

# Record of Proceedings, Including Reasons for Decision

In the Matter of

Applicant COGEMA Resources Inc.

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Subject Application to Allow Phase II of the Mining  
Equipment Development Program at the  
McClellan Lake Operation's Uranium Mine

Date May 26, 2006

**RECORD OF PROCEEDINGS**

Applicant: COGEMA Resources Inc.

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

Purpose: Application to allow Phase II of the Mining Equipment Development Program at the McClean Lake Operation's uranium mine

Application received: December 19, 2005

Date(s) of hearing: March 30, 2006

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

Members present: L.J. Keen, Chair      A.R. Graham  
C.R. Barnes      M. J. McDill  
J.A. Dosman

Secretary: M.A. Leblanc

Recording Secretary: P. Bourassa

General Counsel: J. Lavoie

<b>Applicant Represented By</b>	<b>Document Number</b>
<ul style="list-style-type: none"><li>• R. Pollock, Vice-President, Environment, Health and Safety</li><li>• S. Eckert, Manager, Mine Projects and Project Manager, MED Program</li><li>• D. Huffman, Manager, Special Projects and Radiation Protection</li></ul>	CMD 06-H6.1 CMD 06-H6.1A
<b>CNSC staff</b>	<b>Document Number</b>
<ul style="list-style-type: none"><li>• B. Howden</li><li>• R. Forbes</li><li>• K. Scissons</li></ul>	CMD 06-H6
<b>Intervenors</b>	<b>Document Number</b>
See appendix A	

**Licence:** Amended  
**Date of Decision:** March 30, 2006

## Table of Contents

<b>Introduction</b> .....	1
<b>Decision</b> .....	2
<b>Issues and Commission Findings</b> .....	2
<b>Radiation Protection</b> .....	3
<b>Environmental Protection</b> .....	3
<b>Conventional Health and Safety</b> .....	6
<b>Operational Performance and Performance Assurance</b> .....	7
<b>Decommissioning Plan and Financial Guarantee</b> .....	9
<b>Public Information</b> .....	9
<b>Security</b> .....	9
<b>Safeguards and Non-Proliferation</b> .....	10
<b>Canadian Environmental Assessment Act</b> .....	10
<b>Conclusion</b> .....	12

## **Introduction**

1. COGEMA Resources Inc. (COGEMA) has applied to the Canadian Nuclear Safety Commission (CNSC<sup>1</sup>) for authorization to proceed with Phase II of the Mining Equipment Development (MED) program at the McClean Lake Mine and Mill Operation located in the Athabasca Basin area in northern Saskatchewan.
2. The MED program proposed by COGEMA is a small-scale mining test program to determine the suitability of using specialized equipment on surface to extract ore from underground deposits. The MED program is conducted at Pod 1 of the McClean Underground orebody. The activities related to the research stage, Phase I of the MED Program, are currently authorized under COGEMA's Uranium Mine Operating Licence.
3. Phase II is a development stage with the objective to identify further technological changes or mining equipment development and to determine the economic feasibility of the mining method and equipment. The proposed extension of the scope for Phase II of the MED program includes drilling 15 holes in addition to the 5 holes already approved under Phase I.

## Issues

4. In considering the application, the Commission was required to decide, pursuant to subsection 24(4) of the *Nuclear Safety and Control Act*<sup>2</sup> (NSCA):
  - a) if COGEMA is qualified to carry on the activity that the amended licence would authorize; and
  - b) if, in carrying on that activity, COGEMA would 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

5. The Commission, in making its decision, considered information presented for a public hearing held on March 30, 2006 in Ottawa, Ontario. The public hearing was conducted in accordance with the *Canadian Nuclear Safety Commission Rules of Procedure*<sup>3</sup>. During the public hearing, the Commission received written submissions and heard oral

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<sup>1</sup> 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.

<sup>2</sup> S.C. 1997, c. 9

<sup>3</sup> SOR/2000-211

presentations from CNSC staff (CMD 06-H6) and COGEMA (CMD 06-H6.1 and CMD 06-H6.1A). The Commission also considered oral and written submissions from intervenors. See Appendix A to this *Record of Proceedings* for a detailed list of the interventions.

### **Decision**

6. Based on its consideration of the matter, as described in more detail in the following sections of this *Record of Proceedings*, the Commission concludes that COGEMA is qualified to carry on the activity that the amended licence will authorize. The Commission is also satisfied that COGEMA, in carrying on that activity, 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. Therefore,

the Commission, pursuant to section 24 of the *Nuclear Safety and Control Act*, amends Uranium Mine Operating Licence UMOL-MINEMILL-McCLEAN.03/2009 to permit the Phase II of the Mining Equipment Development program at the McClean Lake Mine and Mill Operation.

7. The Commission includes in the licence the conditions recommended by CNSC staff, as set out in the draft licence attached to CMD 06-H6 with the following modification:  
  
    condition 1.5 is modified so that the licensee shall obtain approval of the Commission for Phase III before commencing that phase.
8. The Commission also decides to remove the existing condition from the current licence that pertains to the approval of the dewatering of Sils Lake (licence condition 1.5 of UMOL-MINEMILL-McCLEAN.02/2009).
9. The Commission also requests that CNSC staff present a status report to the Commission on the results of the operations conducted under Phase I of the MED program following the completion of Phase I approximately in August 2006. The status report will be presented at a public proceeding of the Commission.

### **Issues and Commission Findings**

10. In making its licensing decision under section 24 of the NSCA, the Commission considered a number of issues relating to COGEMA's qualifications to carry out the proposed activities, and 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. The Commission's findings on these issues are summarized below.

### **Radiation Protection**

11. As part of its evaluation of the adequacy of the provisions for protecting the health and safety of persons, the Commission considered whether the proposed activities of Phase II of the MED Program work posed any risk to the workers or the public from radiation.
12. In this regard, COGEMA noted that the McClean Lake Operation Radiation Protection Program remains unchanged by the MED Program activities. COGEMA further noted that project specific radiation protection practices and monitoring, including workplace radiological monitoring, contamination control and worker dosimetry were described within the MED Program documents.
13. CNSC staff stated that the McClean Lake Operation Radiation Protection Program and its implementation meet requirements. CNSC staff reported that there were no significant radiological incidents at the McClean Lake Operation since the update provided at the October 19, 2005 Public Hearing for the Sue E pit licence amendment.
14. The Commission questioned whether the aeration of the ore slurry could result in additional radiation exposure to workers. In response, COGEMA noted that, although it does not foresee any concern with respect to worker exposure to radon gas, it is taking a conservative approach and will be closely monitoring this project for its impact on radiation exposure. With respect to the overall impact of the proposed project, COGEMA further noted its expectation that the non-entry surface deployment techniques being tested under the MED Program could minimize worker exposure to radiation overall.
15. Considering the uncertainties associated with certain activities that have not yet been completed under Phase I of the MED program, the Commission requests that CNSC staff present further information regarding the radiation protection implications of all activities as part of a Phase I status report.
16. The Commission is satisfied that COGEMA's current radiation protection program at the McClean Lake Operation is adequate. Based on the information provided to date, the Commission is also satisfied that the proposed project does not pose a radiation risk.

### **Environmental Protection**

17. The Commission considered whether COGEMA will make adequate provision to protect the environment during the proposed activities.

*Environmental Program*

18. COGEMA noted that the McClean Lake Operation environmental protection program remains unchanged by the MED Program activities. COGEMA further noted that project specific environmental protection practices and monitoring, including groundwater monitoring, spill response and routine site inspections, are described within the Project Management Plan for the MED Program.
19. CNSC staff stated that the McClean Lake Operation Environmental Protection Program and its implementation meet requirements. CNSC staff reported that there were no significant environmental incidents at the McClean Lake Operation since the update provided at the October 19, 2005 Public Hearing for the Sue E pit licence amendment. CNSC staff also reported that its inspections showed consistent compliance for environmental protection.
20. COGEMA noted that the mining methods to be tested in the proposed project would reduce the overall environmental impacts as a result of the reduced waste rock production and reduced water treatment requirements when compared to conventional underground mining methods.
21. In their interventions, Inter-Church Uranium Committee Educational Cooperative (ICUCEC) and M. Shiell expressed concerns about long-term radiological effects of alpha particles released to the environment. Concerning the potential for radiological effects from the MED program, the Commission refers to CNSC staff report CMD 04-M39<sup>4</sup>, *Assessment of Radiation Effects of Alpha Emitters on Biota* and concludes that the information supports CNSC staff's conclusion on the acceptability of COGEMA's environmental protection program at the McClean Lake Operation. The Commission is satisfied that the proposed project would not pose an unreasonable risk to biota in the receiving environment.

*Potential environmental impact of the proposed activities*

22. With respect to the proposed winterization of the equipment, the Commission sought assurances that the associated activities would not contaminate the environment. CNSC staff responded that COGEMA has in place design control and change control management processes in place to ensure that any proposed modifications, including the winterization of the facility, do not pose unreasonable risk. CNSC staff noted that winterization of drill rigs, drilling wells and water wells in northern Saskatchewan is a proven technology. CNSC staff further noted that it would do a technical review to ensure that the winterization activities can be safely carried out.

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<sup>4</sup> Information from CNSC staff, CMD 04-M39 - The Assessment of Radiation Effects of Alpha Emitters on Biota, presented at the September 17, 2004 meeting of the Commission, Agenda item 6.1

23. Considering that the proposed method for borehole drilling is still at an experimental phase and that limited operational data had been obtained from Phase I to date, the Commission sought further information with respect to the potential contamination of the groundwater and the long-term effects on the environment. The Commission also questioned the proposed backfilling and capping of the boreholes when considering the potential for contaminated groundwater to be captured and thus spread to uncontaminated zones. In this respect, the Commission sought further information on the provisions that would be made during Phase II to ensure the protection of the environment.
24. CNSC staff responded that although field data on certain elements, such as groundwater levels, elevation of pumping and the capping of holes was not complete at this stage, the proposed licence includes stop-point measures that would allow for regulatory review of the elements before allowing transition between phases of the program. CNSC staff was of the view that this phased approach was sufficient to ensure adequate measures would be in place for safe operation.
25. COGEMA noted that the results of its site specific modelling to support Phase II operations has shown that the proposed drilling, backfilling and capping would not adversely affect the environment. In response to the Commission inquiry regarding CNSC staff's position on the modelling performed by COGEMA, CNSC staff responded that the modelling and associated assumptions and limitations used for the MED program were still under review and that real data to be obtained from the Phase I testing was needed to confirm COGEMA's assumptions. CNSC staff, noted, however, that it was satisfied with the current version of the larger regional model.
26. The Commission questioned the technical feasibility of eliminating the use of borehole casings and the possible impact it may have on the environment and worker safety. In this regard, CNSC staff noted that it would make its recommendation to the Commission or a person authorized by the Commission to allow drilling without casing only after receiving and assessing an application by COGEMA. The application would need to contain sufficient technical, operational and program information to demonstrate that the practice would not result in unreasonable risk to the environment, particularly in regard to contamination of the groundwater as well as the safety of the workers. CNSC staff further noted it would verify the integrity of the uncased holes and ensure that remedial measures are developed to address any contingencies. CNSC staff recommended including, as a stop-point measure, a licence condition requiring approval by the Commission or a person authorized by the Commission to proceed to drilling without casing the boreholes.
27. COGEMA committed to provide sufficient technical information in a validation program for its proposed application to drill without casing the holes. COGEMA further noted that it would continue to case the holes until it can provide a safety case acceptable to the CNSC.



*Conclusion on environmental protection*

28. The Commission is satisfied that the stop-point measure proposed in the licence with regard to drilling without casing will enable the verification of the adequacy of this method so that proceeding without casing the holes will not pose unreasonable risk the environment.
29. The Commission is of the view that a better understanding of the operational parameters is needed. Thus the Commission requests that CNSC staff present further information regarding the possible environmental impacts of all activities as part of a Phase I status report. The Commission expects that the report will contain a complete analysis of the activities conducted under Phase I, including any lessons-learned and operational parameters to verify the conservative assumptions used by COGEMA in the modelling of the project.
30. The Commission notes that Phase II is a development stage of the MED program and accepts the CNSC staff's conclusions that the activities to be carried out under Phase II do not currently pose a significant risk to the environment, considering the measures and programs that are in place.
31. Based on the information received, the Commission concludes that COGEMA has made, and will continue to make, adequate provision for protecting the environment during the proposed activities of Phase II of the MED program.

**Conventional Health and Safety**

32. As part of its evaluation of the adequacy of provisions for protecting the health and safety of persons, the Commission also considered issues related to conventional (non-radiological) health and safety during the proposed activities.
33. COGEMA noted that it has developed safe work procedures for field testing activities, including operating drill rig and high-pressure water lines. COGEMA further noted that the new mining methods, if economically and technically feasible, would result in significant health and safety advantages to conventional open pit or underground mining.
34. CNSC staff considers COGEMA's health and safety program and its implementation acceptable for the purpose of the project. CNSC staff concurs with COGEMA that the proposed mining methods are expected to provide significant improvement with respect to worker safety by minimizing the hazards and risk generally associated with conventional mining methods.
35. ICUCEC, in its intervention, expressed concern with the potential impact of the proposed operation and adverse long-term effects on worker safety. In response, CNSC staff noted that it assesses the activities in terms of worker protection and safety in a joint approach

with Saskatchewan Labour. COGEMA also noted that it would only proceed with the activities with the assurance that they can be carried out safely by the workers.

36. Based on this information, the Commission is satisfied that COGEMA will make adequate provision for the protection of persons from conventional (non-radiological) hazards during the proposed activities of Phase II of the MED program. However, as noted in paragraphs 15 and 29, the Commission also expects that a Phase I status report will provide additional information with respect to worker safety.

### **Operational Performance and Performance Assurance**

37. As further indication of how COGEMA is likely to perform during the proposed Phase II of the MED program, the Commission examined COGEMA's past operational performance at the McClean Lake Operation, as well as COGEMA's quality assurance program.
38. In this regard, CNSC staff reported that there were no significant changes in COGEMA's performance since its assessment done for Sue E pit licence amendment in 2005. Inspections of the MED program work site carried out in 2005 have found consistent compliance in all safety programs. In light of the above, CNSC staff reported that COGEMA's performance has been satisfactory and that the operations program and its implementation continue to meet requirements. CNSC staff also noted that COGEMA was using a conservative multi-faced approach to develop the equipment and methods for this mining technique and has demonstrated its ability to consistently achieve a high level of performance in its operating facilities.
39. With respect to the status of the previously approved activities under Phase I of the MED program, COGEMA noted that the project has been delayed due in part to weather conditions and unanticipated length of time for drilling, difficulty with casing of the boreholes and the limited experience of the hired contractors.
40. Considering the importance of obtaining sufficient data to evaluate the feasibility of Phase II, the Commission enquired as to when COGEMA expects to complete Phase I and why it seeks to maintain continuous operation from Phase I to Phase II at this stage. COGEMA responded that it plans to complete the drilling of the 5 holes approved under Phase I by July 2006. COGEMA stated that continuous operation would ensure that the same trained and experienced workers are available to carry out the next phase and that the equipment remains available on site. COGEMA noted that the use of experienced staff reduces the likelihood of unplanned events and thus helps in ensuring safe operation.
41. CNSC staff agreed that continuity in the operations would likely benefit the implementation of safety programs such as radiation and environmental protection, and facilitate worker orientation and training. Continued operation would also enhance regulatory oversight by enabling periodic on site inspections.

42. The Commission sought assurances that the proposed drilling pattern and eventual capping of the holes would not cause local loading that would jeopardize the viability of the holes. CNSC staff stated that those measures and controls of the close pattern drilling have been tried and proven through monitoring and verification. CNSC staff noted that further evaluation would be done before proceeding to the next phase of the MED program.
43. CNSC staff recommended that a licence condition be added to ensure that COGEMA seek approval to carry out Phase III activities to conduct production level test.
44. The Commission agrees that a licence condition to this effect would allow verification that COGEMA would be making adequate provision for the protection of the environment, the health and safety of persons and the maintenance of national security while carrying out the activities of Phase III. However, considering the lack of operational data available to ensure the activities proposed under Phase III can be carried out safely, the Commission decides not to delegate the authority to approve Phase III of the MED program to a person authorized by the Commission. Accordingly, the Commission modifies the proposed licence condition 1.5 as described in paragraph 7 of this *Record of Proceedings*.

#### *Quality Assurance*

45. Regarding quality assurance, COGEMA reported that it has implemented an Integrated Quality Management System (IQMS) designed to provide an integrated approach as it applies to staff, contractors and to other key activities at the McClean Lake site. COGEMA noted that its project management has been expanded to include documentation specific to the MED program organization and that new procedures and work instructions have been developed for the program.
46. With respect to training, COGEMA noted that the McClean Lake Operation training program remains unchanged by the MED Program activities.
47. CNSC staff reported that, overall, the McClean Lake Operation Quality Assurance Program and its implementation meet requirements. CNSC staff noted that it is satisfied with COGEMA's policies and programs that are in place to manage the MED program safely. In this regard, CNSC staff further noted that the proposed drilling and excavating of the 15 holes at Pod 1 should be adequately managed by COGEMA's Project Management Plan.
48. Based on the information received, the Commission concludes that the operating performance and quality assurance measures at the McClean Lake Operation provide a positive indication of COGEMA's ability to adequately carry out the proposed activities of Phase II of the MED program.

### **Decommissioning Plan and Financial Guarantee**

49. With respect to the decommissioning plan and related financial guarantee for the proposed activities, COGEMA reported that the MED program has been included in the Preliminary Decommissioning Plan (PDP) and Financial Guarantee for the McClean Lake Operation.
50. The Commission sought assurances that the cost estimate was sufficient for the decommissioning of the activities. CNSC staff responded that the amount should be sufficient considering the relatively small area subject to decommissioning and that certain activities would be performed during operations, such as backfilling of the holes. CNSC staff also noted that the cost estimate would be re-assessed to consider any modifications in the related activities.
51. Based on the information received, the Commission is satisfied that COGEMA has an adequate preliminary decommissioning plan and financial guarantee in place for the purpose of section 24 of the NSCA.

### **Public Information**

52. The Commission requires, among other things, that licensees maintain acceptable public information programs.
53. In this regard, CNSC staff indicated that COGEMA continues to meet the criteria for an acceptable Public Information Program and its implementation.
54. Based on this information, the Commission is satisfied that COGEMA has an adequate Public Information Program in place for the purpose of the proposed project.

### **Security**

55. With regard to the maintenance of security at the project site during the proposed activities, CNSC staff reported that COGEMA has in place, and is successfully implementing, an acceptable Security Program.
56. Based on the information received, the Commission concludes that COGEMA will continue to make adequate provision for maintaining security at the McClean Lake Operations, including at the Pod 1 of the McClean Underground orebody.

### **Safeguards and Non-Proliferation**

57. Concerning the matter of whether COGEMA will make adequate provision to ensure maintenance of Canada's international obligations for safeguards and non-proliferation, CNSC staff is confident that COGEMA meets, and is expected to continue to meet, all applicable requirements.
58. The Commission concludes, therefore, that COGEMA has made, and will continue to make in respect of the proposed activities under the licence, adequate provision for maintaining Canada's applicable international obligations.

### **Canadian Environmental Assessment Act**

59. Before making a licensing decision, the Commission must be satisfied that all applicable requirements of the *Canadian Environmental Assessment Act*<sup>5</sup> (CEAA) have been fulfilled.
60. CNSC staff indicated that the MED Program is a project that would involve undertakings in relation to a physical work and would require an amendment to the McClean Uranium Operating Licence under subsection 24(2) of the NSCA in order for the MED Program to proceed. Therefore, there is both a project and a trigger under the CEAA.
61. CNSC staff submitted, however, that the activities proposed under the MED program are similar to the activities assessed in 1991 by a joint Federal-Provincial Panel review and consistent with changes in technology expected over time. CNSC staff determined that the proposed project represents either a partial implementation of the project that was subject to an EA in 1991, or it involves changes in technology since. This determination was made from a comparison of the activities proposed under the MED program and the activities assessed in 1991 and documented in "Continuation of the MED Program at McClean Lake – Application of CEEA"<sup>6</sup>. Furthermore, CNSC staff noted the Federal Court of Appeal's decision on the Inter-Church Uranium Committee Educational Co-operative<sup>7</sup> that recognized that changes in science and technology could occur over the life of a project and acknowledged that it would be the regulator's (CNSC) responsibility to evaluate the effects of such new developments in the context of its licensing responsibilities.
62. CNSC staff submitted that the changes brought about by the proposed mining methods would not transform the project into a new proposal. CNSC staff noted that the mining of three pods, including Pod 1 in the McClean underground deposit, was assessed in the 1991 McClean Lake Project Environmental Impact Statement. The method of mining assessed by the Environmental Assessment and Review Process Guidelines Order<sup>8</sup> (EARPGO)

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<sup>5</sup> S.C. 1992, c. 37

<sup>6</sup> Continuation of the Mining Equipment Development Program at McClean Lake – Application of the *Canadian Environmental Assessment Act* (CEEA), January 18, 2006

<sup>7</sup> Inter-Church Uranium Committee Education Co-operative v. Canada (Atomic Energy Control Board and Cogema Resources Inc. (2004 FCA 218), leave to appeal to the Supreme Court of Canada denied ([2004] S.C.C.A. No. 388)

<sup>8</sup> SOR 84-467

Panel involved accessing the ore remotely from underground workings. The method proposed in the MED program has been modified to use surface bore holes to access the ore zone rather than bore holes from tunnels below the ore zone.

63. On this basis, CNSC staff submitted that subsection 74(1) of the CEAA would apply to the MED program project and, accordingly, no further environmental assessment of the project should be required.
64. COGEMA submitted that proposed activities which would extend the McClean Lake project beyond the envelope of activities considered in existing EAs would require new environmental assessments. In contrast, COGEMA submitted that the MED program is well within the envelope of activities considered by the Federal-Provincial Panel and, more recently, by the CNSC through the Sue E screening<sup>9</sup> under CEAA. COGEMA expressed the view that the scope of the underground mining activities already considered at the McClean underground pods exceeds those for the MED Program in all aspects important to environmental assessment, including the disturbed area footprint, the amount of ore to be mined and subsequently processed, the amount of tailings, the amount of uranium to be produced and the amount of treated water effluent.
65. COGEMA further expressed the view that determinations by the CNSC staff that the MED Program does not require further assessment under CEAA are entirely consistent with the intent and correct interpretation of the decision by the Federal Court of Appeal.
66. Intervenors expressed the view that the project constitutes a new development resulting in a need to revisit the 1991 EA to ensure all environmental aspects are adequately addressed. Intervenors submitted that section 74(1) of the CEAA cannot apply to exclude the project from an EA screening. The intervenors submitted that the MED program would fall under subsection 74(3) of the CEAA on the basis that it was not within the terms of reference of the Joint Review Panel that originally assessed the McClean Lake operation in accordance with the EARPGO. ICUCEC submitted that the MED program was “in pith and substance, a new development” and an activity that was not within the Joint Panel Review’s terms of reference. ICUCEC argued that drilling was not an activity that was contemplated by the Joint Review Panel and therefore cannot constitute a change in technology as envisaged by the Federal Court of Appeal in *Inter-Church Uranium Committee Education Co-operative v. Canada (Atomic Energy Control Board and Cogema Resources Inc)*. ICUCEC further submitted that the scope of the assessment should include the effects of existing uranium projects in northern Saskatchewan.
67. The intervenors expressed particular concern that an experimental process is being proposed without conducting an EA. An intervenor made reference to the proponent’s comment that it was “applying innovation to mining of uranium ore bodies and that successful deployment could lead to certain advantages.” In this regard, the intervenor submitted that innovation suggests and demonstrates that this is new and untested, and successful deployment suggests that there could be unsuccessful deployment, further

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<sup>9</sup> *Record of Proceedings, including Reasons for Decision* on Screening Environmental Assessment for the McClean Lake Operation Sue E Project, published July 12, 2005

noting that the consequences of that unsuccessful deployment were not known.

68. Based on the evidence presented, the Commission concludes that the MED program does not constitute a change in the manner in which the project is to be carried. The position that the MED program would constitute a change in technology as contemplated by the Joint Review Panel is reasonable based on the evidence on the record at this time. This is further supported by CNSC staff's evidence that the Joint Review Panel did consider remote mining of these pods, simply not the specific method contemplated by the MED program.
69. The Commission is of the view that the intervenors' interpretation of the Federal Court of Appeal's decision would amount to stating that any change that was not within the Joint Panel Review's terms of reference would always trigger the requirement for a new environmental assessment under the CEAA. This submission would not be consistent with the Court's view that this was best left to be considered through the licensing authority's responsibilities, whether or not they were in the Joint Review Panel's terms of reference.
70. The Commission also concludes that the changes in technology would not result in a change in the manner in which the project is to be carried out that would trigger the requirement for an environmental assessment under par. 74 (3)(c) of the CEAA. This conclusion is consistent with the Federal Court of Appeal's interpretation that changes in science and technology do not necessarily transform a proposal into a new project. As a consequence, paragraph 74(3) does not find application under these circumstances.
71. The Commission is satisfied that the requirements of the CEAA for an environmental assessment of the MED program have been fulfilled. The Commission thus concludes that a further environmental assessment under the CEAA is not required for the current licensing action.

### **Conclusion**

72. The Commission has considered the information and submissions of COGEMA Resources Inc., CNSC staff and intervenors as presented in the material available for reference on the record.
73. The Commission is satisfied that a further environmental assessment under the CEAA is not required before it can proceed to make a decision on COGEMA's application for a licence amendment to authorize Phase II of the MED program under the provisions of the NSCA.
74. The Commission is satisfied that COGEMA is qualified to carry on the activity that the proposed amended licence will authorize. The Commission is also satisfied that COGEMA will make adequate provision for the protection of the environment, the health and safety of persons and the maintenance of national security and the measures required to implement international obligations agreed to by Canada.

75. The Commission therefore amends, pursuant to section 24 of the NSCA, the Uranium Mine and Mill Operating Licence for the McClean Lake Operation held by COGEMA Resources Inc., Saskatoon, Saskatchewan, to allow Phase II of the MED program to proceed.
76. The Commission includes in the licence the conditions recommended by CNSC staff, as set out in the draft licence attached to CMD 06-H6 with the modification to licence condition 1.5 as indicated in paragraph 7.
77. With this decision, the Commission requests that the CNSC staff present a status report to the Commission on the results of the Phase I activities of the MED program. The Phase I report will provide information on, but will not necessarily be limited to, the issues identified in the *Record of Proceedings*.

Marc A. Leblanc  
Secretary,  
Canadian Nuclear Safety Commission

Date of decision: March 30, 2006

Date of release of Reasons for Decision: May 26, 2006



## Appendix A – Intervenors

Intervenors	Document Number
Inter-Church Uranium Committee Educational Cooperative (ICUCEC), represented by R. Fleming	CMD 06-H6.2
S.A. Fortugno, Fortugno Law Office	CMD 06-H6.3
M. Shiel	CMD 06-H6.4
M. Penna	CMD 06-H6.5