



# Summary Record of Decision

DEC 22-H13

In the Matter of

Applicant Canadian Nuclear Laboratories Ltd.

Subject Application to Renew the Waste Nuclear  
Substance Licence for the Port Hope Project as  
a Single Licence for the Port Hope Area Initiative

Public Hearing  
Date November 22, 2022

Summary  
Record of  
Decision Date December 19, 2022

**SUMMARY RECORD OF DECISION – DEC 22-H13**

Applicant: Canadian Nuclear Laboratories Limited

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

Purpose: Application to Renew the Waste Nuclear Substance Licence for the Port Hope Project as a Single Licence for the Port Hope Area Initiative

Application received: September 10, 2021

Date of public hearing: November 22, 2022

Location: Best Western Plus Cobourg Inn & Convention Centre, 930 Burnham Street, Cobourg, Ontario

Members present: R. Velshi, President  
S. Demeter  
R. Kahgee

Registrar: D. Saumure

Recording Secretary: M. McMillan

Senior General Counsel: L. Thiele

<b>Applicant Represented By</b>		<b>Document Number</b>
K. Schruder	Acting VP, Stewardship & Renewal Group	CMD 22-H13.1 CMD 22-H13.1A
M. Hughey	General Manager, Historic Waste Program	
B. Daly	Director, Public & Licensing Communications, Historic Waste Program	
M. Jones	Radiation Protection Program Manager, Historic Waste Program	
S. Anderson	Manager, Stakeholder & Indigenous Relations, Historic Waste Program	
J. Turner	Manager, HWP Environmental Manager, Historic Waste Program	
S. Faught	Manager, ERM Licensing Support	
A. Ghuman	Manager, Port Hope Long-Term Waste Management Facility, Historic Waste Program	
<b>CNSC staff</b>		<b>Document Number</b>
R. Jammal	Executive Vice-President and Chief Regulatory Operations Officer, Executive Vice-President's	

	Office	CMD 22-H13 CMD 22-H13.A
K. Murthy	Director General, Directorate of Nuclear Cycle and Facilities Regulations (DNCFR)	
K. Campbell	Director, Canadian Nuclear Laboratories Regulatory Program Division, DNCFR	
R. Buhr	Senior Project Officer, Canadian Nuclear Laboratories Regulatory Program Division, DNCFR	
M. Fabian-Mendoza	Director, Environmental Risk Assessment Division, DERPA	
H. Tadros	Director General, Environmental Risk Assessment Division, DERPA	
K. Randhawa	Radiation and Health Sciences Officer, Health Sciences and Environmental Compliance Division, DERPA	
S. Oue	Senior Project Officer, Wastes and Decommissioning Division, DNCFR	
A. Levine	Team Leader, Indigenous Consultation and Participant Funding, Indigenous and Stakeholder Relations Division, SPD	
K. Randhawa	Radiation and Health Sciences Officer, Health Sciences and Environmental Compliance Division, DERPA	
<b>Intervenors</b>		
See appendix A		
<b>Other Government Representatives</b>		
<ul style="list-style-type: none"> <li>• Environment and Climate Change Canada: D. Kim</li> </ul>		

**Licence:** Renewed and issued as a single licence

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## 1.0 INTRODUCTION

1. On September 10, 2021, Canadian Nuclear Laboratories (CNL) applied to the Canadian Nuclear Safety Commission<sup>1</sup> for a 10-year renewal of the waste nuclear substance licence (WNSL) for its Port Hope Long-Term Low-Level Radioactive Waste Management Project ([Port Hope Project](#)) located in Port Hope, Ontario. The Port Hope Project is part of the Port Hope Area Initiative (PHAI). CNL is responsible for implementing the PHAI on behalf of Atomic Energy of Canada Limited (AECL) to manage the clean-up of historic low-level radioactive waste contamination in the municipalities of Port Hope and Clarington, Ontario. The PHAI is being carried out in the traditional territory of the Michi Saagiig Anishinaabe people. These lands are covered by the Williams Treaty between Canada and the Mississauga and Chippewa Nations.
2. CNL currently holds the following four WNSLs for work associated with the PHAI:
  - Port Hope Long-Term Low-Level Radioactive Waste Management Project licence (WNSL-W1-2310.02/2022), which expires on December 31, 2022
  - Port Granby Long-Term Low-Level Radioactive Waste Management Project licence (WNSL-W1-2311.02/2022), which expires on December 31, 2022
  - Pine Street Extension Temporary Storage Site licence (WNSL-W1-182.0/2022), which expires on December 31, 2022
  - Port Hope Radioactive Waste Management Facility licence (WNSL-W1-344-1.8/ind.), which is valid indefinitely

As part of its licence renewal application, CNL requested that the Commission issue a single licence which would consolidate the licensed activities currently authorized under the four WNSLs associated with the PHAI. CNL is also requesting that the Commission accept the liquid effluent release limits established for the Port Hope Project wastewater treatment plant, as presented in Table 1 of CNL's application.

3. On [March 4, 2022](#), CNL submitted an addendum to its initial application, withdrawing its request to change the levels of uranium and arsenic in the PHAI cleanup criteria. As a result, changes to the PHAI cleanup criteria were not included in the scope of this hearing. Any future requests by CNL to change the clean-up criteria will require Commission approval and would be considered at a future licence amendment hearing.
4. This *Summary Record of Decision* reflects the substance of the Commission's decision with respect to this licence renewal and the applicable licence conditions. It is issued now, in light of the pending expiry of the current PHAI licences. The detailed reasons for the Commission's decision and its assessment of all of the submissions made on the application will be provided in a detailed *Record of Decision*, to be published at a later date.

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<sup>1</sup> 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.

### Issues

5. The Commission is required to determine whether and what requirements the [Impact Assessment Act](#)<sup>2</sup> (IAA) imposes in relation to the activities sought to be authorized in CNL's application to renew the licence for the Port Hope Project. Satisfying any such requirements can be a prerequisite to licensing.
6. Pursuant to paragraphs 24(4)(a) and (b) of the [Nuclear Safety and Control Act](#)<sup>3</sup> (NSCA), the Commission must be satisfied that:
  - a) CNL is qualified to carry on the activity that the 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.
7. As an agent of the Crown, the Commission recognizes its role in fulfilling the Crown's constitutional obligations, along with advancing reconciliation with Canada's Indigenous peoples. The Commission's responsibilities include the duty to consult and, where appropriate, accommodate Indigenous interests where the Crown contemplates conduct which may adversely impact potential or established Aboriginal<sup>4</sup> or treaty rights<sup>5</sup>. As such, the Commission must determine what engagement and consultation steps and accommodation measures are called for, respecting Indigenous interests.

### Public Hearing

8. On March 7, 2022, the Commission published a [Notice of Public Hearing and Participant Funding](#) for this matter, which invited requests to intervene by October 14, 2022. The Commission subsequently published a revised notice on [September 6, 2022](#) to specify the hearing venue.
9. Pursuant to section 22 of the [Nuclear Safety and Control Act](#) (NSCA), the President of the Commission established a Panel of the Commission over which she would preside, including Commission Members Dr. Sandor Demeter and Mr. Randall

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<sup>2</sup> S.C. 2019, c. 28, s. 1

<sup>3</sup> S.C. 1997, c. 9

<sup>4</sup> "Aboriginal" is the term used in this document when referring to the Crown's duty to consult as that is the term used in S. 35 of the Constitution Act, 1982. In all other cases, "Indigenous" is the preferred terminology and used accordingly.

<sup>5</sup> *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

Kahgee. The Commission, in making its decision, considered all the information submitted for the public hearing held on November 22, 2022, in Cobourg, Ontario. The public hearing was conducted in accordance with the [Canadian Nuclear Safety Commission Rules of Procedure](#)<sup>6</sup> (the Rules). During the public hearing, the Commission considered written submissions and heard oral presentations from CNL (CMD 22-H13.1) and CNSC staff (CMD 22-H13). The Commission also considered oral and written submissions from 28 intervenors (see Appendix A for a list of interventions). The hearing was webcast live via the CNSC website, and the [video archive](#) is available on the CNSC website.

### Participant Funding Program

10. 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 Nations and communities, members of the public and stakeholders in Commission proceedings. In [March 2022](#), up to \$75,000 in funding to was made available through the CNSC's PFP to review CNL's licence renewal application and associated documents, and to provide the Commission with value-added information through topic-specific interventions. A Funding Review Committee (FRC), independent of the CNSC, reviewed the funding applications received and made recommendations on the allocation of funds. Based on the recommendations from the FRC, the CNSC awarded a total of [up to \\$36,320 to 4 applicants](#).
- Curve Lake First Nation – up to \$12,980
  - Anna Tilman – up to \$1,500
  - Mississaugas of Scugog Island First Nation – up to \$17,000
  - Port Hope Community Health Concerns Committee – up to \$4,840

## **2.0 DECISION**

11. Based on its consideration of the matter, as described in more detail in the following sections of this *Record of Decision*, the Commission is satisfied that:
- no requirements under the IAA are imposed in relation to this matter
  - this licence renewal does not present any novel adverse impact on any potential or established Aboriginal claim or right
  - the Commission's responsibility to uphold the honour of the Crown and its constitutional obligations with regard to engagement and consultation respecting Indigenous interests have been satisfied
  - CNL is qualified to carry on the activity that the licence will authorize
  - CNL, in carrying on these activities, will make adequate provision for the protection of the environment, the health and safety of persons and the

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<sup>6</sup> Statutory Orders and Regulations (SOR)/2000-211.

maintenance of national security and measures required to implement international obligations to which Canada has agreed.

Therefore,

the Commission, pursuant to section 24 of the *Nuclear Safety and Control Act*, renews the waste nuclear substance licence issued to Canadian Nuclear Laboratories Ltd. for its Port Hope Project, located in the municipality of Port Hope, Ontario. In renewing this licence, the Commission issues *Port Hope Area Initiative Waste Management Project* WNSL-W1-2310.00/2032 as a single licence that consolidates the licensed activities previously authorized under CNL's four waste nuclear substance licences for: the Port Hope Project, Port Granby Project, Pine Street Extension Temporary Storage Site, and Port Hope Radioactive Waste Management Facility. Licence WNSL-W1-2310.00/2032 is valid from January 1, 2023 until December 31, 2032.

As a result of this decision,

the Commission, pursuant to section 24 of the *Nuclear Safety and Control Act*, revokes indefinite licence WNSL-W1-344-1.8/ind. as of January 1, 2023.

12. The Port Hope Area Initiative Waste Management Project licence comes in to effect on January 1, 2023. The licences for the Port Granby Project, Pine Street Extension Temporary Storage Site, and the Port Hope Radioactive Waste Management Facility will no longer be in effect as of January 1, 2023. The Commission reiterates that the Port Hope Area Initiative Waste Management Project licence (WNSL-W1-2310.00/2032) consolidates, under one licence, activities previously authorized under CNL's four individual waste nuclear substance licences for the PHAI.
13. The Commission includes in WNSL-W1-2310.00/2032 the conditions as recommended by CNSC staff in Part Two of CMD 22-H13. The Commission delegates authority for the purposes of licence condition 3.1, as recommended by CNSC staff in section 5.7 of CMD 22-H13. In making this decision, the Commission accepts the liquid effluent release limits for the Port Hope wastewater treatment plant as described in section 5.5 of CMD 22-H13.
14. With this decision, the Commission directs CNSC staff to report on the performance of CNL and the PHAI, as part of the periodic [\*Regulatory Oversight Report for Canadian Nuclear Laboratories Sites\*](#). CNSC staff shall present this report at a public proceeding of the Commission, where members of the public will be able to participate.
15. The Commission notes that CNSC staff can bring any matter to the Commission as applicable. The Commission directs CNSC staff to inform the Commission on an annual basis of any changes made to the Licence Conditions Handbook (LCH).



### 3.0 CONCLUSION

16. Details of the Commission's consideration of the information submitted by CNL in support of its licence renewal application, of CNSC staff assessments, and assessment of interventions submitted in relation to this matter will be presented in a detailed *Record of Decision*, to be published at a later date.

Digitally signed by Velshi, Rumina  
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Velshi,  
Rumina

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Rumina Velshi  
President,  
Canadian Nuclear Safety Commission

December 19, 2022

Date

**Appendix A – Intervenors**

<b>Intervenors – Oral Presentations</b>	<b>Document Number</b>
Sandra Holmes	CMD 22-H13.2
Anna Tilman	CMD 22-H13.3 CMD 22-H13.3A
Fleming College, Environmental Technician/Technology Program, represented by Melanie Logan	CMD 22-H13.9
Municipality of Port Hope, represented by D. Smith	CMD 22-H13.16 CMD 22-H13.16A
Canadian Nuclear Association, represented by S. Coupland	CMD 22-H13.17
Atomic Energy of Canada Limited, represented by A. MacDonald, J. McCafferty and J. Cameron	CMD 22-H13.22 CMD 22-H13.22A
Port Hope Community Health Concerns Committee, represented by F. More and G. Edwards	CMD 22-H13.27 CMD 22-H13.27A CMD 22-H13.27B
Faye More	CMD 22-H13.28 CMD 22-H13.28A
<b>Intervenors – Written submissions</b>	
Port Hope High School	CMD 22-H13.4
Regional Municipality of Durham	CMD 22-H13.5
Heather Kenny	CMD 22-H13.6
Rotary Club of Port Hope	CMD 22-H13.7
Durham Region Association of REALTORS®	CMD 22-H13.8
Port Hope and District Chamber of Commerce	CMD 22-H13.10
Municipality of Clarington	CMD 22-H13.11
Northumberland Hills Association of REALTORS®	CMD 22-H13.12
Henry Kowalski and Michael Stone	CMD 22-H13.13
John Sypher	CMD 22-H13.14
Kinectrics Inc.	CMD 22-H13.15
David Piccini, Member of Provincial Parliament, Northumberland- Peterborough South	CMD 22-H13.18
Cameco Corporation	CMD 22-H13.19
Women in Nuclear (WiN) Canada	CMD 22-H13.20
Donna Snowden	CMD 22-H13.21
Brian M. Ikeda	CMD 22-H13.23
Robin Dines	CMD 22-H13.24
Adrian Szamreta	CMD 22-H13.25
Mississaugas of Scugog Island First Nation	CMD 22-H13.26
Curve Lake First Nation	CMD 22-H13.29