



Canadian Nuclear
Safety Commission

Commission canadienne
de sûreté nucléaire

Record of Proceedings, Including Reasons for Decision

In the Matter of

Proponent Cameco Corporation

Subject Comprehensive Study Report for Cameco
Corporation's Proposed Redevelopment of the
Port Hope Conversion Facility (Vision 2010)

Hearing Date May 30, 2012

RECORD OF PROCEEDINGS

Proponent: Cameco Corporation

Address/Location: One Eldorado Place, Port Hope, Ontario L1A 3A1

Purpose: Comprehensive Study Report for Cameco Corporation's Proposed Redevelopment of the Port Hope Conversion Facility (Vision 2010)

Application received: June 22, 2006

Date of hearing: May 30, 2012

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

Members present: M. Binder, Chair

Secretary: K. McGee
Recording Secretary: M. Young

Table of Contents

| | |
|--|----|
| Introduction | 1 |
| Decision | 3 |
| Issues and Commission Findings | 4 |
| Completeness of the Comprehensive Study Report | 4 |
| Likelihood and Significance of Environmental Effects | 4 |
| <i>Adequacy of the Assessment Methods</i> | 4 |
| <i>Effects of the Project on the Environment</i> | 4 |
| <i>Effects of the Environment on the Project</i> | 9 |
| <i>Effects of Accident and Malfunction Events</i> | 9 |
| <i>Cumulative Effects</i> | 10 |
| <i>Follow-Up Program</i> | 10 |
| <i>Conclusions on the Likelihood and Significance of Adverse Environmental Effects</i> | 11 |
| Public and Aboriginal Consultation | 11 |
| <i>Crown-led Consultation</i> | 11 |
| <i>Aboriginal Consultation</i> | 12 |
| <i>Conclusion on Public and Aboriginal Consultation</i> | 13 |
| Conclusion | 13 |

Introduction

1. Cameco Corporation (Cameco) has notified the Canadian Nuclear Safety Commission¹ (CNSC) of its intention to redevelop its Port Hope Conversion Facility (PHCF), the Vision 2010 Project. The project includes:
 - the cleanup and demolition of a number of old or underutilized buildings;
 - the removal of contaminated soils, building materials and historic wastes at the PHCF; and
 - additions or modifications to existing buildings with associated landscaping and infrastructure.
2. The authorization of this activity requires a licence amendment to the existing Fuel Facility Operating Licence for the PHCF, FFOL-31.00/2017, pursuant to subsection 24(2) of the *Nuclear Safety and Control Act*² (NSCA). The issuance or amendment of a licence under this authority is a “trigger” under the *Law List Regulations*³ established under the CEAA, therefore, there is a “trigger” for this proposal pursuant to paragraph 5(1)(d) of the CEAA. The proposed Vision 2010 Project is an undertaking in relation to a physical work and thus, is a “project” as defined in section 2 of the *Canadian Environmental Assessment Act*⁴ (CEAA). The project is of a type listed in the *Comprehensive Study List Regulations*⁵, therefore, in accordance with the CEAA, a federal environmental assessment (EA) in the form of a comprehensive study is required for this project.
3. Before the Commission can amend or issue a licence, the Commission must, in accordance with the requirements of the CEAA, make a recommendation to the Minister of the Environment on the Comprehensive Study EA for the proposed project. The Commission is the sole responsible authority⁶ (RA) for the EA. Fisheries and Oceans Canada (DFO), Transport Canada (TC), Natural Resources Canada (NRCan) Environment Canada (EC) and Health Canada (HC) identified themselves as federal authorities (FAs) for the purpose of providing expert assistance to CNSC staff during the EA.
4. The EA decision for a comprehensive study EA rests with the Minister of the Environment. The Canadian Environmental Assessment Agency (CEA Agency) will initiate a public comment period after the CNSC provides the Proposed Comprehensive Study Report (CSR) to the Minister of the Environment and the CEA Agency. The Minister of the Environment will consider the information in the Proposed CSR, the views of the RA and federal authorities (FAs) and any comments received during the public comment period initiated by the CEA Agency and will issue an EA decision statement under section 23 of the CEAA. If the Minister decides that the Project is not

¹ 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 Statutes of Canada (S.C.) 1997, chapter (c.) 9.

³ Statutory Orders and Regulations (SOR)/94-636.

⁴ S.C. 1992, c. 37.

⁵ SOR/94-638.

⁶ Responsible Authority in relation to an EA is determined in accordance with subsection 11(1) of the CEAA.

likely to result in significant adverse environmental effects taking into account the implementation of mitigation measures identified in the Proposed CSR, the CNSC may proceed to the licensing process under the NSCA.

5. The *Environmental Assessment Guidelines (Scope of Project and Assessment) for the Proposal by Cameco Corporation for the Redevelopment of its Port Hope Conversion Facility (Vision 2010) Port Hope, Ontario* (the Guidelines) described the basis for carrying out the comprehensive study and were approved by the Commission on December 5, 2008. The Commission recommended to the federal Minister of the Environment that the EA for the Vision 2010 Project proceed as a comprehensive study. On March 24, 2009, the federal Minister of the Environment announced that the comprehensive study was the most appropriate type of EA for the proposed project.
6. The Guidelines were used in delegating the conduct of technical studies to Cameco, pursuant to section 17 of the CEAA. Cameco provided the technical studies which underwent a review by experts at the CNSC and other relevant government departments. The resulting Environmental Impact Statement (EIS) was then used by CNSC staff for the preparation of the draft EA CSR. Stakeholders, including the FAs, were provided an opportunity to review the draft CSR prior to its finalization and submission to the Commission for this hearing and decision.
7. The Comprehensive Study EA for the Vision 2010 Project was started in 2006 prior to the amendments to the latest amendments to the CEAA which came into force in 2010 under the *Jobs and Economic Growth Act*⁷. Therefore, in accordance with the applicable transitional provisions, the Comprehensive study for the Project was continued and completed as if the CEAA amendments had not come into force.
8. This *Record of Proceedings* describes the Commission's consideration of the *Proposed Comprehensive Study Report for Cameco Corporation's Proposed Redevelopment of the Port Hope Conversion Facility (Vision 2010)* and its reasons for decisions on the results. The CSR of Cameco's proposal for the Vision 2010 Project is attached as an appendix to CMD 12-H110.

Issue

9. In considering the Comprehensive Study Report, the Commission was required to decide:
 - a) whether the Proposed Comprehensive Study Report is complete; that is, whether all of the factors and instructions set out in the approved EA Guidelines and subsection 16(1) of the CEAA were adequately addressed;
 - b) whether the project, taking into account the mitigation measures identified in the Proposed Comprehensive Study Report, is likely to cause significant adverse environmental effects;

⁷ S.C. 2010, c. 12.

- c) whether the project must be referred to the federal Minister of the Environment for referral to a review panel or mediator, pursuant to paragraph 20(1)(c) of the CEEA; and
- d) whether the Commission can proceed with its consideration of an application for a licence amendment under the *Nuclear Safety and Control Act*, consistent with paragraph 20(1)(a) of the CEEA.

Hearing

10. Pursuant to section 22 of the NSCA, the President of the Commission established a Panel of the Commission to review the application. The Commission, in making its decision, considered information presented for a hearing held on May 30, 2012 in Ottawa, Ontario. During the hearing, the Commission considered written submissions from CNSC staff (CMD 12-H110) and Cameco (CMD 12-H110.1).

Decision

11. Based on its consideration of the matter, as described in more detail in this *Record of Proceedings*, the Commission decides that:

- a) the Proposed Environmental Assessment Comprehensive Study Report appended to CMD 12-H110 is complete; that is, the scope of the project and assessment were appropriately determined in accordance with section 15 and 16 of the *Canadian Environmental Assessment Act*, and all of the required assessment factors were addressed during the assessment;
- b) the project, taking into account the mitigation measures identified in the Proposed Environmental Assessment Comprehensive Study Report, is not likely to cause significant adverse environmental effects;
- c) it will not refer the project to the federal Minister of the Environment for his referral to a federal Environment Assessment review panel or mediator;
- d) subject to the Ministerial Decision on the Comprehensive Study Report, it will proceed to consider the application for licence amendment under the provisions of the *Nuclear Safety and Control Act*, consistent with paragraph 20(1)(a) of the *Canadian Environmental Assessment Act*.

12. With this decision, the Commission provides the Proposed Environmental Assessment Comprehensive Screening Report to the federal Minister of the Environment for Ministerial Decision.

Issues and Commission Findings

13. The findings of the Commission are based on the Commission's consideration of all the information and submission available for reference on the record for the hearing.

Completeness of the Comprehensive Study Report

14. In its consideration of the completeness of the Comprehensive Study Report, the Commission considered whether the assessment had adequately addressed an appropriately defined scope of project and assessment factors.
15. Based on the Commission's review of the EA Guidelines and Comprehensive Study Report, the Commission concludes that the scope of the project and the scope of the factors for the assessment are appropriate and that all of the required factors were addressed during the assessment.
16. The Commission also concludes that the EA CSR is complete and compliant with the requirements of the CEAA.

Likelihood and Significance of Environmental Effects

17. This section contains the Commission's findings with respect to whether the project is likely to cause significant adverse environmental effects, taking into account the identified mitigation measures.

Adequacy of the Assessment Methods

18. The assessment methodology was described in the EA Guidelines, attached as Appendix A to the Comprehensive Study Report. The EA Guidelines outlined the scope of the project, the scope of the assessment and the scope of the factors to be assessed.
19. Based on its review of the CSR and the above information, the Commission concludes that the EA methods were acceptable and appropriate.

Effects of the Project on the Environment

20. The effects of the project on the environment include effects on the following components of the environment:
 - the atmospheric environment;
 - the geological and hydrogeological environment;
 - the aquatic environment;
 - the terrestrial environment;
 - the human health environment; and
 - the socio-economic environment.

21. The CSR includes a description of interactions between the project and the environment, and the residual effects of the project. Each potential interaction was assessed to determine which of the potential interactions were likely to result in a measurable change to the environment. Residual adverse effects that were considered were assessed for significance.

Atmospheric Environment

22. CNSC staff further stated that some project activities have the potential to produce airborne dust that may contain low levels of radioactivity. CNSC staff noted that the level of radionuclides associated with airborne dust is predicted to be quite small, of limited duration and spatial extent and unlikely to result in significant adverse environmental effects. CNSC staff stated that the emissions are expected to remain within provincial and federal limits, and have a negligible effect on terrestrial and aquatic habitat and biota. CNSC staff further stated that noise effects from project activities were considered minor and not significant.
23. CNSC staff noted that one minor residual adverse effect on the valued ecosystem component, the nearest residential or recreational receptor, was identified due to the potential infrequent exceedance of the 1-hour NO₂ ambient air quality criteria. CNSC staff stated that the effect on air quality is considered minor and not significant because it is highly unlikely that the predicted, conservative, worst-case scenario would exceed the 1-hour NO₂ criteria.
24. CNSC staff stated that, with the proposed mitigation measures, the Vision 2010 Project is not likely to cause significant adverse environmental effects to the atmospheric environment.

Geological and Hydrogeological Environment

25. CNSC staff stated that excavation of soil, water management and the construction of new buildings and additions or modifications to existing buildings have the potential to interact with the hydrogeology of the site. CNSC staff noted that the scope of the project includes the collection and treatment of all contaminated groundwater arising from project excavations.
26. CNSC staff stated that the excavation of soils and construction of new buildings are not expected to have a noticeable effect on the site's hydrogeology. CNSC staff noted that although some temporary dewatering may occur during these activities, no mitigation measures are required for these localized and temporary events.
27. CNSC staff further stated that no adverse effects on local soil quality are anticipated. CNSC staff explained that although the excavation and disposal of contaminated soils is one of the major project activities of the Vision 2010 project, incremental soil concentrations associated with excavation and demolition activities are a very small

fraction of the uranium in soil, based on estimates of ongoing deposition from plant operations. CNSC staff noted that no mitigation measures were deemed necessary because the excavation and disposal of contaminated soils would produce a beneficial and desirable effect.

28. As monitoring will be conducted and contingencies implemented, if required, the CSR concludes that the residual effects from changes to groundwater levels and lake levels are considered not significant.

Aquatic Environment

29. The CSR contained information concerning hydrology, surface water quality, sediment quality and aquatic habitat. CNSC staff stated that design, mitigation and compensation measures would be incorporated into the Vision 2010 Project to minimize the potential adverse effects of project interactions with the aquatic environment. Regarding hydrology, CNSC staff stated that no significant effects are anticipated. CNSC staff noted that stormwater would be managed by existing system of catch basins and storm sewers, and that coffer dams and water treatment would be used.
30. Regarding surface water quality, CNSC staff stated that there would be no untreated liquid effluent discharges during demolition, excavation and construction activities for the Project, and that treated effluent would only be discharged once the effluent discharge criteria are met. CNSC staff stated that no adverse residual effects are expected.
31. CNSC staff stated that no adverse residual effects are expected on sediment quality. CNSC staff noted that sediment control measures, including silt fences and the stabilizing of exposed areas as quickly as possible, would be incorporated as part of the Project design.
32. CNSC staff stated that no residual adverse effects are anticipated on aquatic biota or habitat as a result of the project. CNSC staff noted that measures to preserve surface water quality and sediment quality were incorporated into the project design to ensure that aquatic species and their habitats would not be adversely affected.
33. With the implementation of the proposed mitigation measures, the CSR concludes that the potential environmental effects on the aquatic environment are not likely significant. The CSR concludes that, with the implementation of the proposed mitigation measures, the Vision 2010 Project is not likely to cause significant adverse effects on surface water and sediment quality and aquatic biota and habitat.

Terrestrial Environment

34. CNSC staff stated that the Vision 2010 Project does not involve any clearing of natural areas or successional vegetation; however, local vegetation may be exposed to contaminants from the deposition of particulate matter resulting from project activities. CNSC staff stated that the air quality assessment indicated that the Vision 2010 Project would not result in a measurable increase of suspended particulate matter and, as such, no measurable effects on terrestrial vegetation communities and species were anticipated. CNSC staff stated that no specific mitigation measures were required for this environmental component.
35. CNSC staff stated that, due to the limited nature of wildlife communities and species in the vicinity of the PHCF, the primary mechanism through which effects can occur is through aerial transport and deposition of contaminated particulate matter to soil, water and plants. CNSC staff stated that the air quality assessment indicated that the project would not result in a measurable increase of suspended particulate matter, and that measures taken to preserve surface water quality and sediment quality would further ensure that wildlife habitat, communities and species are not adversely affected.
36. The CSR concludes that with the application of appropriate mitigation measures, no significant adverse effects to the terrestrial environment are expected.

Human Health Environment

37. CNSC staff stated that the CSR included a human health risk assessment on the environmental effects from air and effluent emissions on the human health of workers and residents at the nearest locations from the Vision 2010 Project. CNSC staff stated that the assessment indicated that no effects were expected from either radiological or non-radiological contaminants of concern from the project. CNSC staff noted that radiation doses for workers and the general public would continue to be below regulatory dose limits.
38. The CSR concludes that there are no adverse effects on human health anticipated from the Vision 2010 Project.

Socio-Economic Environment and Sustainability of Resources

39. The socio-economic environment includes land use and transportation, renewable and non-renewable resources, within and surrounding the Vision 2010 Project area.
40. Regarding land use, CNSC staff stated that no interactions were identified, and therefore no residual effects were anticipated. Regarding the landscape and visual setting, CNSC staff noted that although there would be a temporary change to the landscape due to the presence of construction equipment at the PHCF during excavation, demolition and construction activities, the project will result in an improved landscape and visual setting, and as such, no mitigation measures are required.

41. Regarding transportation, CNSC staff stated that no adverse residual effects on traffic or members of the public are anticipated. CNSC staff included information regarding emergency response to transportation incidents that may occur during transport activities for the project. CNSC staff noted that mitigation measures to address potential transportation-related effects that could occur as a result of Vision 2010 works and activities were identified following a review of the mitigation measures proposed for the Port Hope Area Initiative project, and that no further improvements were required.
42. CNSC staff stated that the CSR concluded that the Vision 2010 Project would not diminish the capacity of renewable resources to meet the needs of present and future generations. CNSC staff noted that the Vision 2010 Project will require non-renewable resources, including construction materials and fuels, but not in a substantial amount compared to resource availability.
43. CNSC staff stated that no interactions were identified for the physical and cultural resources, and there are no listed archaeological sites or registered heritage buildings (under the Ontario Heritage Act) on the main site of the PHCF or on Centre Pier. CNSC staff noted that, due to community concerns, the Municipality of Port Hope established the “Centre Pier Development Task Force” to identify costs and potential risks associated with possible future development of the Centre Pier. On October 25, 2011, the Task Force released a report recommending that the Port Hope Area Initiative project restore the Centre Pier property to its full use either by retaining or replacing the buildings on the Pier.
44. Regarding the population and economic base, CNSC staff stated that no long-term residual adverse indirect socio-economic effects were predicted, and that the project may result in positive effects on population, employment, business activity, tourism, and property values. Furthermore, CNSC staff stated that no undue stress is anticipated on approved facilities for the disposal of waste destined for landfill or recycling, or on underground municipal services, although some services will be altered at the PHCF. CNSC staff noted that Cameco does not anticipate the need to draw increased levels of water from the treatment plant, nor to increase its loading on the sewage system during project works and activities. CNSC staff also stated that no residual adverse effects are expected on community services.
45. Regarding residents and communities, CNSC staff noted that mitigation measures are required to address the potential for adverse effects of the project on residents’ use and enjoyment of property, including keeping residents informed of activities on and off the PHCF site that might be a disruption to their daily lives. CNSC staff noted that noise attenuation measures would also be implemented to limit the effects of noise. CNSC staff stated that no long-term significant adverse effects on residents and communities are anticipated.
46. CNSC staff stated that the proposed Vision 2010 Project is not likely to cause significant adverse effects on the socio-economic environment, taking into account the implementation of mitigation measures outlined in the Comprehensive Study Report.

Conclusion on Effects of the Project on the Environment

47. Based on its review of the CSR and the above-noted information and considerations, the Commission concludes that the proposed project, taking into account the identified mitigation measures, is not likely to cause significant adverse environmental effects. Furthermore, the Commission concludes that the proposed project is not likely to cause significant adverse effects regarding the sustainability of resources.

Effects of the Environment on the Project

48. Non-routine environmental events are defined as naturally occurring events that can produce extreme conditions that can affect the performance of project activities. Hazards that have the potential to damage the Vision 2010 Project can, in turn, cause adverse effects on the environment.
49. CNSC staff stated that the CSR included consideration of naturally-occurring events that can produce extreme conditions that have the potential to affect the Vision 2010 Project activities, including seismic activity, severe weather (tornadoes, ice storms, severe precipitation) and flooding. CNSC staff noted that the probabilities of occurrence of such events are low, and that design and operational measures are in place to reduce the potential effects of such events.
50. CNSC staff stated that the environment is not likely to cause significant adverse effects on the Vision 2010 Project, taking into account design and operational measures to prevent or reduce potential effects.
51. Based on the above information, the Commission concludes that the environment is not likely to cause significant adverse effects on the project.

Effects of Accident and Malfunction Events

52. The objective of the assessment of possible environmental effects of accidents and malfunctions is to ensure that:
- abnormal events and/or upset conditions relating to the proposed Vision 2010 Project are considered;
 - credible accident scenarios are assessed;
 - available means to prevent or mitigate the possible effects of the event are identified; and
 - the significance of any residual effects are determined.
53. CNSC staff stated that the CSR included consideration of a range of credible malfunction and accident scenarios. CNSC staff stated that, based on this assessment, the postulated credible malfunction and accident scenarios are not likely to cause significant adverse environmental effects, taking into consideration the prevention measures and the contingency plans to prevent, eliminate or minimize the occurrence or effects arising from these malfunctions and accidents.

54. Based on the above information and considerations, the Commission concludes that accident and malfunction events are not likely to cause significant adverse effects on the environment.

Cumulative Effects

55. A cumulative effects assessment involves consideration of the effects of the Vision 2010 Project together with other proposed and existing projects and activities in the area that may cause environmental effects that would overlap with effects caused by the Vision 2010 Project. Other projects and activities included normal operations of the PHCF, normal operations at Cameco's fuel manufacturing facility, the operation of the municipal sewage treatment plant, and the Port Hope Area Initiative.
56. CNSC staff stated that the cumulative effects assessment in the CSR includes the potential cumulative effects identified for the Vision 2010 Project and builds on the analysis of the residual effects of an EA. CNSC staff noted that malfunctions and accidents were not considered in the cumulative effects assessment. Based on the cumulative effects assessment, CNSC staff stated that no significant cumulative effects were expected from the Vision 2010 Project.
57. Based on the information received, the Commission concludes that, taking into account the identified mitigation measures, significant adverse cumulative effects are not expected to occur as a result of the project.

Follow-Up Program

58. A follow-up program under the CEAA verifies the accuracy of the EA predictions for a project and determines the effectiveness of any measures taken to mitigate adverse environmental effects of the project. The implementation of a follow-up program is required for all comprehensive studies.
59. CNSC staff stated that the CSR included a proposed follow-up program for the Vision 2010 Project to be implemented by Cameco, unless otherwise directed by the CNSC or the Minister of the Environment. CNSC staff further stated that the CSR describes the follow-up program for the Vision 2010 Project. The preliminary follow-up plan gives consideration to all possible effects of the project, including effects to groundwater, surface water, sediment quality, and air quality.
60. CNSC staff noted that Cameco currently has an existing environmental monitoring program (EMP) in place at the PHCF to maintain operational performance standards and determine operational related effects. CNSC staff further noted that many of the monitoring program requirements for the Vision 2010 Project would be captured by the existing PHCF EMP, which was also described in the Comprehensive Study Report.

61. The Commission is satisfied that the proposed scope of the follow-up program will be adequate for verifying and, if necessary, identifying where additional mitigation measures may be required during the project implementation.

Conclusions on the Likelihood and Significance of Adverse Environmental Effects

62. Based on the considerations and reasons noted above, the Commission concludes that the proposed project is not likely to cause significant adverse environmental effects, taking into account the identified mitigation measures.
63. The Commission is satisfied that the likelihood and significance of the effects have been identified with reasonable certainty.

Public and Aboriginal Consultation

Crown-led Consultation

64. The Commission examined whether the public had sufficient opportunity to become informed about the project and the EA⁸, and express their views on it. The Commission examined the nature and level of concern expressed by the public.
65. CNSC staff stated that public notices of commencement for the EA for the proposed Vision 2010 Project were posted on the CNSC website and the Canadian Environmental Assessment Registry (CEAR) on October 19, 2006.
66. CNSC staff indicated that the public, Federal Authorities (FAs), and First Nations and Métis Nations were invited to comment on the Draft EA Guidelines from March 5, 2008 to April 11, 2008.
CNSC staff stated that seven submissions were received from the public, with comments concerning cumulative effects, including integration with the PHAI, the scope of the project and the contamination and remediation of Building 50. CNSC staff noted that the comments were incorporated into the Draft EA Guidelines, as appropriate. CNSC staff further stated that it held a public consultation meeting on March 18, 2008 in Port Hope to allow the public to ask questions to CNSC and CEA Agency staff on the Draft EA Guidelines.
67. CNSC staff described the one-day CNSC public hearing that was held regarding the proposed EA Guidelines for the Vision 2010 Project in November 2008. CNSC staff noted that no interventions were received and the Proposed EA Guidelines were approved on December 5, 2008.

⁸ Section 7, Comprehensive Study Report for the Proposed Midwest Mining and Milling Project, April 2012.

68. CNSC staff also provided information regarding the participant funding available regarding the project. CNSC staff explained that the CEA Agency made available \$34,000 through the federal Participant Funding Program (PFP), with two phases of funding opportunities, to assist in the participation in the Vision 2010 Project. CNSC staff noted that an additional \$10,000 in participant funding was awarded due to the addition of the Centre Pier buildings within the assessment.
69. CNSC staff stated that the Draft EIS was made available for public comment from March 7, 2011 to June 15, 2011 and a 30-day public review on the federal draft CSR started on September 22, 2011. CNSC staff noted that a public Open House on the project was held in Port Hope on the same day. CNSC staff further noted that comments from PFP participants, as well as members of the public, were considered during the drafting of the final Comprehensive Study Report.

Aboriginal Consultation

70. The common law Duty to Consult with Aboriginal communities and organizations applies when the Crown contemplates actions that may adversely affect established or potential Aboriginal or treaty rights. Following the whole-of-government approach to uphold the honour of the Crown, federal departments involved in the review of the Vision 2010 Project have integrated Aboriginal consultation into the EA review process to the extent possible to address potential adverse impacts to potential or established Aboriginal or treaty rights pursuant to section 35 of the *Constitution Act, 1982*⁹.
71. CNSC staff stated that, early in the review process, the CNSC conducted research that lead to a preliminary list of Aboriginal groups that may have an interest in the Project. A distribution list was created.
72. CNSC staff stated that requests for comments on the Draft EA Guidelines from Aboriginal groups were sent on March 3, 2008. CNSC staff noted that Aboriginal groups were also sent Project updates, including the inclusion of the Centre Pier in the Vision 2010 Project, which was sent in February 2010. CNSC staff further stated that, in April 2010, the Métis Nation of Ontario (MNO) was identified as having a potential interest in the Project and were then added to the distribution list and provided with the relevant information. The MNO have been kept informed of the Project since this date.
73. CNSC staff stated that notification letters and a CD of the Draft EIS were sent to Aboriginal groups on January 13, 2011. CNSC staff further stated that no comments were received from any of the identified groups. CNSC staff noted that an e-mail was sent out on September 1, 2011 informing Aboriginal groups of the Open House in Port Hope, Ontario on September 22, 2011 and, on September 23, 2011 a letter was sent to Aboriginal groups with a CD of the Draft CSR.

⁹ *The Constitution Act, 1982*, being Schedule B to the Canada Act 1982 (U.K.), 1982, c. 11.

74. CNSC staff stated that none of the Aboriginal groups or organizations requested Participant Funding from the CEA Agency to participate in the review, nor have any raised concerns with the Project or identified any adverse impacts that this proposed Project may have on any potential or established Aboriginal or treaty rights.
75. CNSC staff stated that, to ensure that the CNSC upholds the honour of the Crown prior to making a decision that may cause adverse impacts to potential or established Aboriginal or treaty rights, Aboriginal consultation will continue through the remainder of the EA, including a public comment period initiated by the CEA Agency on the Proposed CSR and through the subsequent licensing review process.

Conclusion on Public and Aboriginal Consultation

76. Based on the information provided in the CSR and during the hearing, the Commission is of the view that there was sufficient opportunity for the public to be informed and express its views on the project. The Commission is satisfied that the public concerns raised during the EA process have been adequately addressed. The Commission is of the view that the concerns are of a nature that do not warrant a referral of the project to the Minister of the Environment for his referral to a review panel or mediation. The Commission is satisfied that the remaining issues can be addressed in the follow-up program and future consideration of the licence amendment application. The Commission therefore decides not to refer the project to the Minister of the Environment for referral to a review panel or mediator under paragraph 20(1)(c) of the CEAA.
77. Furthermore, the Commission is satisfied that no concerns have been raised and that no adverse impacts that the Vision 2010 Project may have on any potential or established Aboriginal or treaty rights have been identified. The Commission is satisfied that, based on all the information received, any obligations related to the Duty to Consult have been met for the Vision 2010 Project to date. The Commission is also satisfied that consultation with Aboriginal communities and organizations will continue, as appropriate, to ensure Duty to Consult obligations are met during subsequent regulatory phases of the Vision 2010 Project.

Conclusion

78. The Commission concludes that the environmental assessment CSR attached to CMD 12-H110 is complete and meets all of the applicable requirements of the *Canadian Environmental Assessment Act*.
79. The Commission concludes that the project, taking into account the appropriate mitigation measures identified in the Comprehensive Study Report, is not likely to cause significant adverse environmental effects.

80. Furthermore, the Commission also concludes that, at this time, it will not request the federal Minister of the Environment to refer the project to a review panel or mediator in accordance with the provisions of the CEAA.
81. Therefore, subject to the Ministerial Decision on the Comprehensive Study Report, the Commission, pursuant to paragraph 20(1)(a) of the CEAA, can proceed with the consideration of a licence application under the *Nuclear Safety and Control Act* which, if approved, would allow the project to proceed.



Michael Binder
President,
Canadian Nuclear Safety Commission

MAY 30 2012

Date