



Canadian Nuclear
Safety Commission

Commission canadienne
de sûreté nucléaire

Record of Proceedings, Including Reasons for Decision

In the Matter of

Applicant Canadian Nuclear Safety Commission

Subject **Revocation of the Current Licence for the
Madawaska Mine**

**Hearing
Date** **July 28, 2011**

RECORD OF PROCEEDINGS

Applicant: Canadian Nuclear Safety Commission

Address/Location: 280 Slater St., Ottawa, Ontario K1P 5S9

Purpose: Revocation of the current licence for the Madawaska Mine Site

Application received: N/A

Date of hearing: July 28, 2011

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

Members present: M. Binder, Chair

Secretary: M. Leblanc
Recording Secretary: D. Major

Licence: Revoked

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Introduction

1. The Madawaska Mine Site is a decommissioned mine located south of Bancroft, Ontario. The mine closed in 1982. CNSC staff are recommending that the current licence for the management of the Madawaska Mine Site, AECB-DA-139-0.7, be revoked as it can no longer be enforced since the licensee, Madawaska Mines Limited (MML), ceased to exist in 2005.
2. Initially, decommissioning at the Madawaska mine/mill and tailings management areas was undertaken through a joint venture (JV) agreement between the licensee, MML, and its partner, Con West Limited. Over the years, through mergers, privatization and amalgamation, Con West Limited became EWL Management Limited (EWL). In 2005, MML was removed from the Federal Corporate Registry as it was dissolved for failing to file annual returns. CNSC staff has communicated to EWL that they are responsible for identifying the partner holding the 51% ownership of MML, for ongoing safety of the site and for compliance with any applicable regulatory requirements. EWL has applied for, and a Designated Officer issued, a Waste Nuclear Substance Licence (WNSL-W5-3100.0/2021) for the management of the Madawaska Mine Site, valid from the moment the current licence is revoked until July 31, 2021.

Issue

3. In considering the matter, the Commission was required to decide, pursuant to section 25 of the *Nuclear Safety and Control Act*¹ (NSCA) and in accordance with subsection 8 (2) (h) of the *General Nuclear Safety and Control Regulations*² (GNSCR), if a failure to revoke the licence could pose an unreasonable risk to the environment, the health and safety of persons or national security.

Hearing

4. In accordance with s. 25 of the NSCA, the Commission may amend a licence on its own motion. A Panel of the Commission (hereafter referred to as the Commission) held a hearing on July 28, 2011 in Ottawa, Ontario. During the hearing, the Commission considered a written submission from CNSC staff (CMD 11-H109) and the request from EWL dated June 15, 2011.

Decision

5. 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 the conditions

¹ S.C. 1997, c. 9.

² S.O.R./2000-202

of subsection 8(2)(h) of the GNSCR have been met.

Therefore,

the Commission, pursuant to section 25 of the *Nuclear Safety and Control Act*, revokes the Decommissioning Licence AECB-DA-139-0.7 issued to Madawaska Mines Limited for the Madawaska Mine located in Bancroft, Ontario.

Issues and Commission Findings

Considerations for Revocation

6. CNSC staff considers that the revocation of the current licence, which was issued under the old *Atomic Energy and Control Act*, would be advisable to avoid inconsistencies with the *Nuclear Safety and Control Act* (NSCA) currently in force.
7. CNSC staff reported that a debt remains on CNSC's record for unpaid arrears resulting from MML's abandonment of the site and obligations under the licence. CNSC staff explained that, as per Section 6 of the *Debt Write-off Regulations*, the status of the licence is considered when extinguishing a debt and that normally the licence is revoked or expired. CNSC staff therefore recommends the revocation of the licence to avoid inconsistencies in the application of the NSCA and Regulations.

Site Safety

8. CNSC staff reported that the Madawaska mine site has been inspected yearly since the decommissioning was completed in the 1980's, with the most recent annual inspection having been conducted on April 28, 2010. CNSC staff noted that an extensive environmental sampling program is conducted by EWL and that uranium levels measured at this site fall below the CNSC optimization screening objective of 0.1 mg/L. CNSC staff also reported that no safety related issues have been identified during staff inspections or during the review of reported monitoring results.

MOE Groundwater Concerns

9. CNSC staff reported that uranium levels above the Ontario Drinking Water Quality Standard³ of 0.02 milligrams per litre were measured in three drinking water wells located adjacent to the former mine site in recent years. CNSC staff explained that there is no evidence that the source of the elevated mineralization in the wells originates from the former mine site and that the mineral variability found in the wells

³ Act. O. Reg. 169/03, s. 1

falls within the natural variability typical of highly mineralized zones of the Canadian Shield. CNSC staff reported that the Ontario Ministry of the Environment is working with EWL and landowners to address any concerns. CNSC staff also reported that measures are being taken by EWL to address this issue and that they are satisfied that the site is being managed adequately to protect the environment.

Site Maintenance and Oversight

10. CNSC staff reported that EWL is qualified to and has, as the site manager under the previous JV, made adequate provision for the protection of the environment and the health and safety of persons. CNSC staff also reported that they will continue to inspect the site for safety.

Technical Safety Review

11. CNSC staff reported that there is no precedent for a specific technical safety review for this type of request and that there are no outstanding safety issues resulting from CNSC's ongoing oversight at this site.

Application of the *Canadian Environmental Assessment Act*

12. Before making a licensing decision, the Commission must be satisfied that all applicable requirements of the *Canadian Environmental Assessment Act*⁴ (CEAA) have been fulfilled.
13. CNSC staff reported that it had completed an Environmental Assessment (EA) determination. CNSC staff stated that there was no requirement for an EA pursuant to subsection 5(1) of the CEAA.

Public and Aboriginal Consultation

14. CNSC staff reported that, apart from the issue of the elevated uranium levels measured in some wells adjacent to the former mine site, no other concerns have been expressed by the public. CNSC staff also reported that resistance against uranium exploration in Eastern Ontario will have no impact on CNSC requirements for ongoing management of existing historic sites.
15. CNSC staff stated that Aboriginal consultation was not necessary in relation to this request.

⁴ S.C. 1992, c. 37.

Conclusion

16. The Commission has considered the information and submissions of CNSC staff and EWL and is satisfied that the Madawaska mine site is currently being managed safely by EWL.
17. The Commission is also satisfied that Aboriginal consultation is not necessary in relation to this request and that all applicable requirements of the CEAA have been fulfilled.



Michael Binder
President,
Canadian Nuclear Safety Commission

JUL 28 2011

Date