

Record of Proceedings, Including Reasons for Decision

In the Matter of

Applicant COGEMA Resources Inc.

Subject Environmental Assessment Guidelines for
Proposed Ferric-Sulphate Production at
McClellan Lake

Date June 2, 2006

RECORD OF PROCEEDINGS

Applicant: COGEMA Resources Inc.

Address/Location: P.O. Box 9204, 817- 45th Street West, Saskatoon, SK S7K 3X5

Purpose: Environmental Assessment Guidelines for proposed ferric-sulphate production at McClean Lake

Application received: N/A

Date(s) of hearing: March 30, 2006

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

Member present: L.J. Keen, Chair
A.R. Graham
J.A. Dosman

Secretary: M.A. Leblanc
Recording Secretary: P.D. Bourgeau
General Counsel: J. Lavoie

Applicant Represented By	
• Dr. J. Rosen, Director, McClean Lake Regulatory Affairs	
• D. Huffman, Manager, Special Projects and Radiation Protection	
CNSC staff	Document Number
• M. Rinker	CMD 06-H110

Date of Decision: March 30, 2006

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Introduction

1. COGEMA Resources Inc. (COGEMA) notified the Canadian Nuclear Safety Commission (CNSC¹) of its intent to seek the Commission's approval to construct and operate a liquid ferric sulphate production circuit at the McClean Lake Operation.
2. Before the Commission would be able to make licensing decisions pursuant to the *Nuclear Safety and Control Act*² (NSCA) in respect of the proposed project, the Commission must, in accordance with the requirements of the *Canadian Environmental Assessment Act*³ (CEAA), make a decision on an environmental assessment (EA) of the proposal. The Commission is the sole responsible authority for the EA⁴.
3. In carrying out this responsibility under the CEAA, the Commission must first determine the *scope of the project* and the *scope of the assessment*. To assist the Commission in this regard, CNSC staff prepared a draft Environmental Assessment Guidelines document (EA Guidelines) in consultation with other government departments, the public and other stakeholders. The draft EA Guidelines (*Environmental Assessment Guidelines (Scope of Project and Assessment) - Ferric Sulphate Production at McClean Lake Facility*) contains draft statements of scope for the approval of the Commission. The draft EA Guidelines also contain recommendations and instructions for the approach to be used in completing the EA, including for the conduct of further public and stakeholder consultations. The draft EA Guidelines are presented in the CNSC staff document CMD 06-H110.

Issues

4. In considering the EA Guidelines, the Commission was required to decide, pursuant to subsections 15(1) and 16(3) of the CEAA respectively:
 - a) the *scope of the project* for which the EA is to be conducted; and
 - b) the *scope of the factors* to be taken into consideration in the conduct of the EA.
5. The Commission also considered whether it would, at this time, request the federal Minister of the Environment, pursuant to section 25 of the CEAA, to refer the project to a mediator or a review panel.
6. Furthermore, the Commission, in accordance with its internal EA process, undertook to decide whether or not the Commission's consideration of the completed EA Screening Report (Screening Report) would be by way of a public or closed hearing held by the Commission.

¹ In this *Record of Proceedings*, 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 S.C. 1997, c. 9

³ S.C. 1992, c.37

⁴ Responsible Authority in relation to an EA is determined in accordance with subsection 11(1) of the CEAA.

Hearing

7. Pursuant to section 22 of the NSCA, the President of the Commission established a Panel of the Commission to hear this matter.
8. The Panel of the Commission (hereafter referred to as the Commission), in making its decision, considered information presented for a hearing held on March 30, 2006 in Ottawa, Ontario. The hearing was conducted in accordance with the Commission's process for determining matters under the CEEA⁵ and Rule 3 of the *Canadian Nuclear Safety Commission Rules of Procedure*⁶. In establishing the process, the Commission determined that it was not necessary to hold a public hearing on the matter. During the hearing, the Commission received written submissions from CNSC staff (CMD 06-H110). CNSC staff and COGEMA were also available to answer questions from the Commission during the proceeding. The hearing took place in the CNSC Hearing Room in Ottawa, and it was open to the public.

Decision

9. Based on its consideration of the matter, as described in more detail in the following sections of this *Record of Proceedings*,

the Canadian Nuclear Safety Commission, pursuant to sections 15 and 16 of the CEEA, approves the *Environmental Assessment Guidelines (Scope of Project and Assessment) Ferric Sulphate Production at McClean Lake Facility*, as presented in CMD 06-H110.

10. The Commission also decides that it will not, at this time, refer the project, pursuant to section 25 of the CEEA, to the federal Minister of the Environment for his referral to a mediator or review panel. The Commission notes that it may make such a referral at any time during the course of the EA process if warranted.
11. The Commission decides that it will consider the completed EA Screening Report in the context of a closed hearing of the Commission.

⁵ The Commission decided (ref. Minutes of Commission Meeting held on March 23, 2005) that, unless otherwise specified, Commission will not hold public hearings in respect of its decisions on the scope of environmental assessments to be conducted pursuant to the CEEA. The CNSC staff process for engaging the public and other stakeholders in the preparation of the draft EA Guidelines for presentation to the Commission at a non-public hearing is normally sufficient at this early stage in the EA process.

⁶ SOR/2000-211

Issues and Commission Findings

Type of Environmental Assessment Required

Screening vs. Comprehensive Study, Review Panel or Mediation

12. The project is not of a type identified in the *Comprehensive Study List Regulations*⁷. Therefore, pursuant to subsection 18(1) of the CEAA, the CNSC is required to ensure that a screening environmental assessment of the project is performed and a Screening Report is prepared.
13. Other available types of assessment under the CEAA are a review panel or mediation appointed by the federal Minister of the Environment. To initiate either of these alternative assessment processes, the Commission would have to refer the project to the Minister pursuant to section 25 of the CEAA. In this regard, CNSC staff stated in its submissions that CNSC staff is not aware at this time of any potential environmental effects associated with this project which CNSC staff considers would warrant having the project referred to a mediator or review panel.
14. As part of its review of the adequacy of the draft EA Guidelines and, in particular, to assess the level of public concern about the project for the purpose of considering the aforementioned options for mediation or review panel, the Commission took account of the views of the public and other stakeholders. In this regard, the Commission considered whether the consultations carried out thus far by CNSC staff and the proponent provided the public and other stakeholders with adequate opportunity to become informed and express their views about the EA.
15. With respect to public consultation on the draft EA Guidelines, CNSC staff reported that it had established a public registry for the assessment as required by Section 55 of the CEAA, including the identification of the EA in the *Canadian Environmental Assessment Registry*. CNSC staff further reported that COGEMA met with the Environmental Quality Committee (EQC) at McClean Lake on March 16, 2006 to present the Ferric Sulphate Production proposal. CNSC staff was present at this meeting and reported that the EQC was satisfied with the proposed project that would result in less truck traffic in the region.
16. CNSC staff reported that, in accordance with the CEAA *Federal Coordination Regulations*, Health Canada, Natural Resources Canada, and Environment Canada have been identified as Federal Authorities for the purpose of providing expert assistance to the CNSC staff during the course of the EA.
17. The Commission is satisfied that the public and other stakeholders have been adequately consulted during the preparation of the draft EA Guidelines. The Commission is also satisfied that, for the purpose of considering whether to refer the project to the Minister for a review panel or mediation, it had sufficient information to assess the current level and nature of public concern about the project.
18. Based on the information received, the Commission concludes that a Screening EA of the project is required pursuant to the CEAA. The Commission further decides that, at this time, it

⁷ SOR/94-638

will not refer the project to the Minister of the Environment for mediation or a review panel. However, because the Commission may make such a referral at any time, the Commission requests that CNSC staff inform the Commission in a timely manner of any significant issues or public concerns that arise during the conduct of the EA and which may warrant further consideration of the need for a review panel or mediator.

Process for Environmental Assessment Screening Report

19. The Commission determines the process to be followed with respect to the EA Screening Report, including whether the EA screening Report would be reviewed in the context of a public hearing of the Commission.
20. CNSC staff reported that this proposal involves a physical work that is located entirely within the footprint of an existing physical work on a site that is currently licensed by the CNSC. The proposed project does not involve new activities related to mining or milling ore, but rather the construction and operation of a circuit to produce the chemical. The risk posed by this proposed project to the environment is expected to be low. In support of this, CNSC staff noted the following:
 - there are no nuclear substances involved in the project;
 - there are no changes required to approve the procedures for water treatment;
 - the residual iron ore that requires placement in the tailing management facility is benign;
 - there are no changes to the operational procedures for tailings preparation required;
 - there are no new land disturbance required;
 - the amount of road travel required to transport the iron ore is much less than the current amount of road travel required to deliver ferric sulphate; and
 - the transportation will involve a benign material rather than liquid ferric sulphate.
21. Because the project is anticipated to likely pose a relative low risk to the environment, and that CNSC staff will consult the public on the findings and recommendations made in the draft EA screening report, the Commission is satisfied that the Commission's consideration of the completed Screening Report will not require a public hearing of the Commission. The Commission notes, however, that, depending on the findings and level of public concern that arise during the course of the EA, the Commission may choose to revisit this decision.

Scope of the Project

22. "Scope" under the CEAA is expressed in two parts: the *scope of the project* (i.e., the physical works and activities proposed) and the *scope of assessment* (i.e., the scope of the factors to be considered in assessing the effects of the project). This section addresses only the issues relating to the *scope of the project*. The issues related to the *scope of assessment* are discussed below in the section entitled Scope of the Assessment.
23. The Commission noted that the project includes the building where the sulphate circuit would be located, the ferric sulphate circuit itself, and the pad required for iron ore storage.

Associated activities include the storage of iron ore, the construction of the ferric sulphate circuit and the operation of the ferric sulphate circuit.

24. The Commission also noted that the use of ferric sulphate for water treatment was included in the scope of assessment when the McClean Lake Operation underwent an initial assessment in accordance with the Environmental Assessment and Review Process Guidelines Order. Pursuant to section 24 of the CEAA, the CNSC may use the initial assessment and the report thereon to whatever extent is appropriate to do so for the purpose of complying with section 18 of the CEAA. Therefore, the activities undertaken in association with the project do not include the use of ferric sulphate in the water treatment plants.
25. The Commission sought certain clarifications with respect to the storage and the possible protection against runoffs of the iron ore. CNSC staff responded that this would be assessed as part of the project because the scope of the project includes the pad that would be required to store the iron ore.
26. Based on the information received, the Commission accepts CNSC staff's recommendations concerning the *scope of the project* and approves the definition of the project scope as set out in section 7.0 of the draft EA Guidelines without change.

Scope of the Assessment

27. The other part of "scope" under the CEAA is the *scope of the assessment* – otherwise described in the CEAA as the scope of the factors that will be considered in assessing the environmental effects of the project.
28. The scope of a screening assessment under the CEAA must include the factors set out in paragraphs 16(1)(a) to (d) of the CEAA. Other factors may be included at the discretion of the Commission under paragraph 16(1)(e) of the CEAA.
29. The mandatory factors in subsection 16(1) of the CEAA are: the environmental effects of the project, including the environmental effects of malfunctions or accidents that may occur in connection with the project and any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out; significance of these effects; the comments from the public that are received in accordance with the CEAA and its regulations; and measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects of the project.
30. A summary of the proposed factors is included in section 8.0 of the draft EA Guidelines presented in CMD 06-H110. The proposed factors and recommended approach to their assessment are further elaborated in section 9.0 (Assessment Methodology) of the draft EA Guidelines.
31. The Commission questioned CNSC staff whether air emissions would be part of the scope. CNSC staff responded that it would be and that Environment Canada did provide a thorough

review of the project and did not request the EA Guidelines to be modified.

32. The Commission is satisfied that the structure, approach, and other instructions for conducting the environmental assessment, as described in the draft EA Guidelines attached to CMD 06-H110, are acceptable. The Commission also accepts that the EA Screening Report be developed without delegating technical studies to COGEMA.
33. Based on its consideration of the information received, the Commission determined that the scope of the factors will be as stated in section 8.0 of the draft EA Guidelines. The Commission also concludes that the scope of the assessment, as described in section 9.0 of the draft EA Guidelines, is appropriate for the purpose of the environmental assessment of the proposed project.

Conclusion

34. The Commission has considered the submissions of CNSC staff as presented for reference on the record for the hearing.
35. The Commission, pursuant to sections 15 and 16 of the CEAA, approves the *Environmental Assessment Guidelines (Scope of Project and Assessment)- Ferric Sulphate Production at McClean Lake Facility*, presented in CMD 06-H110.
36. The Commission also concludes that, at this time, it will not refer the project to the federal Minister of the Environment for referral to a mediator or review panel in accordance with the provisions of the CEAA.
37. Furthermore, and taking into account the proposed public consultation program which will form part of the EA process described in the EA Guidelines, the Commission is satisfied, at this time, that the completed EA Screening Report that will come before the Commission for approval will not require a public hearing.
38. The Commission requests CNSC staff to report to the Commission on any issues arising during the conduct of the EA that could warrant the Commission giving further consideration to the above scope and process decisions.

Marc A. Leblanc
Secretary
Canadian Nuclear Safety Commission

Date of decision: March 30, 2006

Date of release of Reasons for Decision: June 2, 2006