority to amend a licence on receipt of an application, the Commission must determine, pursuant to subsection 24(4) of the NSCA, whether it is satisfied that:
 - a) CNL is qualified to carry on the activity that the amended licence would authorize; and
 - b) in carrying on that activity, CNL 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.

Public Hearing

12. On April 30, 2020, CNL requested that the Commission postpone this public hearing from its scheduled date of August 19-20, 2020, until Fall 2020. CNL explained that it required additional time to carry out adequate pre-hearing Indigenous engagement activities due to the restrictions brought about by the COVID-19 pandemic.
13. On May 25, 2020, a [*Notice of Postponement of Public Hearing*](#) was published. Subsequently, a [*Revised Notice of Public Hearing*](#) was published on June 3, 2020, providing the date and time of this virtual proceeding.
14. The Commission, in making its decision, considered information presented for a one-part public hearing held virtually on November 25-26, 2020. The public hearing was conducted in accordance with the [*Canadian Nuclear Safety Commission Rules of Procedure*](#). During the public hearing, the Commission considered written submissions and heard oral presentations from CNL ([CMD 20-H4.1](#), [CMD 20-H4.1A](#) and [CMD 20-H4.1B](#)) and CNSC staff ([CMD 20-H4](#) and [CMD 20-H4.A](#)). The Commission also considered oral and written submissions from 21 intervenors (see Appendix A for a list of interventions). The hearing was webcast live via the [CNSC website](#), and [video archives](#) are available on the [CNSC's website](#).

2.0 DECISION

15. Based on its consideration of the matter, the Commission is satisfied the [*Canadian Environmental Assessment Act, 2012*](#) (CEAA 2012) is the applicable legislation for the licence amendment application and that CNL has the appropriate measures in place for the protection of the environment. The Commission recognizes that the proposed project is on federal lands and subject to the federal lands review of [CEAA 2012](#).

The Commission, pursuant to section 67 of the [*Canadian Environmental Assessment Act, 2012*](#), determines that the proposed decommissioning activities are not likely to cause significant adverse environmental effects.

16. The Commission is satisfied that an environmental assessment (EA) under CEEA 2012 was not required in this matter and considers the environmental protection review that was conducted by CNSC staff to be acceptable and thorough.
17. Regarding the scope of the duty to consult and, where appropriate, accommodate Indigenous interests, and whether such a duty is engaged by this decision, the Commission accepts CNSC staff's determination that the duty to consult is engaged at the low end of the spectrum contemplated by the relevant jurisprudence. The Commission is satisfied that the engagement activities carried out by CNSC staff are adequate to fulfil the Crown's responsibility respecting consultation in relation to this licence amendment application.
18. Based on its consideration of the matter, as described in more detail in the following sections of this *Record of Decision*, the Commission concludes that CNL is qualified to carry on the activities that the amended licence will authorize. The Commission is satisfied that CNL, in carrying on the licensed activities in the amended licence, 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. The Commission is also satisfied that an amended licence expiry date is appropriate in this matter. Therefore,

the Commission, pursuant to section 24 of the [*Nuclear Safety and Control Act*](#), amends the Waste Facility Decommissioning Licence issued to Canadian Nuclear Laboratories Ltd. for its Douglas Point Waste Facility located in Tiverton, Ontario. The amended licence, WFDL-W4-332.03/2030, is valid until December 31, 2030.

19. The Commission includes in the licence the conditions as recommended by CNSC staff in CMD 20-H4. The Commission also delegates authority for the purposes of licence condition (LC) 3.1 as recommended by CNSC staff:

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

The Commission notes that there was an error in CMD 20-H4 which incorrectly referenced LC 3.2 while it should have referenced LC 3.1.
20. The Commission notes that this decision does not relate to or authorize the activities outlined in PEs D and E of the licensee's decommissioning project.
21. With this decision, the Commission directs CNSC staff to report annually on the performance of CNL and the DPWF, as part of the annual *Regulatory Oversight Report for Canadian Nuclear Laboratories Sites* (CNL ROR). CNSC staff shall present the ROR at public proceedings of the Commission, where Indigenous peoples, members of the public and stakeholders will be able to participate.

22. The Commission notes that CNSC staff can bring any matter to the attention of the Commission as considered appropriate. The Commission directs CNSC staff to inform the Commission on an annual basis of any changes made to the Licence Conditions Handbook (LCH)⁴ as a component of the ROR.

3.0 ENVIRONMENTAL ASSESSMENT

3.1.1 Application of the Canadian Environmental Assessment Act, 2012 and the Impact Assessment Act

23. The *Impact Assessment Act* (IAA) came into force on August 28, 2019. Pursuant to the IAA and the *Physical Activities Regulations* 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. CNL's application was submitted to the CNSC on July 18, 2019. Upon the coming into force of the IAA, CNSC staff had already begun to make a determination under section 67 of the CEEA 2012. Therefore, pursuant to subsection 4(1) of the *Physical Activities Regulations*,⁵ the Commission is satisfied that CEEA 2012 is the applicable legislation.
24. In coming to its decision, the Commission must also determine whether an EA under CEEA 2012 was required. As noted, at the time the licence amendment application was submitted, CEEA 2012 and its regulations were the EA regime in place and specified the requirements for EAs for nuclear projects. The licence amendment of a facility is not included on the Designated Project list for an EA, as decommissioning a facility is not an activity identified in the *Regulations Designating Physical Activities*. Therefore, the Commission determines that an EA under the CEEA 2012 was not required.
25. The proposed decommissioning activities are subject to the federal lands provisions of CEEA 2012. Therefore, pursuant to section 67 of the CEEA 2012, the Commission, in coming to its decision, was required to determine whether the proposed decommissioning activities at the Douglas Point Waste Facility are likely to cause significant adverse environmental effects.

3.1.2 CNSC Environmental Protection Review

26. The Commission considered the completeness and adequacy of the environmental protection review conducted by CNSC staff. CNSC staff findings included, but were not limited to:
- The results of CNSC staff's Federal Land Review conducted to assess the potential environmental effects determining that, based on CNL's documentation submitted, no significant adverse environmental effects are likely to occur.

⁴ A Licence Condition Handbook (LCH) is a document CNSC staff use as compliance verification criteria. An LCH is referenced in Commission approved licences and references regulatory documents and standards.

⁵ SOR/2019-285

- The results of CNSC staff's independent environmental monitoring program (IEMP) indicating that the public and the environment near the DPWF are protected and that there are no expected health or environmental impacts.
 - The 2019 Environmental Risk Assessment submitted by CNL found that the effects on the environmental and human health due to releases from the DPWF are negligible.
 - The assessed exposure and health data from the health studies conducted in proximity to the DPWF by other government organizations are not showing any adverse health outcomes attributable to the DPWF.
27. CNSC staff submitted that CNL has proposed several mitigation measures to ensure that all environmental components described in its environmental protection review are not adversely affected and that CNSC staff will verify that all mitigation measures are incorporated into the Detailed Decommissioning Plans (DDPs) and implemented properly before any decommissioning activities commence.
28. The Commission assessed CNL's proposed mitigation measures and their adequacy to protect the environment and is satisfied that the proposed decommissioning activities are not likely to cause significant adverse effects on the environment.
29. The Commission is satisfied that the environmental protection review that was conducted by CNSC staff for the DPWF licence amendment was acceptable and thorough.

3.1.3 Conclusion on Environmental Assessment

30. Based on the information provided for this hearing, the Commission concludes that the proposed decommissioning project is not a designated project under CEAA 2012, and that an EA under the CEAA 2012 is not required prior to granting the proposed amendment. Further, the Commission is satisfied that CNL has made, and will continue to make, adequate provision for the protection of the environment throughout the proposed amended licence period, and that the proposed activities are not likely to cause significant adverse environmental effects.

4.0 ISSUES AND COMMISSION FINDINGS

31. CNL submitted its [licence amendment application](#) on July 18, 2019. In its consideration of this matter, the Commission examined the completeness of the application and the adequacy of the information submitted by CNL, as required by the NSCA, the [General Nuclear Safety and Control Regulations](#) (GNSCR) and other applicable regulations made under the NSCA.

32. In making its decision, the Commission considered a number of issues and submissions relating to CNL's qualification to carry on the proposed licensed activities that would be authorized under the amended licence. The Commission considered, in this regard, the past performance of the licensee as a means to assess its qualification for prospective activities. The Commission also considered the adequacy of the proposed measures for protecting the environment, the health and safety of persons, national security and international obligations to which Canada has agreed.
33. Pursuant to paragraph 6(a) of the [GNSCR](#), an application for a licence amendment must contain a description of the amendment "...and the measures and procedures that will be taken and the methods that will be used to implement it." Pursuant to paragraph 6(b) of the GNSCR, CNL's application was required to contain "a statement identifying changes in the information contained in the most recent application for the licence".
34. CNL's application in this matter included this information and it is upon this information that CNSC staff based its selection of SCAs for inclusion in CMD 20-H4. CNSC staff's submission ([CMD 20-H4](#)) focused on the proposed activities that are outside of CNL's current licensing basis for the DPWF accepted by the Commission in [2014](#).
35. The Commission is of the view that, given the context of this licence amendment which is to authorize CNL to undertake an accelerated decommissioning at the DPWF, all 14 SCAs should have been reported on by CNSC staff, even if there were no updates to that SCA since the previous licensing hearing. The Commission directs that future CMDs related to the decommissioning of similar facilities include CNSC staff's assessment of all 14 SCAs. This being said, the Commission is satisfied it has the necessary information to render an informed decision as the hearing is to consider a licence amendment, not a licence renewal.
36. On the issue of how the Commission can be satisfied without reviewing CNL's DDP that there will be adequate provision made by the licensee for the protection of the environment and human health, the Commission assessed CNL's *Overview Detailed Decommissioning Plan*, supporting programs, compliance history and experience from similar decommissioning projects at other facilities. Based on its consideration of these matters, the Commission is satisfied that CNL has the operational experience and resources to safely carry out this project.

Proposed Decommissioning of the Douglas Point Waste Facility

37. In its application, CNL explained that, should the amendment be granted by the Commission, CNL would be able to proceed with the following decommissioning activities that are part of an accelerated decommissioning strategy:
 - Clear-out of the reactor building.
 - Removal of systems and components within the reactor building.

38. Further, CNL submitted that as part of the activities contemplated by this licence amendment request, CNL would not be decommissioning the reactor itself.

4.1 Licenced Activities Considered in the Requested Amendment

4.1.1 Contractor Management

39. The services of contractors include a wide array of work, not only the provision of lifecycle activities or specific one-time jobs, but also the conduct of routine processes such as maintenance. Therefore, CNL must provide the oversight required to ensure the work performed by contractors meets regulatory requirements for which they are responsible. A management system aligned with CSA N286-12 *Management System Requirements for Nuclear Power Plants*⁶ provides the necessary processes and practices to ensure this.
40. The Commission enquired as to how CNL manages the interactions between CNL workers and contractors to maintain a strong safety culture. A CNL representative submitted that contractors participate in pre-job and post-job briefings to discuss any safety concerns.
41. On an issue raised by intervenor Ms. Anna Tilman with respect to the safety of contractors, the Commission asked whether compliance verification would be different when inspecting CNL workers versus contractors. CNSC staff reported that it does not differentiate whether contractors or the CNL workers perform the work; what is required is that the work performed by any workers on-site complies with the compliance verification criteria.
42. Regarding the training of contractors, CNL submitted that all contractors have to undergo CNL's:
- General safety orientation;
 - Radiation protection training; and
 - Safety briefings and safety pauses.
43. Asked about the number of staff present during the various stages of the decommissioning, a CNL representative submitted that:
- There are currently between 12-20 CNL employees on site at the DPWF
 - Approximately 50-70 staff members and contractors will be present during the execution of planning envelopes A, B and C to ensure that adequate oversight is provided and operations are being done safely.
 - After PE C is complete, there will be 12 staff on-site to support planning activities and characterization that will be in support of PEs D and E.

⁶ CSA N286-12 *Management System Requirements for Nuclear Power Plants*, Canadian Standards Association Group

44. Based on its consideration of the information presented on the record for this hearing, the Commission concludes that CNL has appropriate programs in place and that current efforts related to contractor management provide a positive indication of CNL's ability to adequately carry out the decommissioning activities contemplated in this licence amendment application.

4.1.2 Knowledge Management

45. Given the high number of demolitions performed by CNL, the Commission enquired how CNL incorporates lessons learned from previous decommissioning projects into its management system. On this issue, a CNL representative provided the following information:
- The fundamental purpose of the Government Owned Contractor Operated (GoCo) model is to gather lessons learned from past nuclear projects in the USA and Europe.
 - CNL participates in the CANDU Owners Group (COG) Radiation Protection Managers Forum in which issues, incidents, potential remedies and lessons learned are shared.
 - The requirements for the radiation protection program are very prescriptive in which they require specific programs and procedures to be documented as part of CNL's management system.
46. Asked about CNL's role in OPG's Centre for Sustainable Development (CSD), a CNL representative reported that CNL has registered as an industry catalyst with OPG's CSD and is looking forward to working with industry to solve some of the challenges and incorporate the lessons learned at CNL sites.
47. Asked about how CNL ensures knowledge is effectively managed for its decommissioning projects, a CNL representative provided the following information:
- As part of its knowledge management transfer system, CNL ensures that knowledge is effectively transferred between projects by transferring employees across the different sites and sharing lessons learned at other sites.
 - There is an effective knowledge transfer program within the nuclear industry in which CNL employees receive operating experience (OPEX) from CNL's internal bulletin, COG, the International Atomic Energy Agency (IAEA), and nuclear regulators across the world.

4.1.3 Human Performance Management

48. The Commission assessed CNL's human performance management programs which encompass activities that enable effective human performance through the development and implementation of processes that ensure that DPWF staff are sufficient in number in all relevant job areas and have the necessary knowledge, skills, tools and procedures in place to safely carry out their duties.

49. CNL is required to meet the requirements set out in the GNSCR in respect of its human performance management. Per its current licence conditions 4.1 and 4.2, CNL is required to implement and maintain a program for training and human performance management. During the current licence period, CNSC staff rated CNL's performance in this SCA as "satisfactory".
50. The Commission examined the information submitted by CNL regarding the DPWF human performance program. CNL submitted that its human performance program requires all functional support areas, line management and employees to report various events and implement documented programs and procedures in their respective areas. CNL added that in order to maintain an effective human performance program, CNL provides employees and contractors with the necessary tools, methods and training.
51. In its written submission, CNL reported that its systematic approach to training (SAT) process and procedures are aligned with the provisions of [REGDOC-2.2.2, Personnel Training](#).
52. On the issue of how CNL ensured that it has an adequate number of qualified contractors, a CNL representative submitted that:
- Once the scope of the project has been developed, contractors go through a pre-qualification process which requires them to submit evidence of previous performance on similar projects
 - Following the pre-qualifications, a request for quotation is issued which is assessed against a contractor's safety performance.
 - Upon selection of successful contractors, the contractors develop a job hazard analysis, work control plans and a radiological protection plan, if necessary, which is submitted to CNL for review and acceptance.
 - Throughout the project, CNL field supervisors ensure that contractors are following the requirements of the accepted plans.
53. On the matter of the decommissioning industry's pool of highly qualified and skilled workers, a Canadian Nuclear Association (CNA) representative submitted that Ontario has two major refurbishment projects underway employing a large number of skilled workers and that many of the skills from these projects are transferrable to decommissioning projects. Additionally, the CNA has a program that promotes engineering and technical expertise to ensure there is an adequate number of workers with the required expertise.

4.1.4 Conventional Health and Safety

54. Per its current licence condition 10.1, CNL is required to implement and maintain a program for occupational health and safety for its facilities. The conventional health and safety SCA covers the management of conventional (non-radiological) workplace safety hazards at the DPWF. Per the [Class I Regulations](#) CNL submitted in its application information about its proposed worker health and safety policies and procedures.

55. The Commission examined the implementation of a conventional health and safety program at the DPWF, which covers the management of workplace safety hazards. Provincial statutes mandate the conventional health and safety (CH&S) program for all employers and employees to minimize risk to the health and safety of workers posed by conventional (non-radiological) hazards in the workplace. This program includes compliance with applicable labour codes and conventional safety training. Throughout the current licence period, CNSC staff rated the CNL's performance in this SCA as "satisfactory".
56. CNSC staff provided the Commission with detailed information regarding CNL's CH&S program, reporting that the program complied with the NSCA and its associated regulations, as well Part II of the [*Canada Occupational Health and Safety Regulations*](#).
57. CNSC staff submitted that the proposed decommissioning activities at the DPWF require CNL to have a robust CH&S program as there will be significant chemical, industrial, biological and environmental hazards present during the execution of the proposed activities. CNSC staff further submitted that CNSC staff's acceptance of the DDPs will only be granted provided that CNL demonstrate that it will implement the appropriate CH&S measures for each PE.
58. CNL reported that its CH&S program is managed by two working committees, the Site Safety and Health Committee (SSHC) and the Health Safety and Policy Committee (HSPC)
- The SSHC meets on a monthly basis and is a joint forum for employee /management consultation and development of action plans for health and safety concerns.
 - The HSPC is a corporate committee that meets on a quarterly basis and provides perspectives on programmatic safety issues and supports the development and/or revision of CNL procedures related to CH&S.
59. Asked about what type of issues were identified during CNSC compliance inspections, a CNL representative responded that they were of low safety significance and were related, for example, to posting of signs and some maintenance work required on fire doors to ensure they remained latched at all times.
60. Based on the information presented, the Commission concludes that CNL's conventional health and safety program at the DPWF satisfies regulatory requirements. The Commission also concludes that the health and safety of workers and the public was adequately protected during the operation of the facility for the current licence period to date and that the health and safety of persons will continue to be adequately protected throughout the amended licence period.

4.2 Radiation Protection

61. As part of its evaluation of the adequacy of the measures for protecting the health and safety of persons during the decommissioning project, the Commission considered the past performance of CNL in the area of radiation protection. The Commission also considered how CNL's radiation protection program ensured that both radiation doses to persons and contamination were monitored, controlled and kept as low as reasonably achievable (ALARA), with social and economic factors taken into consideration.
62. As per CNL's current licence, licence conditions 9.1 and 9.2 require CNL to implement and maintain a radiation protection program, and notify the Commission within seven days of becoming aware that an action level has been exceeded. CNSC staff rated CNL's performance in this SCA as "satisfactory".
63. CNL reported that in order to ensure that dose to workers is controlled and kept ALARA during the decommissioning activities, CNL will be implementing the following changes in the provision of radiation protection:
- Reduction of radiological controlled areas to optimize radiation protection (RP) controls, monitoring and resources.
 - Acquisition of enhanced nuclear industry personnel protective equipment such as air pressurized suits.
 - Use of Visual Survey Data System (VSIDS) which records all radiological surveys and provides electronic storage of the survey data.
- Further, CNL reported that during the proposed amended licence period, CNL would continue to evaluate all non-routine activities and document the mitigation measures that will be required as per its RP program.
64. The Commission considered the information provided by CNL and CNSC staff to assess whether the DPWF radiation protection program satisfied the requirements of the [Radiation Protection Regulations](#) (RPR). CNSC staff submitted that, throughout the current licence period, CNL implemented an appropriate and effective radiation protection program at the DPWF that satisfied regulatory requirements.
65. The overall objective of CNL's RP program is to
- keep doses to workers ALARA (as low as reasonably achievable);
 - comply with, or exceed the requirements of the [RPR](#); and
 - limit detrimental stochastic health effects in employees and the public.
66. CNL reviewed its [action levels](#) for the proposed decommissioning activities in December 2019 and added that the proposed action levels were more conservative than the previously accepted action levels and met the parameters of [G-228, Developing and Using Action Levels](#).

4.2.1 *Worker Dose Control*

67. CNL provided the Commission with detailed information regarding the average and maximum effective doses to workers at the DPWF and reported that between 2014 and 2019, no radiation incidents occurred at the DPWF which resulted in a worker exceeding the 6 mSv action level per four-week dosimetry period. During its current licence period to date, CNL has not had any radiological occurrences and the maximum annual individual effective dose over the current licence period was 0.43 mSv, significantly lower than the regulatory limit of 50 mSv per one-year dosimetry period and 100 mSv per five-year dosimetry period for [nuclear energy workers](#) (NEWs).
68. CNSC staff submitted that prior to CNL commencing with the proposed decommissioning activities, it would be reviewing CNL's DDPs to assess whether there is sufficient detail provided on radiological characterization, work activities and the corresponding work control plans, and whether the planned work is in conformance with the requirements of the RPR.
69. The Commission requested details on the use of robotic equipment during decommissioning. A CNL representative provided the following information:
- As part of its ALARA assessment, CNL assesses whether it should use a robotic or remote-handled approach to maintain low worker dose.
 - CNL uses a robotic equipment "[Brokk](#)" which is commonly used in decommissioning.
 - CNL uses robotics in hot cells for retrieving certain items.
70. The Commission enquired as to whether an assessment was conducted to evaluate the differences in collective doses if the waste is managed at the DPWF versus CNL's Chalk River Laboratories (CRL). CNSC staff submitted that CNL will be submitting dose estimates and comparisons before commencing decommissioning activities and added that CNSC staff will review the detailed plans to ensure that there are adequate RP measures in place. As part of planning activities for each PE, CNL will be required to conduct characterization surveys and safety assessments to determine the occupational dose to workers and the mitigation measures needed.
71. Based on the information provided for this hearing, the Commission is satisfied that CNL is adequately monitoring and controlling doses to workers at the DPWF and that CNL has improvement processes in place to ensure worker radiation protection during the decommissioning of the DPWF.

4.2.2 Conclusion on Radiation Protection

72. Based on the information provided on the record for this hearing, the Commission concludes that, given the mitigation measures and safety programs that are in place and will be in place to control radiation hazards, CNL provides for, and will continue to provide for, the adequate protection of the health and safety of persons and the environment throughout the proposed licence period.
73. The Commission is satisfied that CNL's radiation protection program at the DPWF meets the requirements of the *Radiation Protection Regulations* and anticipates the CNL will update its radiation protection program and corresponding procedures, as required.

4.3 Environmental Protection

74. In accordance with its licence condition 11.1, CNL's environmental protection programs at the DPWF are intended to identify, control and monitor all releases of radioactive and hazardous substances, and aim to minimize the effects on the environment which may result from the licensed activities. These programs include effluent and emissions control, environmental monitoring and estimated doses to the public.
75. CNSC staff reported that CNL conducted a gap analysis for its environmental monitoring (EP) program against the requirements of CSA N288.4, *Environmental monitoring programs at Class I nuclear facilities and uranium mines and mills*,⁷ and submitted there was no regulatory requirements for an EP program given the very low levels of contaminants in airborne and waterborne effluents. CNSC staff also reported that although staff reviewed and accepted the gap analysis submitted, CNL continues to maintain an EP program that protects the environment. CNSC staff rated CNL's performance in this SCA as "satisfactory" throughout the current licence period.
76. CNL's process for identifying potential adverse effects and the validation of this process includes the following:
- CNL has a team that is dedicated to exploring various options for each of the waste streams at the DPWF.
 - Once the appropriate strategy has been selected, a series of steps including preparing preliminary decommissioning plans followed by detailed decommissioning plans are undertaken.
 - Throughout the process, CNL assesses its impact against industry-developed benchmarks for sound, dust, radioactive and non-radioactive contaminants to ensure that it is not having any significant impact on the environment.

⁷ N288.4, *Environmental monitoring programs at Class I nuclear facilities and uranium mines and mills*, CSA Group

4.3.1 Effluent and Emissions Control (Releases)

77. The Commission considered CNL's programs to control the release of effluent and emissions from the DPWF to the environment. CNL informed the Commission that the airborne and waterborne releases at the DPWF are monitored and compared with the derived release limits (DRLs) to ensure that the environment and workers are protected.
78. CNSC staff submitted that the DRLs for the DPWF are obtained in accordance with N288.1-08, *Guidelines for calculating derived release limits for radioactive material in airborne and liquid effluents for normal operation of nuclear facilities*,⁸ and that the activities contemplated by the proposed amendment do not require CNL to revisit its DRLs.
79. CNL has an effluent verification monitoring plan (EVMP) at the DPWF in accordance with N288.5-11, *Effluent monitoring programs at Class I nuclear facilities and uranium mines and mills*,⁹ and that CNL's EVMP met the requirements of the *Class I Nuclear Facilities Regulations*¹⁰. Radiological and non-radiological releases at the DPWF remained well below regulatory limits during the current licence period.
80. Regarding the measures CNL has in place to mitigate the risk of contaminants being discharged into Lake Huron, a CNL representative explained that, because the DPWF has been out of operation for approximately 40 years, the level of contamination that could migrate to Lake Huron is of very low safety significance. The Commission is satisfied, based on ongoing monitoring, that CNL's effluent and emission monitoring program ensures that no contaminants are released beyond the DPWF site.
81. Providing more details on the liquid effluent discharges from the DPWF reactor building, a CNL representative stated that:
- The active liquid waste handling system was shut down following the shutdown of the reactor.
 - The liquid waste was stored in large containers for 30 years and then shipped to CNL's Chalk River Laboratories for processing.
 - Approximately 50 L of active liquid waste is generated per year from the sump pumps and do not require a substantive waste handling system due to the low quantity. These are periodically shipped to CRL.
82. On an issue raised by the Historic Saugeen Métis (HSM) of shared storm water management drain and how the risk of contaminants reaching Lake Huron will be mitigated during decommissioning activities, a CNL representative provided the following information:

⁸ N288.1-08, *Guidelines for calculating derived release limits for radioactive material in airborne and liquid effluents for normal operation of nuclear facilities*, CSA Group, 2008.

⁹ N288.5-11, *Effluent monitoring programs at Class I nuclear facilities and uranium mines and mills*, CSA Group, 2011.

¹⁰ SOR/2000-204.

- The decommissioning work will take place while the building structure is still intact, avoiding the risk of any contaminants being released from the building.
- During demolitions, to minimize the risk of dust particles being released into the environment, CNL will use misters to ensure that the dust particles are on the ground.

83. The Commission requested experts from Environment and Climate Change Canada (ECCC) to provide their perspective on CNL's application. An ECCC representative submitted that ECCC was satisfied with the work done by CNL to identify, monitor and develop mitigation strategies for potential environmental effects as they proceed active phases of decommissioning.
84. On the issue raised by an intervenor regarding liquid and air emissions at the DPWF, CNSC staff confirmed that the amounts released were very low and orders of magnitude below the derived release limits.
85. On the basis of the information provided for this hearing, the Commission is satisfied that CNL has and will continue to have adequate programs in place for the control of effluent and emissions at the DPWF to protect the environment and meet regulatory requirements in the context of the additional activities to be conducted during this decommissioning phase.

Independent Environmental Monitoring Program

86. The Commission examined the information provided by CNSC staff in regard to the CNSC's IEMP. CNSC staff provided detailed results from monitoring that was carried out in 2013, 2015, 2016 and 2019 in publicly accessible areas outside the perimeter of the Bruce Power site, where DPWF is located, noting that the measured radioactivity in all samples were below CNSC reference levels.¹¹ On this basis, CNSC staff submitted that the IEMP results confirmed that the public and the environment around the DPWF were protected and that there should be no health impacts as a result of the decommissioning of the DPWF.
87. Furthermore, CNSC staff reported that the IEMP results were consistent with DPWF environmental monitoring results. The IEMP report for the Bruce Power site is published on the [CNSC website](#).
88. Based on the information submitted by CNSC staff in the EA Report, the Commission is satisfied that the EA Report adequately shows that CNL made and will continue to make adequate provision for the protection of the environment and persons at the DPWF site and that the CNSC's environmental monitoring shows that the public and the environment around the DPWF site remain protected.

¹¹ CNSC reference levels are established based on conservative assumptions about the exposure scenario and using N288.1-14. On this basis, the reference level for a particular radionuclide in a particular medium represents the activity concentration that would result in a dose of 0.1 mSv per year.

4.3.2 Environmental Risk Assessment

89. The Commission assessed the adequacy of the environmental risk assessment (ERA) carried out by CNL and whether it met the specifications of [REGDOC-2.9.1, Environmental Protection Policies, Programs and Procedures](#).
90. CNSC staff submitted that the ERA was completed in accordance with N288.6-12, *Environmental risk assessment at Class I nuclear facilities and uranium mines and mills*.¹²
91. In its written submission, CNSC staff informed the Commission that because the DPWF is located within the perimeter of the Bruce Power site, the emissions from the DPWF are reflected in the BP ERA.
92. An ERA was prepared in 2019 which included a Human Health Assessment and an Ecological Risk Assessment which assessed the potential effects of both radiological and chemical stressors resulting from planned discharges from the DPWF.

4.3.3 Protection of the Public

93. The Commission assessed CNL's programs to mitigate risk to members of the public from hazardous substances discharged from the DPWF. CNL provided the Commission with information regarding how its environmental protection program at the DPWF ensures that members of the public are not exposed to an unreasonable risk with respect to non-radiological hazardous substances.
94. In its written submission, CNSC staff informed the Commission that in accordance with the [Canadian Environmental Protection Act, 1999](#), CNL conducts annual checks against the National Pollutant Release Inventory and the Greenhouse Gas Emissions reporting requirements as well as monitor and report on losses of halocarbon refrigerants and fire suppressants over 10 kg.
95. Based on the information provided, the Commission is satisfied that CNL's programs to mitigate risk to members of the public from DPWF decommissioning are adequate.

4.3.4 Conclusion on Environmental Protection

96. Based on the assessment of the application and the information provided on the record at the hearing, the Commission is satisfied that, given the mitigation measures and safety programs that are in place to control hazards, CNL will provide adequate protection to the health and safety of persons and the environment throughout the proposed licence period.

¹² N288.6-12, *Environmental risk assessment at Class I nuclear facilities and uranium mines and mills*, CSA Group, 2012.

97. The Commission is satisfied that the DPWF environmental protection program adequately meets the specifications of REGDOC-2.9.1 and that the measures implemented at the DPWF are adequate for the purposes of environmental protection.
98. The Commission is satisfied that the environmental protection review conducted by CNSC staff and the resulting CNSC Environmental Protection Review Report were adequate for the Commission's consideration of environmental protection for this licence amendment application.

4.4 Waste Management

99. The Commission assessed CNL's DPWF site-wide waste management program. Throughout the current licence period, per its current licence condition 13.1, CNL is required to implement and maintain a program for waste management at the DPWF. CNSC staff assessed CNL's performance in this SCA, including waste minimization, segregation, characterization and storage programs, as "satisfactory."
100. The waste management SCA covers internal waste-related programs that form part of the facility's operations up to the point where the waste is removed from the facility to a separate waste management facility. Per the [GNSCR](#) and the Class I Regulations, CNL's licence amendment application included information related to the management of radioactive or hazardous waste resulting from its licensed activities and the proposed procedures for handling, storing, loading and transporting nuclear substances and hazardous substances, respectively.
101. CNL's waste management program meets its strategic priorities for all phases of the waste management lifecycle. CNL's Integrated Waste Strategy (IWS) comprises:
- A baseline waste strategy for all CNL operated sites, including the DPWF
 - A baseline strategy based on the classification on waste.
 - The consolidation of LLW and ILW at the Chalk River Laboratories
 - The storage of High-Level Waste (HLW) at the Nuclear Waste Management Organization's HLW disposal facility once the site is selected, the transfer of the HLW to CRL or continue to store the HLW at the DPWF. The spent fuel will remain in canisters as part of CNL's storage with surveillance activities until a longer term solution is implemented.
102. The Commission is satisfied that CNL's waste management program meets the expectations of CSA N292.3-14, *Management of low and intermediate-level radioactive waste*¹³ and CSA N292.0-14, *General principles for the management of radioactive waste and irradiated fuel*.¹⁴ CNL added that it will continue to review, update as required, and implement a waste management program that meets regulatory requirements.

¹³ N292.3-14, *Management of low and intermediate-level radioactive waste*, CSA Group, 2008 and 2014.

¹⁴ N292.0-14, *General principles for the management of radioactive waste and irradiated fuel*, CSA Group, 2014.

103. On the matter of frequency of inspections during the proposed licence period, CNSC staff submitted:
- The inspection frequency during the current licence period has been approximately 1-2 inspection(s)/year covering multiple SCAs, commensurate with the low risk of the facility.
 - CNSC staff will continue to assess the risk of the facility and will either increase the number of inspections carried on each year or add additional inspections specific to the new activities that will be taking place.
 - CNSC staff have inspectors present at the Bruce site in case COVID-19 restrictions do not allow CNSC staff in Ottawa to travel to Kincardine.
104. In its intervention, the Concerned Citizens of Renfrew County submitted the view that CNL's IWS should not be part of CNL's licensing basis for the DPWF. In response, CNSC staff submitted that, although the IWS is considered under compliance verification criteria in CNL's LCH, this was an error and that the LCH will be amended accordingly. The Commission was satisfied on this issue.
105. On the issue of the spent fuel canisters and where they would be stored in the long-term, representatives from AECL and CNL provided the following information:
- AECL's long-term plans would depend on the location of the waste management site selected by the Nuclear Waste Management Organization (NWMO) and whether it was closer than the Chalk River Laboratories.
 - The design life of the spent fuel canisters is estimated to be until 2035. In accordance with CNL's Life Management Program, CNL performs regular inspection to monitor any sort of degradation.
106. On an issue raised by Northwatch respecting the condition of fuel canisters, a CNL representative submitted that the condition of the canisters is closely monitored under CNL's Life Management Program and that the canisters are in very good condition.
107. Further on that topic, the Commission enquired as to whether details about the fuel canisters were documented and publicly available. A CNL representative reported that details of the fuel canisters were documented in 1994 and that the document will be updated and shared with the public. The Commission noted the importance of such documents being kept up to date and made available to the public.
108. A CNL representative confirmed that CNL's CRL licence allows CNL to accept waste from the DPWF. CNSC added that before waste is shipped to CRL, CNSC staff would review the waste characterization data to ensure that it meets CRL's waste acceptance criteria.

Waste Characterization

109. On the issue of site conditions and classification of radioactive materials with respect to the PEs, a CNL representative provided the following information:
- Planning envelope A is mostly removal of non-nuclear structures
 - Planning envelope B and C involve the removal of low and intermediate-level waste.
 - CNL is well aware of the radiation hazards that are present.
 - There will be some unknowns prior to entering the different systems and components within the reactor building and CNL will continue to evolve its waste characterization program.
110. The Commission asked whether the Municipality of Kincardine has capacity in its landfills for the non-radioactive waste CNL has proposed to dispose as a result of the decommissioning. A representative from the Municipality of Kincardine responded that, since the main landfill site in Kincardine was constructed in 2012, the Municipality of Kincardine has sufficient capacity to accept non-radioactive waste that would be generated during the decommissioning of the DPWF.
111. Asked for information as to how much waste – radioactive and nonradioactive - would be shipped out of the DPWF, a CNL representative submitted that approximately half of the waste that is generated will be shipped out of the facility while the remainder will be reused post excavations.
112. The Commission asked CNSC staff to explain the methodology for waste characterization and also asked about CNL’s waste characterization program. CNSC staff responded that:
- regulatory document [REGDOC-2.11.1, Waste Management, Volume I: Management of Radioactive Waste](#) provides for the different classifications of waste and added that the waste classifications are derived from the [IAEA Safety Standard GSG-1 Classification of Radioactive Waste](#);
 - in the early stages of decommissioning, waste is characterized for the purposes of protecting the worker;
 - in the latter stages of decommissioning, waste is characterized to ensure that it meets the waste receiver’s acceptance criteria.
113. A CNL representative submitted that, initially, waste is segregated into appropriate waste streams after which:
- concrete waste can be sent to grinding and recycling facilities for future use;
 - hazardous waste can be sent to subcontractors for further processing; and
 - radioactive waste can go to Chalk River Laboratories for interim storage.
114. Based on the above information and consideration of the hearing materials, the Commission is satisfied that CNL has appropriate programs in place to safely manage waste at the DPWF.

4.5 Emergency Management

115. The Commission considered CNL's emergency management program which covers the measures for preparedness and response capabilities implemented by CNL in the event of emergencies and non-routine conditions at the DPWF. This includes nuclear emergency management, conventional emergency response, and fire protection and response.
116. Per its current licence conditions 12.1, CNL is required to maintain and implement emergency management programs for on and off-site events. CNSC staff rated CNL's performance in this SCA as "satisfactory".
117. With respect to the emergency management program implemented at the DPWF, CNL provided the following information:
- CNL's emergency preparedness program applies to design, operations and other activities, including decommissioning work at the DPWF.
 - CNL has contracted the Fire and Security emergency response services of Bruce Power (BP) due to its location on the BP site and BP's emergency services capabilities.
 - Although the emergency services have been contracted to BP, CNL takes the overall responsibility to ensure that hazards are identified and strategies are in place to respond to emergency events.
118. Respecting whether Bruce Power's emergency response team was equipped for the additional activities that would be conducted at the DPWF, CNSC staff provided the following information to the Commission in the hearing:
- The ultimate responsibility for maintaining site security would be on CNL as the licence holder.
 - CNSC staff have confirmed that Bruce Power's emergency management team has the capacity to respond to additional staff being present at the DPWF and to the additional activities arising from the amendment.
 - Bruce Power has a robust security program that includes a site access clearance program for all persons and materials accessing the site.
119. With respect to CNL's contract with Bruce Power for emergency services, a CNL representative confirmed that the contract included fire safety, hazardous material (HAZMAT) safety, emergency response, security and medical services.
120. Based on the information submitted for this hearing, the Commission is satisfied that CNL has appropriate emergency plans in place to protect the health and safety of persons and the environment in the event of a nuclear emergency at the DPWF.

4.6 Packaging and Transport

121. The Commission examined CNL's packaging and transport program at the DPWF. Packaging and transport covers the safe packaging and transport of nuclear substances and radiation devices to and from the licensed facility. CNL must adhere to the [*Packaging and Transport of Nuclear Substances Regulations, 2015*](#) (PTNSR, 2015) and Transport Canada's [*Transportation of Dangerous Goods Regulations*](#) (TDG Regulations) for all shipments. During the current licence period, CNSC staff rated CNL's performance in this SCA as "satisfactory".
122. CNL's current licence condition 16.1 requires CNL to implement and maintain a packaging and transport program. CNSC staff submitted that CNSC inspections had shown that CNL's packaging and transport program was effectively implemented and that the transport of nuclear substances was regularly performed in a safe manner and met regulatory requirements.
123. CNL provided the Commission with information on the DPWF Transportation of Dangerous Goods (TDG) Program and submitted that CNL's TDG Program was developed and implemented to meet the regulatory requirements of section 42 of the PTNSR, 2015.
124. In its written submission, CNL submitted that its TDG program requirements apply to all activities and personnel – both CNL workers and contractors – involved in the transportation of dangerous goods.
125. CNSC staff provided the following information with respect to CNL's packaging and transport program:
 - CNL's packaging and transport program covers requirements of package design, package maintenance, and the registration for use of certified packages required by regulations.
 - Shipments of waste during the proposed licence period will be limited to Low Level Waste (LLW) and Intermediate Level Waste (ILW) while the irradiated fuel is expected to remain at the DPWF.
126. On the issue of whether the benefits of centralized storage of radioactive waste at Chalk River Laboratories outweigh the risk of transportation, a CNL representative submitted that:
 - The transportation of radioactive waste occurs worldwide in accordance with IAEA regulations.
 - The environmental impact of such transportation is manageable and the level of risk is kept very low through well-designed transport packages that meet the requirements of the PTNSR 2015.
 - Chalk River Laboratories has extensive experience in the storage and management of radioactive waste and has the qualified and experienced personnel at that site.

127. On the issue of various transport activities being conducted in Bruce County, the Commission asked whether Bruce County has the resources to meet emergency response requirements. A Bruce County representative responded that Bruce County has a comprehensive emergency management plan in addition to the specific plans the Municipality of Kincardine manages as they relate to the nuclear industry.
128. The Commission considered the summary of anticipated waste shipments from the DPWF and notes that there will be approximately 20 shipments of low-level waste and 1 shipment of intermediate level waste during the proposed remaining licensing period of approximately 10 years. The Commission is satisfied that the number of shipments from the DPWF will not increase and that CNL's TDG program can ensure that the waste packaged are transported in a safe manner.
129. Based on the information presented on the record for this hearing, the Commission is satisfied that CNL is meeting, and will continue to meet, regulatory requirements regarding packaging and transport.

4.7 Indigenous Engagement and Public Information

4.7.1 Participant Funding Program

130. The Commission assessed the information provided by CNSC staff regarding public engagement in the licensing process as enhanced by the CNSC's Participant Funding Program (PFP). CNSC staff submitted that, in February 2020, up to \$75,000 in funding to participate in this licensing process was made available to Indigenous groups, members of the public and other stakeholders to review CNL's licence amendment application and associated documents, and to provide the Commission with value-added information through topic-specific interventions.
131. A Funding Review Committee (FRC), independent of the CNSC, recommended that 7 applicants be provided with up to \$97,158.56 in participant funding. These applicants were required, by virtue of being awarded participant funding, to submit a written intervention and make an oral presentation at the public hearing commenting on CNL's licence amendment application. As such, \$97,158.56 in participant funding was awarded to the following recipients:
- Saugeen Ojibway Nation (SON)
 - Métis Nation of Ontario (MNO)
 - Historic Saugeen Métis (HSM)
 - Benoit R. Poulet
 - Canadian Environmental Law Association, Northwatch, Concerned Citizens of Renfrew County, and Nuclear Waste Watch (CELA)
 - Anna Tilman
 - Dr. Sandy Greer

132. On an issue raised by CELA around lack of specific references, CNL representatives acknowledged that there is an opportunity for improvement with respect to providing specific references and page numbers.

4.7.2 Indigenous Engagement

133. The common law duty to consult with Indigenous peoples applies when the Crown contemplates action that may adversely affect established or potential Indigenous 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 peoples. The CNSC ensures that its licensing decisions under the NSCA uphold the honour of the Crown and consider Indigenous peoples' potential or established Indigenous and/or treaty rights pursuant to section 35 of the [Constitution Act, 1982](#).¹⁵
134. 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".¹⁶ Licensing decisions of the Commission, where Indigenous interests may be adversely impacted by its decision, will therefore engage the duty to consult, and the Commission must be satisfied that the duty has been met prior to making the relevant licensing decision.
135. The duty to consult can be understood as existing on a spectrum. At one end of the spectrum lie cases where the claim is weak, the Indigenous right is limited, or the potential for infringement on Indigenous or treaty rights is minor. In such cases, at the low end of the spectrum, the duty on the Crown may entail simply giving notice, disclosure of relevant information, and discussion of issues raised in response to the notice. At the other end of the spectrum lie cases where a strong *prima facie* case for the claim is established, the right and potential infringement is of high significance to the Indigenous community, and the risk of non-compensable damage is high. In such cases the duty on the Crown may entail so-called "deep consultation".¹⁷
136. CNSC staff determined that the duty to consult is engaged by this decision. The Commission agrees with this assessment that the duty to consult is engaged by the Commission's consideration of this matter.
137. CNSC staff also opined that the duty to consult in this matter exists at the low end of the spectrum, and proceeded with consultation activities on that basis. This was based on staff's assessment that the activities contemplated by the licence amendment would lead to an overall reduction of hazards at the DPWF, and the removal of contaminated waste from the region. CNSC staff concentrated on the physical impacts which would result from CNL's activities. The Commission agrees with this method of assessment,

¹⁵ *Constitution Act, 1982*, Schedule B to the *Canada Act 1982*, 1982, c. 11 (U.K.).

¹⁶ *Haida Nation v. British Columbia (Minister of Forests)*, 2004 SCC 73 at para 35.

¹⁷ *Ibid* at paras 43-44.

given that these physical impacts will constitute the whole of the impact of this particular licensing decision. Therefore, the Commission concurs with CNSC staff's determination that the duty to consult exists in this case at the low end of the spectrum.

138. Acknowledging that there may be historic wrongs associated with the Crown's conduct respecting the DPWF, the Commission's decision as to the duty to consult is based only on the impacts of the decision it is contemplating making now, not historic decisions made by other authorities in the past.¹⁸
139. The Commission examined the information submitted by CNL regarding its ongoing engagement with Indigenous groups near the DPWF site. CNL submitted to the Commission that Indigenous communities were engaged based on Indigenous peoples' potential or established Indigenous and/or treaty rights.
140. CNL submitted that CNL began engagement with First Nation and Métis communities in October 2019 and added that the engagement activities are ongoing and conducted in accordance with regulatory document [REGDOC-3.2.2, *Indigenous Engagement*, version 1.1.](#)
141. CNSC staff submitted that continued engagement with interested Indigenous groups was, and would continue to be, a priority for CNSC staff and would be continued throughout the proposed licence period to ensure that the groups received all information requested and to establish, maintain and enhance relationships with the Indigenous groups.
142. Asked about what the CNSC can do to address safety concerns, an MNO representative provided the following information:
- Provide information to Métis harvesters and citizens that is easy to understand, meaningful and accessible.
 - Provide educational programs and site tours.
 - MNO involvement in CNSC's independent environmental monitoring program.
 - MNO involvement in decision-making processes.
143. The Commission asked the MNO whether it was satisfied with the consultation process by CNSC staff and CNL to date. An MNO representative submitted that MNO's engagement with CNSC staff and CNL has been very forthcoming and added that that the relationship with CNL in Region 7 is relatively recent in comparison to other Regions.
144. The Commission requested details of how information is passed from those who participate in the consultation to Métis harvesters and citizens. An MNO representative submitted that information is shared between the governance structure of the MNO and the citizens of the Métis nation by the following means:

¹⁸ *Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council*, 2010 SCC 43, at para 49.

- The regional consultation committee, which consists of Presidents of each of the community councils, are tasked with communication within their communities.
 - The Captain of the Hunt¹⁹ is also part of the consultation committee and is very involved with all Métis harvesters.
 - Community information sessions in which CNSC staff and CNL participate.
145. Asked about the relationship and level of engagement between CNL and HSM prior to commencement of engagement for Phase 3 decommissioning, an HSM representative submitted that the CNSC provides HSM with an annual compliance report for the DPWF and that engagement with CNL was fairly quiet prior to the engagement activities conducted for this licence amendment.
146. The Commission asked whether HSM was satisfied with the interaction with CNSC staff and CNL on this particular project and whether there were any opportunities for improvement. An HSM representative submitted that HSM was very much satisfied with the consultation and engagement activities carried out by CNSC staff and CNL and that the community would be satisfied if the current relationship was to continue in the same manner.
147. Asked about the effectiveness of the virtual sessions held by HSM, an HSM representative responded that HSM tried to communicate with its residents through various forms of media including:
- developing a brochure with CNL that outline the key issues HSM is interested in.
 - sharing information through its social media page.
 - attending the virtual open house that was hosted by CNL.
148. The Commission requested details of HSM's in-person engagement during the decommissioning project and asked whether it would be involved in the monitoring of the land and water at the DPWF. An HSM representative submitted that although the next steps have not yet been developed, HSM would ideally be directly involved on-site as well as reviewing documents related to monitoring and mitigation.
149. Further on that topic, CNSC staff provided the following information:
- There is a long-term engagement agreement with HSM in which CNSC have a commitment to meet biannually or more upon request.
 - CNSC staff worked with the HSM when sampling around the DPWF as part of its independent environmental monitoring program.
 - In person engagement activities will resume once the COVID-19 pandemic is over.

¹⁹ "Captain of the Hunt" means an MNO citizen who has been duly appointed by the President of MNO to manage and administer the Métis harvest in his or her region;

150. Asked about engagement activities conducted with Saugeen Ojibway Nation (SON), CNSC staff submitted that engagement activities with the SON began in 2018 and that a long-term engagement Terms of Reference was signed in 2019. CNSC staff added that there is a working group that meets on a weekly basis to discuss different topics and issues of interest.
151. Further, a CNL representative submitted that CNL has been engaging with SON environment office for the past year and that the SON have also participated at site tours at the DPWF. The CNL representative further submitted that CNL is committed to building a collaborative relationship with SON and will continue to engage throughout the decommissioning project.
152. Based on the information provided for this hearing, the Commission is satisfied that Indigenous engagement activities carried out for this licence amendment to conduct active decommissioning activities at the DPWF were adequate.
153. The Commission would like to thank those who participated in this hearing and encourages CNSC staff and CNL to continue to work with Indigenous communities and members of the public that have an interest in the DPWF decommissioning project.

4.7.3 Public Information

154. The Commission assessed CNL's public information and disclosure program (PIDP) for the DPWF. A public information program is a regulatory requirement for licence applicants and licensed operators of Class I nuclear facilities. Paragraph 3(j) of the [*Class I Nuclear Facilities Regulations*](#) requires that licence applications include:

“the proposed program to inform persons living in the vicinity of the site of the general nature and characteristics of the anticipated effects on the environment and the health and safety of persons that may result from the activity to be licensed.”
155. The Commission also assessed how CNL's PIDP met the specifications of [*RD/GD-99.3, Public Information and Disclosure*](#). CNL provided the Commission with information regarding the various public engagement campaigns it has undertaken including a virtual Association of Municipalities of Ontario conference, an online webinar, virtual open houses, meetings with public and through the CNL's website.
156. CNSC staff reported to the Commission that during the storage with surveillance (SWS) phases, CNL conducted limited outreach activities and began increasing public engagement subsequent to its licence amendment application to proceed with phase 3 decommissioning at the DPWF. CNSC staff further submitted that CNL's outreach and engagement plans did not initially come into effect due to the COVID-19 pandemic and added that the licensee has since then used alternative means to perform public engagement, including a web-based virtual tour of the DPWF.

157. In its written submission, CNSC staff submitted that CNL continues to meet its obligations with respect to disseminating and notifying the public and Indigenous communities on its operations and added that CNL's PIDP meets the regulatory requirements set out in [RD/GD-99.3](#).
158. Based on the information presented for this hearing, the Commission is satisfied that CNL's PIDP has and will continue to communicate to the public information about the health, safety and security of persons and the environment and other issues related to the DPWF.

4.7.4 Conclusion on Indigenous Engagement and Public Information

159. Based on the information presented, the Commission is satisfied that, overall, CNL's PIDP meets regulatory requirements and is effective in keeping Indigenous groups and the public informed of DPWF operations. The Commission acknowledges the many best practices implemented by CNL in light of the COVID-19 pandemic and encourages CNL's efforts in creating, maintaining and improving its dialogue with the neighbouring communities.
160. The Commission acknowledges the current efforts and commitments made by CNL in relation to Indigenous engagement and CNSC staff's efforts in this regard on behalf of the Commission. Based on the information presented on the record for this hearing, the Commission is satisfied that this licence amendment will not result in changes to DPWF operations that would cause adverse impacts to any potential or established Indigenous and/or treaty rights. The Commission is also of the opinion that the engagement activities taken for the review of the DPWF licence amendment application have been adequate.²⁰
161. Based on the information submitted for this hearing, the Commission is satisfied that Indigenous groups, members of the public and other stakeholders were encouraged to participate in this licence amendment process.

4.8 Decommissioning Plans and Financial Guarantee

162. The Commission requires that CNL has operational plans for the decommissioning and long-term management of waste produced during the lifespan of the DPWF. In order to ensure that adequate resources are available for safe and secure future decommissioning of the DPWF, the Commission requires that an adequate financial guarantee for realization of the planned activities be put in place and maintained in a form acceptable to the Commission throughout the licence period.
163. CNSC staff submitted that CNL's Preliminary Decommissioning Plan (PDP) will be superseded by CNL's Program Overview Detailed Decommissioning Plan (DDP) should the Commission accept CNL's licence amendment request. CNSC staff further submitted that during the current licence period, CNL decommissioned a number of

²⁰ *Rio Tinto Alcan v. Carrier Sekani Tribal Council*, 2010 SCC 43[2010] 2 S.C.R. 650 at paras 45 and 49.

non-nuclear structures and facilities for which DDPs – in accordance with CSA N294-09, *Decommissioning of facilities containing nuclear substances*,²¹ and [G-219, *Decommissioning Planning for Licensed Activities*](#) - were submitted to the CNSC.

164. In its written submission, CNL submitted that its current decommissioning and demolition (D&D) program meets the requirements of CSA N294-09 and added that it will continue to review, update and implement the D&D program to ensure all future works is done in accordance with regulatory requirements.
165. With respect to the regulatory approval process for this decommissioning project, CNSC staff provided the following information:
- CNL submitted a Program Overview DDP in support of its licence amendment application which outlines the strategic approach for the decommissioning process.
 - CNL will prepare and submit – for CNSC staff’s review and acceptance - individual DDPs for each of the PEs identified in the Program Overview DDP.
 - The individual DDPs will document the radiological, chemical and industrial condition of the relevant facilities and structures, the detailed work plans and the controls in place to ensure regulatory compliance.
166. In regard to the overall decommissioning process, CNL provided the following information:
- Prior to entering a building, CNL has estimated what waste will be present and its quantity.
 - Upon entry into the building, CNL staff and contractors will decommission, dismantle and remove the building systems and characterize the waste.
 - As waste is characterized as actual data becomes available, CNL’s ALARA controls will be adjusted accordingly, if needed.

Asked for their perspective on what the ideal end-state would be for the DPWF, Dr. Sandy Greer responded that rather than doing some sort of industrial activity on the site, a more preferable scenario would be one in which the site is restored to its original state. Dr. Greer further submitted that it would also be very important to consult with all the local Indigenous groups who may feel that further environmental remediation is required.

167. On the matter of end-state post decommissioning, CNSC staff submitted that as part of its Program Overview DDP, CNL submitted that the end-state of the DPWF would be for it to be cleared for unrestricted access suitable for commercial or industrial use, consistent with the end-state for the Bruce Power site.

²¹ N294-09, *Decommissioning of facilities containing nuclear substances*, CSA Group, 2009; Update 1, 2014.

168. Several intervenors, including A. Tilman, the Canadian Environmental Law Association, the Concerned Citizens of Renfrew County and Area, Nuclear Waste Watch, and Northwatch, raised concerns with respect to the acceleration of the decommissioning process at the DPWF. The following information was submitted by CNL in this regard:
- CNL has the required skills and technology to decommission the DPWF safely and the consolidation of waste is an approach that is being implemented internationally.
 - A precise estimate in respect of a possible increased dose to workers is difficult to make since CNL continues to gain from its experiences. However, based on historical records, the maximum dose to workers would be approximately 10 mSv in year.
 - Industrial and technological evolutions of decommissioning as an engineering solution has significantly evolved and CNL is confident that it can safely decommission the DPWF in a safe manner that protects the workers and the environment.
169. On the issue of whether the pressure tubes within the reactor would be removed, a CNL representative confirmed that no pressure tubes from the calandria would be removed as part of PE C.
170. The Commission enquired as to whether CNL revises its detailed decommissioning plan when unexpected events occur or when unforeseen waste is found. CNSC staff submitted that if new information is learned during the decommissioning process, CNL would be required to revise its DDP and submit it to CNSC staff for review and acceptance.
171. The Commission requested details on the activities that would take place during Planning Envelope C. A CNL representative submitted that prior to removing any waste from the reactor building, the waste will be characterized to verify any hazards that need to be mitigated. The CNL representative added that everything in the reactor building, including the fuel handling system, would be removed with the exception of the bio-shield and the calandria.
172. The Commission enquired as to whether CNL will have to physically breach the reactor building as part of the decommissioning process during the course of Planning Envelope C. A CNL representative submitted that it is one of the options that CNL is considering but could not confirm whether it is the option that would be implemented.
173. Asked about the greatest challenges CNL foresees during the proposed decommissioning project, a CNL representative submitted that CNL is confident that it has the experience to manage the work without challenges and added that CNL foresees challenges related to hazardous materials and industrial worker safety during the demolition phase.

174. Asked for confirmation that the financial guarantee provision provided by the Minister of Natural Resources in 2015 is currently valid, CNSC staff submitted that an updated letter was provided on August 25, 2020.
175. Based on the information considered at this hearing, the Commission concludes that the PDP and related financial guarantee for the DPWF are acceptable for the purpose of the current licence amendment application.
176. The Commission expects CNL to implement CSA N294-09 *Decommissioning of facilities containing nuclear substances* for the decommissioning of the DPWF during the amended licence period, with the DDPs for each planning envelope submitted to CNSC staff as specified in the proposed LCH.
177. The Commission anticipates that CNL will submit a DDP for each of the planning envelopes for CNSC staff's review and acceptance prior to commencing decommissioning activities. The Commission notes that CNSC staff can bring any matter to the attention of the Commission should the need arise.

4.9 Cost Recovery

178. The Commission examined CNL's standing under the [Canadian Nuclear Safety Commission Cost Recovery Fees Regulations](#)²² (CRFR) requirements for the DPWF. Paragraph 24(2)(c) of the NSCA requires that a licence application is accompanied by the prescribed fee, as set out by the [CRFR](#) and based on the activities to be licensed.
179. CNL submitted that it is in good standing with respect to the requirements of the CRFR and that it will continue to provide all necessary fees as required.
180. CNSC staff confirmed to the Commission that CNL has paid its cost recovery fees in full and that CNL is compliant with the [CRFR](#) requirements for the DPWF.
181. Based on the information submitted by CNL and CNSC staff, the Commission is satisfied that CNL has satisfied the requirements of the [CRFR](#) for the purpose of this licence amendment.

4.10 Nuclear Liability Insurance

182. The Commission notes that CNL is required to maintain nuclear liability insurance for the DPWF. CNSC staff submitted that CNL maintained nuclear liability insurance in accordance with the *Nuclear Liability Act*²³ (NLA) during the current licence period until December 31, 2016 and since then, with the [Nuclear Liability and Compensation Act](#)²⁴ (NLCA) that came into force on January 1, 2017.

²² SOR/2003-212.

²³ R.S.C., 1985, c. N-28 (repealed).

²⁴ S.C. 2015, c. 4, s. 120.

183. CNSC staff reported that the DPWF is currently designated, pursuant to section 7 of NLCA, as a nuclear installation in column 4 Item 14 of the Schedule of the [*Nuclear Liability and Compensation Regulations*](#). CNSC staff further reported that Natural Resources Canada, the federal department responsible for the administration of the NLCA, has confirmed that CNL had satisfied and should continue to satisfy its obligation under the NLCA during the proposed licence period.
184. Based on the information provided on the record for this hearing, the Commission is satisfied that CNL has satisfied, and will continue to satisfy, the requirements for the maintenance of nuclear liability insurance under the NLCA. The Commission expects annual updates in the CNL ROR in regard to CNL's compliance with the NLCA.

4.11 Licence Length and Conditions

185. The Commission considered CNL's application for the amendment of the current DPWF decommissioning licence for a period of 14 years. CNSC staff recommended the amendment of the licence for a period of 10 years, until December 31, 2030, submitting that CNL is qualified to carry on the licensed activities authorized by the licence.
186. On the issue of a 10-year term as opposed to the 14-year term remaining on the licence, CNSC staff submitted that in recommending a 10-year term, its rationale relates to CNL's decommissioning schedule to the effect the proposed activities would be completed by 2030.
187. Asked whether CNL is confident that planning envelope C would be completed in the 10-year estimate, a CNL representative reported that it was confident that PEs A through C could be completed within a 10-year licence term and added that CNL would have characterization data to report on plans for PEs D and E.
188. In order to provide adequate regulatory oversight of changes that are administrative in nature or less significant and do not require a licence amendment nor Commission approval, CNSC staff recommended that the Commission delegate authority for certain approval or consent, as contemplated in licence conditions that contain the phrase "a person authorized by the Commission" to the following CNSC staff:
- Director, Canadian Nuclear Laboratories Regulatory Program Division
 - Director General, Directorate of Nuclear Cycle and Facilities Regulation
 - Executive Vice-President and Chief Regulatory Operations Officer, Regulatory Operations Branch
189. Based on the information examined by the Commission during the course of this hearing, the Commission is satisfied that a 10-year licence term is appropriate for the DPWF and amends the licence accordingly. The Commission accepts the licence conditions as recommended by CNSC staff. The Commission also accepts CNSC staff's recommendation regarding the delegation of authority, and notes that it can bring any matter to the attention of the Commission as appropriate.

190. Opportunities for public involvement during the amended 10-year licence period will be available through the CNSC's Regulatory Oversight Reports (RORs).

5.0 CONCLUSION

191. The Commission has considered the licensing amendment application submitted by CNL. Based on its consideration of the information submitted, the Commission is satisfied that the application submitted by CNL meets the requirements of the NSCA, the GNSCR and other applicable regulations made under the NSCA.
192. The Commission has also considered the information and submissions of CNL, CNSC staff and all participants as set out in the material available for reference on the record, as well as the oral and written interventions provided or made by the participants at the hearing.
193. The Commission is satisfied that CNL meets the test for licensing set out in subsection 24(4) of the [Nuclear Safety and Control Act](#). That is, the Commission is of the opinion that CNL is qualified to carry on the activity that the proposed licence will authorize and that it 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.
194. Therefore, the Commission, pursuant to section 24 of the [Nuclear Safety and Control Act](#), amends the Waste Facility Decommissioning Licence issued to the Canadian Nuclear Laboratories for the Douglas Point Waste Facility located in Tiverton, Ontario. The amended licence, WFDL-W4.332.03/2030, is valid until December 31, 2030. The Commission, based on CNL's decommissioning schedule to the effect the proposed activities, is satisfied that a 10-year licence term is appropriate for the DPWF.
195. The Commission includes in the licence the conditions as recommended by CNSC staff in CMD 20-H4. The Commission also delegates authority for the purposes of licence condition (LC) 3.1 as recommended by CNSC staff:
- “the licensee shall implement and maintain a program for reporting to the Commission or a person authorized by the Commission”.*
- The Commission notes that there was an error in CMD 20-H4 which incorrectly referenced LC 3.2 while it should have referenced LC 3.1.
196. The Commission considers the environmental protection review that was conducted by CNSC staff to be acceptable and thorough. The Commission is satisfied that an EA under CEEA 2012 was not required for the DPWF licence amendment application and notes that the NSCA provides a strong regulatory framework for environmental protection. Further, the Commission is satisfied that that the proposed decommissioning activities are not likely to cause significant adverse environmental effects.

197. The Commission agrees with CNSC staff's determination that the duty to consult with impacted Indigenous communities is engaged at the low end of the spectrum, and finds that the consultation activities carried out by CNSC staff are sufficient to meet the Crown's duty in this case.
198. The Commission notes that CNSC staff can bring any matter to the Commission that merits its attention. The Commission directs CNSC staff to inform the Commission on an annual basis of any changes made to the Licence Conditions Handbook (LCH).
199. With this decision, the Commission directs CNSC staff to report annually on the performance of CNL, as part of the annual CNL ROR. CNSC staff shall present this report at a public proceeding of the Commission, where members of the public will be able to participate.

Velshi, Rumina

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March 12, 2021

Rumina Velshi
President,
Canadian Nuclear Safety Commission

Date

Appendix A – Intervenors

Intervenors – Oral Presentations	Document Number
Canadian Nuclear Association, represented by S. Coupland	CMD 20-H4.4
Benoit Robert Poulet	CMD 20-H4.5
Métis Nation of Ontario, represented by D. Dusome, E. Hadaway, G. Garratt, T. Muscat, P. Coture, R. Shanks, R. Pinkney, A. Barty, J. Fieldwebster and G. Conacher	CMD 20-H4.6
Canadian Nuclear Industries, represented by R. Oberth	CMD 20-H4.7
Town of Saugeen Shores, represented by Mayor L. Charbonneau	CMD 20-H4.10 CMD 20-H4.10A
Historic Saugeen Métis, represented by J. McGuire and C. Hachey	CMD 20-H4.11
Bruce County, represented by S. Datars Bere	CMD 20-H4.13
Canadian Nuclear Workers’ Council, represented by B. Walker	CMD 20-H4.14 CMD 20-H4.14A
Municipality of Kincardine, represented by Mayor A. Eadie and A. Weishar	CMD 20-H4.16
Canadian Environmental Law Association, Concerned Citizens of Renfrew County and Area, Nuclear Waste Watch, and Northwatch, represented by K. Blaise, M. Siersbaek and H. Krugmann	CMD 20-H4.17 CMD 20-H4.17A
Concerned Citizens of Renfrew County and Area, represented by O. Hendrickson	CMD 20-H4.18
Sandy Greer	CMD 20-H4.19 CMD 20-H4.19A
Anna Tilman	CMD 20-H4.22 CMD 20-H4.22A
Intervenors –Written Submission	Document Number
Canadian Nuclear Society	CMD 20-H4.2
Labourers’ International Union of North America	CMD 20-H4.3
Ontario Association of Demolition Contractors	CMD 20-H4.8
Ontario Power Generation	CMD 20-H4.9
Saugeen Ojibway Nation	CMD 20-H4.12
Provincial Building and Construction Trades Council of Ontario	CMD 20-H4.15
Northwatch	CMD 20-H4.20
Evelyn Gigantes	CMD 20-H4.21