



Oral presentation

Exposé oral

**Written submission from the
English River First Nation**

**Mémoire de la Première
Nation d'English River**

In the Matter of the

À l'égard de

**Cameco Corporation, Rabbit Lake
Operation**

**Cameco Corporation, établissement de
Rabbit Lake**

Application for the renewal of uranium
mine/mill licence for Rabbit Lake Operation

Demande visant le renouvellement du permis
d'exploitation de mine et d'usine de
concentration d'uranium pour l'établissement
de Rabbit Lake

Commission Public Hearing

Audience publique de la Commission

June 7-8, 2023

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Review of Cameco’s Application for 20-year term Licence Renewal for the Rabbit Lake operation

This submission is made on behalf of the English River First Nation (ERFN).

ERFN is made up of 19 reserves, most of which are located around Cree Lake in Northern Saskatchewan. ERFN has a population of approximately 1755 people. The on-reserve members of the First Nation reside at two remote Northern Saskatchewan reserves called Wapachewunak 192D and La Plonge 192. These reserves are located approximately 600 km North of Saskatoon. Approximately half of ERFN's population resides off reserve.

The Canadian Nuclear Safety Commission (CNSC) is currently reviewing the within licence renewal application, wherein Cameco is requesting a renewal of the CNSC licence for the Rabbit Lake operation. Cameco is asking specifically for a 20-year renewal terms for this licence.

ERFN Perspectives

This hearing is of significant interest to the people of the ERFN, as the Rabbit Lake operation is located in the heart of Nuhtsiye-kwi Benene (ERFN’s Ancestral Homelands). ERFN is a sovereign nation and claims unceded Treaty and Aboriginal rights to lands and resources in and on Nuhtsiye-kwi Benene. The people of ERFN have subsisted on these lands for generations - fishing, hunting, trapping, gathering, sustaining.

Over the years, ERFN has enjoyed a relatively positive and mutually-beneficial relationship

with Cameco. ERFN has a Collaboration Agreement in place with Cameco, and through that agreement, benefits flow to ERFN and its Band members. Committees and subcommittees formed under that agreement create some measure of opportunity for issues to be addressed as between Cameco and ERFN.

That said, ERFN and Cameco do not agree on everything, and the very presence of industrial activity on Nuhtsiye-kwi Benene, and the history of that activity, is of course set against the backdrop of a challenged historical relationship generally between First Nations and the Crown (the latter being represented in the within matter by the CNSC). There are important outstanding claims and grievances as to things like the rightful jurisdictions over the lands, and the treatment of First Nations in the region (including ERFN).

ERFN Comments on the Applications

ERFN is of the view that the present application Cameco has brought forward at a critical and complicated time when it comes to how ERFN feels about the nature and scale of industrial activity currently taking place on Nuhtsiye-kwi Benene.

On the one hand, ERFN believes that Cameco is generally a good corporate citizen that strives to operate safely and responsibly, and that Cameco operations provide important economic opportunities for ERFN and its members and businesses.

On the other hand, however, there are several factors that give ERFN considerable pause when it comes to its comfort level in relation to the present application.

First, the applicable market conditions related to the within operations appear to be trending in a direction that will no doubt incentivize Cameco and other industry proponents to aggressively increase activity to support the increased global demand that the market is calling for (i.e. for the resources of Nuhtsiye-kwi Benene). What this will mean for things like cumulative effects to Nuhtsiye-kwi Benene remains somewhat to be seen. But suffice it to say we are concerned.

Second, the proposed length of the renewal term for the Rabbit Lake operation – 20 years – represents the prospect of the Crown, through the CNSC, granting Cameco a **generational** licence. Literally a generation would go by before Cameco would be required to apply for its next licence term. This is of deep concern to ERFN.

Third, in ERFN's view, the Crown is still formatively coming to terms with both (a) the various harms it has caused First Nations including ERFN since the time settlers first set foot on Nuhtsiye-kwi Benene, and (b) how to best reconcile the pre-existence of ERFN on

these lands with the factual reality of current Crown control of the lands.

The Proposed Term is Not Consistent with Canada’s UNDRIP Commitment

To the latter point, the within application for a generational 20-year licence renewal is being made at a time when the Crown in Canada is working towards meaningful application of the *United Nations Declaration on the Rights of Indigenous Peoples* (“UNDRIP”) in accordance with the recently passed *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021. This legislation – which is federal law and which is long overdue - creates a legal requirement for the Government of Canada to take “all measures necessary” “to ensure that the laws of Canada are consistent with” UNDRIP.

We note Article 26 of UNDRIP which requires that “Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use...”. We also note Article 32.2 of UNDRIP which includes a requirement that Canada must obtain the free, prior and informed consent of Indigenous peoples “prior to the approval of any project affecting their lands or territories and other resources”.

Implementing UNDRIP in Canada will require a meaningful re-balancing and re-structuring of applicable rights, controls, and responsibilities between the Crown and First Nations. In our view, this general reconciliation and nation-building project is, again, formative; in 2023 we are very likely in a much different place on such matters than we will be in 2033, let alone 2043.

To be blunt, ERFN expects that federal law – including the legislation that empowers the CNSC and sets the terms for future licencing approvals – will, in the not-too-distant future, rightfully require the CNSC to share decision-making functions with ERFN when it comes to the regulation of activity in and on Nuhtsiye-kwi Benene.

Proposed Term

In this context, the CNSC has an obligation to ensure that there is opportunity for ERFN to meaningfully engage in this process with the Crown, including in respect to future Cameco licences. To extend the licence for 20 years against this rapidly-changing legal and constitutional backdrop would unfairly and unreasonably deny ERFN an opportunity to do so in any meaningful way.

Finally, while Cameco has been good in many ways to ERFN over the years in terms of investing in ERFN communities, members, and businesses, ERFN frankly is of the current

view – which it has made known to Cameco – that the Cameco-ERFN relationship is not as strong as it once was and is in general need of a re-set. In the coming months, ERFN is hopeful that Cameco will work closely with ERFN to review the terms of their Collaboration Agreement, and (a) materially increase the levels of support/investment that Cameco provides ERFN, and (b) look towards better and more meaningful ways of involving ERFN in its environmental stewardship functions.

Support for Licence Renewal

ERFN supports the renewal of the operating licence *per se* for the Rabbit Lake operation. However, we take issue with the term length being sought by Cameco.

In previous submissions like these, ERFN has suggested that terms as long as 10 years – let alone 20 years – are too long when it comes to the critical granting of operational licences for industrial activity on Nuhtsiye-kwi Benene.

ERFN is disappointed that Cameco has decided to pursue, in effect, a generational licence term. For the reasons set out above related to things like market conditions and the constitutional reconciling and restructuring of Crown-Indigenous decision-making structures in Canada, ERFN believes it would be a particularly inappropriate time for the CNSC to approve the 20-year, generational term of licence being sought by Cameco.

ERFN suggests that a term of between 5 and 7 years is appropriate in the present context. Depending on where things stand at the end of such a term, ERFN may then be willing to support a longer licence term. However, significant enhancements to ERFN's roles for oversight of Cameco operations and scope for collaboration to ensure safe, sustainable operations and benefits for ERFN and its members would need to be made at both the Cameco and CNSC levels before ERFN would support longer terms.

ERFN views these licence renewal hearings as an important opportunity (and one of few such opportunities) for ERFN to have a real say – in front of the decision maker – on ongoing uranium sector activity on Nuhtsiye-kwi Benene. ERFN recognizes and appreciates the opportunity provided annually through the Regulatory Oversight Report for Uranium and Mills in Canada (“Annual RORs”), as it allows ERFN to intervene on issues arising each year, but that process is not nearly a full surrogate for actual licencing hearings like this one.

When the CNSC recently granted Cameco a ten-year licence renewal for the Cigar Lake operation despite ERFN's formally-articulated concerns, it stated in effect that the Annual RORs are sufficient regulatory checks and balances when it comes to these critical

operating licences. ERFN respectfully disagrees. It has not been our practical experience that these types of review processes are sufficiently rigorous when viewed as an effective replacement for comprehensive licence-renewal proceedings.

ERFN holds what it considers to be a sacred responsibility to monitor and steward Nuhtsiye-kwi Benene, and to always make sure the lands in the region maintain a sustainable environmental balance. ERFN considers this responsibility to be just as important as the CNSC's mandate. All things considered right now, it seems to ERFN leadership and Elders that it would be inconsistent with that sacred responsibility for ERFN to agree to the generational, 20-year licencing term sought by Cameco. ERFN accordingly supports the renewal of the licence, but on a 5-7 year term.

As far as CNSC's mandate, for all the reasons set out above, we feel that it would be inconsistent with the Crown's sacred, Constitutional obligation to act honourably in these types of matters, for the CNSC to extend this licence for 20 years. Although we are not quite at a point in the nation-building process in Canada where the free, prior, and informed consent of ERFN is seen as fundamentally required here, it is arguable that Canada and Indigenous peoples are well on their way. To grant the longest licence term in the modern history of uranium mining/milling in northern Saskatchewan on the very eve of these fundamental changes being achieved, would be disappointing and dishonourable.

Sincerely,



Chief Jerry Bernard



Cheyenna Hunt, Director, Lands & Consultation