



Record of Decision

DEC 22-H5

In the Matter of

Cameco Corporation

Subject	Request for Ruling Filed by the Ya'thi Néné Lands and Resources Office in the Matter of Cameco's Application to Amend the Beaverlodge Waste Facility Operating Licence to Remove 18 Properties and for the Transfer of these Properties to Saskatchewan's Institutional Control Program
Date of Decision	March 15, 2022

1.0 INTRODUCTION

1. On February 23, 2022 the Ya'thi Nene Lands and Resources Office (YTNLRO) submitted a [request for ruling](#) to the CNSC, in accordance with Rule 20 of the [Canadian Nuclear Safety Commission Rules of Procedure](#)¹ (the “Rules”) in the [matter](#) of the application by Cameco Corporation for a licensing decision to amend the Beaverlodge Waste Facility Operating Licence to allow the removal of 18 properties from the CNSC licence.
2. In the submission, YTNLRO requested the following:
 1. That this Request for Ruling be heard, considered and decided prior to the start of the planned Public Hearing on March 23rd and 24th 2022.
 2. An order that the Hearing be adjourned indefinitely or in the alternative, be adjourned for 12 months, in order to allow for the Duty to Consult and Accommodate to be fulfilled.
 3. In addition to, or in the alternative to, the Order sought at paragraph 1 herein, an order that at the Hearing, CNSC’s standard procedure for public hearings will be modified in order to provide for:
 - (a) The presentation of expert evidence in writing and orally at the Hearing, including reasonable time to present and explain the evidence, and the right of cross-examination of all expert witnesses and/or witness panels by any other participant (whether the Applicant, CNSC staff or Intervenor) who is adverse in interest to the party proffering the witness(es).
 - (b) A dedicated procedure for the presentation of oral traditional evidence (“OTE”) by Indigenous peoples participating in the Hearing, in a culturally safe and appropriate manner.
 - (c) Cross-examination of each Participant or representative panels thereof, on their filed material, by any other Participant adverse in interest.
 - (d) Duty to Consult and Accommodate submissions by all Participants to whom the Duty to Consult and Accommodate is owed, as a separate right of submissions from any other procedural rights.
 - (e) Closing submissions by all Participants, including but not limited to legal argument.
 - (f) Time limits on each of the procedural steps which are reasonable and allow sufficient time to ensure that all relevant evidence is canvassed.

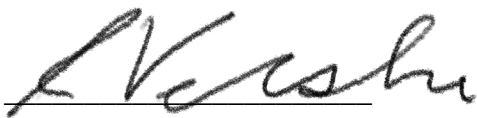
Panel

3. In considering the request for ruling, the President of the Commission, as a panel of the Commission on procedural matters, invited submissions from the hearing participants with respect to the adjournment request. The Commission received 7 submissions, listed at the end of this ruling.

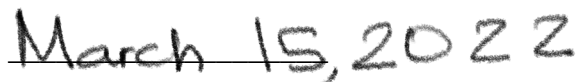
¹ SOR/2000-211

2.0 DECISION

4. The Commission has determined to not adjourn the hearing at this time. Having reviewed and considered all of the submissions, the Commission is of the view that adjourning the hearing is not merited at this time, and is not required in order to discharge its important responsibility toward reconciliation or to discharge its duty to consult and, as necessary accommodate.
5. Denying the adjournment strikes an appropriate balance between the interests of the participants. On balance, having the hearing proceed as planned and scheduled for some time does not prejudice either the licence applicant or the intervenor, whereas granting the adjournment may result in some prejudice to the applicant in the form of delay and additional costs. The Commission is also of the view that the hearing itself can be an important part of its efforts toward reconciliation, and it is not the case that the Commission must make a conclusion with respect to its duty having been fulfilled before the hearing. As such, an adjournment at this time is unnecessary in order to protect claimed or established Aboriginal and/or treaty rights.
6. The Commission is also not convinced of the merit of granting an adjournment at this late stage of the process in order that new information may be submitted, when it is not clear why this information was not submitted previously, and it is not clear how this information would be relevant to the proceedings. Rather, these issues may be discussed within the hearing, where the Commission will have the benefit of full consideration of the merits of the matter.
7. To be clear, this decision not to adjourn is just that, and it constitutes no ruling with respect to the scope or fulfillment before now, of the duty to consult and, where appropriate, accommodate. These important issues will be decided by the Commission before any decision as to licensing is made. Participants should be prepared to speak to this issue, and to answer questions from the Commission.
8. As regards the items requested at paragraph 3 of the request for ruling, the Commission is not satisfied that there is a need to modify its procedures in order to adequately canvass the issues raised by this particular application. The Commission is empowered by Rule 3 of the Rules to “vary or supplement any of these Rules, in order to ensure that a proceeding be dealt with as informally and expeditiously as the circumstances and the considerations of fairness permit” and to deal with any procedural matter that may arise at the hearing “as informally and expeditiously as the circumstances and the considerations of fairness permit”.



Rumina Velshi
President,
Canadian Nuclear Safety Commission



Date

Appendix A – Submissions on the Request for Ruling

Ya'thi Néné Lands and Resources Office	CMD 22-H5.15A
CNSC staff	CMD 22-H5.A
Cameco Corporation	CMD 22-H5.1A
Orano Canada Inc.	CMD 22-H5.5A
Women in Nuclear (WiN) Canada	CMD 22-H5.6A
Saskatchewan Environmental Society	CMD 22-H5.7A
Northern Saskatchewan Environmental Quality Committee	CMD 22-H5.12A
Athabasca Chipewyan First Nation	CMD 22-H5.13A