



**Written submission from the
Nuclear Transparency Project**

**Mémoire de
Nuclear Transparency Project**

In the Matter of the

À l'égard de

**Cameco Corporation, McArthur River
Operation and Key Lake Operation**

**Cameco Corporation, établissements de
McArthur River et de Key Lake**

Application for the renewal of uranium
mine/mill licences for McArthur River
Operation and Key Lake Operation

Demande visant le renouvellement des permis
d'exploitation de mines et d'usines de
concentration d'uranium pour les
établissements de McArthur River et de
Key Lake

Commission Public Hearing

Audience publique de la Commission

June 7-8, 2023

7-8 juin 2023



nuclear
transparency
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Submitted via the CNSC Online Participation Request Form and email

April 24, 2023

To President Velshi and Members of the Canadian Nuclear Safety Commission,

Re: Cameco's licence renewal applications for McArthur River, Key Lake, and Rabbit Lake operations.

We would like to begin by thanking the Commission for this opportunity to provide comments on these relicensing applications. We would also like to recognize the efforts of CNSC staff, multiple Canadian civil society organizations, and Indigenous Nations for their informative publicly available materials and submissions on these matters.

The Nuclear Transparency Project (NTP) was established in 2020 as a Canadian-registered non-profit organization dedicated to supporting and facilitating informed, holistic, and equitable public discussion about nuclear energy. We submit the following comments for your consideration with the hope that they may contribute to your deliberations concerning an appropriate licensing term for McArthur River, Key Lake, and Rabbit Lake operations.

We were astonished by the initial request from Cameco for an indefinite licence for their operations. We were relieved to see this was subsequently retracted by Cameco, but remain deeply concerned about the potential for a 20-year licence term as currently requested.¹ NTP strongly believes in frequent public hearings as a cornerstone of nuclear transparency. As such, **the organization recommends a five-year licence term for the operations. Or, in the alternative, a 10-year licence with five-year mid-term report – provided this mid-term report process includes intervenor funding and all the procedural elements current relicensing hearings offer to intervenors.**

¹ Cameco, Letter Re: Licence Renewal for Cameco Corporation Key Lake, McArthur River, and Rabbit Lake Operations, online: <https://www.nuclearsafety.gc.ca/eng/the-commission/pdf/ApplicationLetter-Cameco-Mines-20-Year-RequestRenewal-6909009.pdf>.

Years ago, when relicensing hearings first started to introduce extended 10-year licence terms for CNSC-regulated nuclear facilities (as opposed to the usual two- to five-year terms that preceded them), civil society organizations unanimously opposed this trend, and have continued to do so consistently since then.² Most recently, NTP opposed New Brunswick Power's application for a 25-year licence for the Point Lepreau Nuclear Generating Station.³ Since that submission, we were disappointed to learn Cameco was granted a 20-year licence for its Fuel Manufacturing facility in Port Hope.⁴ We did not have the capacity at that time to submit a letter, but hope the Commission takes note of our organization's position that longer licence terms are deleterious to the public interest: they frustrate transparency and threaten to erode civil society's capacity to remain knowledgeable and informed of facilities and their operations.

Cameco's request for 20-year licence terms

Cameco argues a licence term twice the length of any of its previous licence terms would provide the company with an "increased level of regulatory certainty and predictability" and facilitate the company's "ability to make longer term plans and budgeting decisions for investments at the Operations".⁵ No explanation is provided for why or how a longer licence term would help produce these benefits. Further, no evidence or arguments are provided establishing whether their past ten-year licence provided additional benefits compared with their previous licenses which were much shorter (two-years). NTP cautions against Commissioners accepting these arguments without any explicit evidence to support them.

Further, NTP submits that it is Cameco's compliance with relevant regulatory requirements (and not the lengths of its licences) that provide regulatory certainty and predictability. Their ability to operate responsibly is the best way by which they can make

² For an overview of concerns over less frequent licence hearings, see for example: Lake Ontario Waterkeeper and Ottawa Riverkeeper, Written Submission in the Matter of SRB Technologies, 15-H5.2, online (by request): http://nuclearsafety.gc.ca/eng/the-commission/hearings/documents_browse/results.cfm?dt=14-May-2015&yr=2015&pedisable=true. For concerns relating to licenses and democratic process, see for example: Greenpeace Canada, Oral Presentation In the Matter of Bruce Power Inc. – Bruce A and B Nuclear Generating Station, CMD 18-H4.99, online: <http://www.nuclearsafety.gc.ca/eng/the-commission/hearings/cmd/pdf/CMD18/CMD18-H4-99.pdf>, p 2.

³ Nuclear Transparency Project, Letter Re: NB Power's licence renewal application for Point Lepreau Nuclear Generating Station, CMD 22-H2.219, online: <https://www.nuclearsafety.gc.ca/eng/the-commission/hearings/cmd/pdf/CMD22/CMD22-H2-219.pdf>.

⁴ See: Canadian Nuclear Safety Commission, Record of Decision, DEC 21-H105, online: <https://www.nuclearsafety.gc.ca/eng/the-commission/pdf/Decision-CamecoFM-21-H105-e.pdf>. In this case, by missing one deadline, NTP will have to wait 20 years before it can apply to intervene in a licence renewal hearing for this facility. This makes the stakes extremely high: with fewer comment periods available, missing some (which is inevitable) excludes important voices for decades. Such stark consequences are hostile to people and organizations experiencing capacity challenges that limit their ability to consistently comment. For an organization of our size, we cannot guarantee we'll still exist in 20 years. If we do, we cannot guarantee that we will have staff with relevant institutional knowledge of this facility to build on previous interventions. With fewer hearings, intervenors will have to start at square one or close to it every time they intervene. This will work to frustrate the development of public expertise.

⁵ *Supra* note 1 at p 1.

long-term plans and investments in their operations. We also believe the opportunity for members of the public, civil society organizations, and Indigenous Nations to learn about and comment on their activities in an open forum such as a relicensing hearing, can support Cameco's compliance with relevant regulations and thus avoid any liabilities or other concerns that would threaten their operations. Transparency and regular public hearings should be seen as a benefit to licensees, rather than a hindrance.

CNSC staff's support for Cameco's requested 20-year licence terms

CNSC staff support Cameco's application for a 20-year licence. The criteria on which CNSC base their support are as follows:

1. The recommended duration of the licence should be commensurate with the licensed activity;
2. A longer licence period can be recommended when the hazards associated with the licensed activity are well characterized and their impacts well predicted, and they are within the scope considered in the environmental safety case;
3. A longer licence period can be recommended when licensees have in place a management system, such as a quality assurance program, to provide assurance that their safety-related activities are effective and maintained;
4. A longer licence period can be recommended when effective compliance programs are in place on the part of both the applicant/licensee and the CNSC;
5. A longer licence period can be recommended when the licensee has shown a consistent and good history of operating experience and compliance in carrying out the licensed activity;
6. The licence period must be consistent with the requirements of the CNSC Cost Recovery Fees Regulations;
7. The licence period should take account of the planning cycle of the facility and the licensee's plans for any significant change in licensed activity.⁶

NTP submits that none of these rationales above take into consideration articulated needs or concerns of regular intervenors and local communities.

Firstly, CNSC staff note that their contact will be just as frequent as ever with Cameco, and as such the quality of their regulatory oversight will remain unchanged. This rationale underpins all the points above, but fails to consider what intervenors can bring during a hearing to enhance and broaden CNSC staff activities. We understand that CNSC staff have regular contact with licensees between licence renewal proceedings to inspect facilities, verify compliance with regulations and licence terms, and amend Licence Condition Handbooks as required. Whereas civil society organizations and members of the public have few supported opportunities to engage with licensees or CNSC staff on matters of regulatory oversight. Licensing and relicensing hearings are the most

⁶ Canadian Nuclear Safety Commission Staff CMD 23-H6, online <https://www.nuclearsafety.gc.ca/eng/the-commission/hearings/cmd/pdf/CMD23/CMD23-H6.pdf> at pp 110-112.

procedurally robust mechanism for this kind of public engagement and offer the most capacity support (including access to information and funding).⁷

Second, the opportunity for members of the public to participate in more regular relicensing hearings should not be contingent on CNSC staff's unilateral evaluation of licensees' performance. Public interest in nuclear facilities should be (at least partly) defined by interested publics. Civil society organizations, members of the public, and Indigenous Nations must have meaningful and regular opportunities to assess for themselves whether routine licensed operations adequately protect what they value most.

Related to the two points above, CNSC staff assert relicensing hearings are not the only way members of the public can interact with nuclear licenses and the CNSC and point to other types of communication and engagement. While this may be true, licensing and relicensing hearings offer the most procedurally robust opportunities for engagement with both licensees and the CNSC. There are currently no substitute processes for these licensing and relicensing hearings. Public interest organizations have long stressed that Regulatory Oversight Report (ROR) meetings cannot compare procedurally with facility-specific licensing or relicensing hearings, held in the local host communities. Further, in recent years, civil society organizations are not always guaranteed the opportunity to make oral submissions before the Commission during ROR hearings. As such, licensing and relicensing hearings remain the best potential opportunities for members of the public and public interest organizations to engage in two-way dialogue with nuclear licensees and the regulator. Finally, the future of ROR proceedings are currently uncertain as there is an ongoing regulatory review process under which they may potentially be redesigned.⁸

Further, proactive public disclosure of periodic regulatory reports (such as Probabilistic Safety Assessments, Environmental Risk Assessments, Preliminary Decommissioning Plans and other) do not provide for supported avenues for public feedback, nor can they facilitate structured two-way communication between the public, regulators, and licensees. As such, like ROR proceedings, they should not be considered adequate alternatives to licensing and relicensing hearings.

Finally, CNSC staff explain their approach to extending licence terms included benchmarking practices in other countries.⁹ This should be viewed with a critical eye. No discussion is included that explains the rationales that underpin other jurisdictions' licensing time frames. Nor is there any accompanying analysis of the comparative rigour or those other licensing proceedings, or any regulatory alternatives for public engagement that may accompany or otherwise supplement licensing processes in those countries. As such, there is insufficient information presented by CNSC staff in their submission that can speak to the desirability of conformity with other countries that may have longer

⁷ NTP recognizes Indigenous Nations have their own preferences and requirements with regard to engagement and nuclear decision-making. NTP supports Nations' inherent rights to determine the nature and extent of these processes for themselves.

⁸ Canadian Nuclear Safety Commission: Regulatory Oversight Report Review, Discussion Paper, April 2021, online: https://www.nuclearsafety.gc.ca/eng/pdfs/Discussion-Papers/21-01/Discussion_Paper_DIS-21-01_The_Canadian_Nuclear_Safety_Commission_Regulatory_Oversight_Report_Review.pdf.

⁹ *Supra* note 6 at p 110 and 112.

licensing periods. Further, licence periods should be reflective of the needs of local communities and civil society as well as the rights and interests of Indigenous Peoples and Nations. In the current circumstances, where widespread concern accompanies requests for longer licenses, the CNSC as a public regulator has a duty to respond and protect these necessary public processes.

Thank you for your consideration of these submissions. We look forward to tuning into the live webcast for the Part Two hearings for this matter in June.

Sincerely,

A handwritten signature in black ink, appearing to read "Pippa Feinstein". The signature is fluid and cursive, with a large initial "P" and "F".

Pippa Feinstein, JD, LL.M.
Founder and Coordinator
Nuclear Transparency Project