



# Record of Proceedings, Including Reasons for Decision

In the Matter of

Applicant COGEMA Resources Inc.

Subject Application for Revocation of Mining Facility  
Removal Licence for the Shea Creek Project

Date March 22, 2002

**RECORD OF PROCEEDINGS**

Applicant: COGEMA Resources Inc.

Address/Location: P.O. Box 9204, 817-825, 45<sup>th</sup> Street West, Saskatoon,  
Saskatchewan S7K 3X5

Purpose: Revocation of Mining Facility Removal Licence for the Shea  
Creek Project

Application received: November 7, 2001

One-Day Hearing: February 28, 2002

Location: Canadian Nuclear Safety Commission (CNSC) Public Hearing  
Room, 280 Slater St., 14th. Floor, Ottawa, Ontario

Members present: L.J. Keen, Chair                      Y.M. Giroux  
C.R. Barnes    L.J. MacLachlan  
A.R. Graham

Counsel: I.V. Gendron  
Secretary: M.A. Leblanc  
Recording Secretary: C.N. Taylor

<b>Applicant Represented By</b>	<b>Document Number</b>
X R. Pollock	CMD 02-H5.1
X J-C. Rippert	CMD 02-H5.1A
<b>CNSC Staff</b>	<b>Document Number</b>
X B. Howden	CMD 02-H5
X R. McCabe	
<b>Intervenors</b>	<b>Document Number</b>
Saskatchewan Environment Society	CMD 02-H5.2

Decision and Reasons:

**Revocation of licence:**              Approved: X              Not Approved:  
**Date of Decision:**                      February 28, 2002

## **1. Introduction**

COGEMA Resources Inc. (CRI) has applied to the Canadian Nuclear Safety Commission for the revocation of its licence at its Shea Creek Project. The Shea Creek Project is currently subject to a Mine Facility Removal Licence (AECB-MFRL-158-0.1 – no expiry) that was issued by the former Atomic Energy Control Board (AECB).

The Shea Creek Project is located in north-western Saskatchewan approximately 230 kilometres north of La Loche and about 25 kilometres south of CRI's Cluff Lake Mining Facility.

The Shea Creek Project includes drilling sites that are demobilized at the end of each drilling season. The associated core-logging building, storage site and personnel accommodations are located within the boundaries of the Cluff Lake Mining Facility which is licensed separately by the CNSC. The project has been inactive since the 2000 field program.

## **2. Decision**

The Canadian Nuclear Safety Commission, in making its decision, considered information presented at a public hearing held on February 28, 2002 in Ottawa, Ontario.

Based on its consideration of the matter, as described in more detail in the following sections,

the Commission, pursuant to section 24 of the *Nuclear Safety and Control Act*, revokes COGEMA Resources Inc.'s Mining Facility Removal Licence AECB-MFRL-158-0.1 for the Shea Creek Project.

## **3. The Public Hearing Process**

The public hearing, conducted under the *Nuclear Safety and Control Act* and the *Canadian Nuclear Safety Commission Rules of Procedure*, was held in Ottawa, Ontario on February 28, 2002. The Commission received written submissions and heard oral presentations from CNSC staff (CMD 02-H5) and COGEMA Resources Inc. (CMD 02-H5.1 and CMD 02-H5.1A). The Commission also considered a written submission from an intervenor, Saskatchewan Environmental Society (CMD 02-H5.2).

## 4. Issues and Commission Findings

### 4.1 Requirement for a CNSC Licence

CRI, in its application, submits that the activities currently being carried out on the project, and for the foreseeable future, are strictly surface mineral exploration activities which are exempt from licensing under the new *Nuclear Safety and Control Act*. (NSCA).<sup>1</sup>

Referring to Subsection 2(2) of the *Uranium Mines and Mills Regulations*, CRI expressed the view that the current and proposed activities at the Shea Creek Project are in respect of uranium prospecting and surface exploration and are not associated with the development, production or use of nuclear energy.

CRI also referred to Section 10 of the *General Nuclear Safety and Control Regulations* which exempts from the NSCA and its regulations (except for the provisions related to transport, and to import or export, of nuclear substances) naturally occurring nuclear substances other than those associated with the development, production or use of nuclear energy.

CNSC staff concurred with CRI's interpretation of how the NSCA and its regulations apply to the Shea Creek project. CNSC staff noted that, pursuant to subsection 2(2) of the *Uranium Mines and Mills Regulations*, a licence is not required for surface "exploration" activities. A licence, however, would be required if the activities changed from "exploration" to the "evaluation of an ore body". CNSC staff is of the opinion that the activities at the Shea Creek Project consist only of exploration activities and, therefore, a licence is not required.

To clarify at what point a CNSC licence will be required at the Shea Creek Project, or other potential uranium mine development site, CNSC staff reported that it is presently consulting with stakeholders to better define what constitutes the "evaluation of an ore body" which is subject to CNSC licensing. In this regard, CRI suggested that the CNSC consider the terms "indicated resource" and "measured resource" as defined by the Ontario Securities Commission (OSC). CRI suggested that a CNSC licence could be required when a decision is made by a proponent to spend large amounts of money on delineation drilling to bring the knowledge of the deposit from an "indicated resource" to a "measured resource" in accordance with the OSC definitions. Further in accordance with the OSC definitions, CRI noted that the requirement for a CNSC Removal Licence to evaluate an ore body is normally characterized by a decision to do delineation drilling at a much tighter grid spacing and a major increase in expenditures by the proponent.

The Commission appreciates CRI's suggestion for a clear definition of the trigger for CNSC licensing at the ore body evaluation stage and notes that CNSC staff will take CRI's suggestion into consideration in its planned broader consultations on, and consideration of the matter. The Commission observed that the OSC definitions proposed by CRI are based on financial and economic criteria as opposed to explicit health, safety and environmental criteria and that this will need to be considered in the CNSC staff's assessment.

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<sup>1</sup> The *Nuclear Safety and Control Act* replaced the Atomic Energy Control Act in May 2000.

On the basis of the information presented for the hearing, the Commission is satisfied that, for the purpose of the current application, the activities at the Shea Creek Project are “exploration” activities which do not require a licence by the CNSC.

#### **4.2 Other Regulation of Mineral Exploration**

The Commission considered whether the exploration activities at the Shea Creek Project, following a revocation of the existing AECB licence, would continue to fall under another regulatory regime that would provide adequate protection of people and the environment.

CNSC staff explained that the activities carried out at exploration projects in Saskatchewan are also regulated by the Province of Saskatchewan and Fisheries and Oceans Canada. CNSC staff indicated that those regulators were advised of CRI’s application and that no objections were raised as a result. Elaborating on those regulatory regimes, CRI explained that there exists a well established regulatory framework for mineral exploration in Saskatchewan that is independent of the CNSC’s requirements. CRI further explained that the principal part of that framework is discharged by Saskatchewan Environment and Resources Management (SERM) under the provincial *Mineral Industry Environmental Protection Regulations* and through the application of the *Surface Exploration Guidelines for the Mineral Exploration Industry*. In addition, CRI noted that the federal Department of Fisheries and Oceans has taken on an increasingly important role in the area of stream crossings and fish habitat protection. CRI added that the Conservation Officer from SERM has confirmed that the most recent drilling and demobilization activities at the Shea Creek Project were adequately performed in accordance with the provincial requirements.

With regard to radiation protection from the mineralized core samples, CRI pointed out that this is regulated by Saskatchewan Labour through the application of the *Canadian Guidelines for the Management of Naturally Occurring Radioactive Materials*. Those guidelines were prepared by the Federal Provincial Territorial Radiation Protection Committee and were published by Health Canada with the support of the CNSC.

CNSC staff noted that one change in the regulatory regime, following revocation of the AECB licence, would involve the existing \$24,000 letter of credit for ensuring proper remediation of the site under the current AECB licence. CNSC staff noted that that guarantee would not be required by SERM.

CNSC staff also expressed the opinion that, based on recent experience and good cooperation with the owners/operators of unlicensed locations, the revocation of the licence would not result in a failure to achieve conformity with international obligations to which Canada has agreed respecting International Atomic Energy Agency (IAEA) safeguards.

In summary, CNSC staff expressed the opinion that the public’s welfare, and worker health and safety, as related to mineral exploration in the Province of Saskatchewan, are well protected by the provincial regulatory regime.

An intervenor (Saskatchewan Environmental Society - SES) expressed concern that SERM may not have the resources and appropriate staffing to take on the additional responsibility of regulating the Shea Creek Project. SES is of the view that SERM's Conservation Officers cannot be expected to add this to what SES considers to be an already overextended work load. SES requested that the Commission delay its decision on the licence revocation until a plan for the alternative regulation of uranium removal during exploration, including financial commitments, be made available for public review.

With respect to the concerns of SES, the Commission is satisfied, based on assurances provided to CNSC staff from the Province of Saskatchewan, that the Province accepts its responsibility for regulating mineral exploration in Saskatchewan and that it has been exercising, and will continue to exercise that authority.

To further assess the risk and regulatory burden that could result from the revocation of the existing AECB licence, the Commission considered the past operational and regulatory history of the Shea Creek Project. In that regard, the Commission is satisfied that the compliance record of the licensee has been good and that the risks to health, safety and environment at the Shea Creek Project are low. In support of this, CNSC staff reported that, from its most recent inspection of the site (August 1999), the licensee was found to be in full compliance with the licence requirements and that the radiation doses to workers were well below the regulatory limits for members of the public. Upon further questioning by the Commission on the dose rates, CNSC staff and CRI estimated the average doses to be below 0.1 mSv/a. These are levels that are also well below those that require the designation of personnel as Nuclear Energy Workers. Furthermore, there were no non-radiological safety incidents reported for the project.

Based on the above information, the Commission is satisfied that the protection of health, safety and environment at the Shea Creek project is being, and will continue to be, regulated under other regulatory regimes. The Commission is therefore also satisfied that the revocation of the current AECB licence would not place an incremental burden on those regulatory regimes.

### **4.3 Canadian Environmental Assessment Act**

CNSC staff expressed the view that an environmental assessment under the *Canadian Environmental Assessment Act* (CEAA) is not required before a decision on the proposed licence revocation can be made. This is because the proposed activities do not constitute a "project" as defined under the CEAA.

The Commission concurs with the CNSC staff's interpretation of the application of the CEAA to the licensing action and concludes that an environmental assessment under the CEAA is not required.

## 5. Conclusion

The Commission has considered the information and submissions of CNSC staff and all participants as set out in the material available for reference on the record, as well as the oral and written submissions provided or made by the participants at the hearing.

The Commission therefore revokes, pursuant to section 24 of the *Nuclear Safety and Control Act*, COGEMA Resources Inc.'s licence, AECB-MFRL-158-0.1, for the Shea Creek Project.

Marc A. Leblanc  
Secretary,  
Canadian Nuclear Safety Commission

Date of decision: February 28, 2002  
Date of release of Reasons for Decision: March 22, 2002