



Canadian Nuclear  
Safety Commission

Commission canadienne  
de sûreté nucléaire

## Record of Decision

In the Matter of

Applicant AREVA Resources Canada Inc.

Subject Licensee Corporate Name Change from AREVA Resources Canada Inc. to Orano Canada Inc. and Amended Financial Guarantee for the Cluff Lake Project

Public Hearing  
Date August 1, 2018

**RECORD OF DECISION**

Applicant: AREVA Resources Canada Inc.

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Saskatoon, SK S7L 5X2

Purpose: Licensee Corporate Name Change from AREVA Resources Canada Inc. to Orano Canada Inc. and Amended Financial Guarantee for the Cluff Lake Project

Applications received: November 20, 2017 and February 15, 2018

Date of decision: August 1, 2018

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

Panel of Commission M. Binder, Chair

**Licence:** Amended  
**Revised Financial Guarantee:** Accepted

**Table of Contents**

**1.0 INTRODUCTION..... 1**  
**2.0 DECISION..... 2**  
**3.0 ISSUES AND COMMISSION FINDINGS ..... 3**  
    3.1 Corporate Name Change..... 4  
    3.2 Review of the Detailed Decommissioning Plan ..... 4  
    3.3 Financial Guarantee Proposal ..... 6  
**4.0 CONCLUSION ..... 7**  
**Appendix A – Intervenors ..... A**

## 1.0 INTRODUCTION

1. AREVA Resources Canada Inc. (AREVA; now Orano Canada Inc.) has submitted an application to the Canadian Nuclear Safety Commission<sup>1</sup> (CNSC) to amend the Cluff Lake Project Uranium Mine Decommissioning Licence (UMDL) UMDL-MINEMILL-CLUFF.00/2019, pursuant to subsection 24(2) of the *Nuclear Safety and Control Act*<sup>2</sup> (NSCA), to reflect the February 7, 2018 corporate name change from AREVA Resources Canada Inc. to Orano Canada Inc. (Orano).
2. The Cluff Lake Project is a former uranium mine and mill located in the Athabasca Basin of Northern Saskatchewan, approximately 75 km south of Lake Athabasca and 15 km east of the provincial border with Alberta. As part of their submission, AREVA provided a visually improved map illustrating the surface property lease area for the Cluff Lake Project. The current Cluff Lake Project UMDL is valid from August 1, 2009 to July 31, 2019.
3. The Commission may require, under subsection 24(5) of the NSCA, that the operators of nuclear facilities establish and maintain acceptable financial guarantees for the ultimate decommissioning of their facilities. G-206, *Financial Guarantees for the Decommissioning of Licensed Activities*<sup>3</sup> provides guidance on the attributes of an acceptable financial guarantee in terms of liquidity, certainty and adequacy of value, and continuity.
4. AREVA's UMDL requires that AREVA maintain a financial guarantee acceptable to the Commission. In November 2017, pursuant to licence condition 1.4, AREVA submitted an application for Commission acceptance of its proposed updated financial guarantee amount of C\$26.8 million based on the 2014 detailed decommissioning plan (DDP) and the financial guarantee instruments. Based on the 2009 DDP, AREVA currently maintains a financial guarantee in a form acceptable to the Commission and the Saskatchewan Ministry of Environment (SMOE) in the amount of C\$33.8 million in the form of irrevocable letters of credit.

### Issues

5. In considering the application, the Commission was required to decide:
  - a) whether Orano is qualified to carry on the activity that the amended licence would authorize;
  - b) whether, in carrying on that activity, Orano 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

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<sup>1</sup> 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> Statutes of Canada (S.C.) 1997, chapter (c.) 9.

<sup>3</sup> CNSC Regulatory Guide G-206, *Financial Guarantees for the Decommissioning of Licensed Activities*, June 2000.

international obligations to which Canada has agreed;

- c) whether the form and the amount of the financial guarantee is acceptable for the decommissioning activities related to the Cluff Lake Project; and
- d) whether the requirements of condition 1.4 of UMDL-MINEMILL-CLUFF.00/2019 has been satisfied.

### Hearing

- 6. Pursuant to section 22 of the NSCA, I established myself to preside as a Panel of one Commission Member to hear the application. The Commission, in conducting a public hearing based on written materials, considered written submissions from AREVA (CMD 18-H102.1) and CNSC staff (CMD 18-H102 and CMD 18-H102.A). The Commission also considered written submissions from 2 intervenors (see Appendix A for a list of interventions).
- 7. The Commission wishes to note that due to the interconnected nature of the two applications submitted by AREVA, and pursuant to subsection 20(3) of the NSCA requiring the Commission to deal with all proceedings before it as “...*informally and expeditiously as the circumstances and considerations of fairness permit,*” the Commission has decided to hear these matters in the same proceeding.
- 8. Further, the Commission notes that the corporate name change licence amendment application submitted by AREVA also requests an amendment reflecting the licensee’s corporate name change to the Uranium Mine Operating Licence (UMOL-MINEMILL-McCLEAN.00/2027) for its McClean Lake Operation. The Commission states that this amendment request will be considered in a separate proceeding.

### **2.0 DECISION**

- 9. Based on its consideration of the matter, as described in more detail in the following sections of this *Record of Decision*, the Commission is satisfied that the licensee satisfies the conditions of subsection 24(4) of the NSCA. Therefore,

the Commission, pursuant to section 24 of the *Nuclear Safety and Control Act*, amends the Uranium Mine Decommissioning Licence UMDL-MINEMILL-CLUFF.00/2019 issued to AREVA Resources Canada Inc. for its Cluff Lake Project to reflect the licensee corporate name change to Orano Canada Inc. The amended licence, UMDL-MINEMILL-CLUFF.01/2019, is valid until July 31, 2019.

10. The Commission also concludes that the licensee satisfies condition 1.4 of its licence. Therefore,

the Commission, pursuant to section 24 of the *Nuclear Safety and Control Act*, accepts the proposed financial guarantee and financial guarantee instrument for the Cluff Lake Project in Northern Saskatchewan and amends Appendix A and B of UMDL-MINEMILL-CLUFF.00/2019.

11. With this decision, the Commission accepts the visually improved map of the surface property lease area and updates Appendix A with this new map provided by AREVA.
12. Additionally, with this decision, the Commission modifies Appendix B to read “Cluff Lake Project, Detailed Decommissioning Plan, Version 3, December 2014”.

### **3.0 ISSUES AND COMMISSION FINDINGS**

13. In making its licensing decisions, the Commission considered a number of issues and submissions relating to Orano’s qualification to carry out the licensed activities. The Commission also considered 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.
14. The Commission also considered the acceptability of the proposed DDP, financial guarantee and financial guarantee instrument for the Cluff Lake Project.
15. AREVA submitted an application for the acceptance of its financial guarantee and the form of this financial guarantee on November 20, 2017. AREVA also submitted a licence amendment application for the Cluff Lake Project on February 15, 2018. In its consideration of this matter, the Commission examined the completeness of the applications and the adequacy of the information submitted by the licensee, as required by the NSCA, the *General Nuclear Safety and Control Regulations*<sup>4</sup> (GNSCR) and other applicable regulations made under the NSCA.
16. The Commission notes that, pursuant to section 7 of the GNSCR, since AREVA has applied for a licence amendment, the licence amendment application may incorporate by reference any information that is included in the current licence.
17. Details and the Commission’s consideration of information submitted by AREVA in support of its applications, of CNSC staff assessments, and of interventions submitted in relation to this matter are provided in the following sections of the *Record of Decision*.

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<sup>4</sup> SOR/2000-202.

### **3.1 Corporate Name Change**

18. In its written submission, AREVA reported that the purpose of the corporate name change request from AREVA Resources Canada Inc. to Orano Canada Inc. was to support the new strategic vision and brand identity of the parent company to reflect the focus on the nuclear fuel cycle. AREVA confirmed to the Commission that, as Orano, it would continue to meet all licensing and regulatory obligations.
19. The Commission noted that, as part of its submission for this hearing, Orano submitted a copy of its Certificate of Amendment under the *Canada Business Corporations Act*.<sup>5</sup> CNSC staff confirmed that the Certificate of Amendment showed that only the corporate name had changed, and that the corporation number remained the same.
20. The Commission notes that, following its assessment of AREVA's licence amendment application, AREVA had demonstrated that it met the requirements of Section 6 of the GNSCR.
21. AREVA explained in its written materials that it would ensure that all relevant documentation, including the financial guarantee, would be amended to account for the corporate name change and that all of AREVA's stakeholders would also be advised of the change.
22. Through their written submission, the Buffalo Narrows Metis Community Council informed the Commission that it had no concerns with the corporate name change, and was of the opinion that all of AREVA's legal responsibilities should remain unchanged following the corporate name change to Orano.
23. Based on this information, the Commission is satisfied that the requested licence amendment to reflect the corporate name change to Orano Canada Inc. is administrative in nature and that no operational or organizational changes will result from this licence amendment.

### **3.2 Review of the Detailed Decommissioning Plan**

24. The Commission notes that AREVA has maintained a DDP pursuant to sub-paragraph 3(a)(viii) of the *Uranium Mines and Mills Regulations*, and in-line with the criteria of G-219, *Decommissioning Planning for Licensed Activities*.<sup>6</sup> The 2009 DDP referenced in Appendix B of the UMDL was approved by the Commission in 2009.<sup>7</sup>
25. AREVA reported that, based on the cost estimates included in the 2009 DDP,

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<sup>5</sup> R.S.C., 1985, c. C-44.

<sup>6</sup> CNSC Regulatory Guide G-219, *Decommissioning Planning For Licensed Activities*, June 2000.

<sup>7</sup> Record of Proceedings, Including Reasons for Decision. AREVA Resources Canada Inc. *Application to Renew the Cluff Lake Uranium Mine Decommissioning Licence*. June 10, 2009.

decommissioning work completed at the Cluff Lake Project since 2009 had left the existing financial guarantee outdated and overvalued. In its submission to the Commission, AREVA provided an updated map illustrating the surface property lease area for the Cluff Lake Project. The Commission notes, and accepts, CNSC staff's suggestion to update the existing surface property lease map in Appendix A of the licence with this simplified, visually improved, map. AREVA stated that in 2014, an updated DDP, including an updated cost estimate, had been submitted to the SMOE and the CNSC for respective provincial and federal regulatory approval. AREVA further reported that the cost estimate, which formed the basis on which an appropriate financial guarantee is determined, accounted for the remaining decommissioning activities, including: annual monitoring costs; project management time; and funding for activities required to transfer the site to the province of Saskatchewan's Institutional Control Program (ICP).

26. CNSC staff submitted that, based on its assessment, the updated 2014 DDP and cost estimate submitted by AREVA met the respective federal and provincial regulatory requirements from the CNSC and the SMOE, including the requirements of G-219 and CSA N294-09, *Decommissioning of facilities containing nuclear substances*.<sup>8</sup> Further, CNSC staff confirmed to the Commission that the updated DDP contained no significant modifications or deviations from the design decommissioning conditions outlined in the Commission-approved 2009 DDP.
27. AREVA informed the Commission that the updated 2014 DDP, including the financial guarantee, had already been reviewed and accepted by the SMOE.<sup>9</sup> AREVA further noted that a Memorandum of Understanding between the CNSC and the province of Saskatchewan stipulated that the proposed financial guarantee approved by the Province was conditional until it was accepted by the Commission.
28. Noting the economic concerns and suggestions raised by the Buffalo Narrows Metis Community Council in their written intervention, the Commission notes that the NSCA does not provide for economic considerations or resource development rights. In its consideration of information on this matter that was provided by CNSC staff, the Commission also notes that, because the financial instruments for the financial guarantee proposed by AREVA were irrevocable letters of credit, no liquid asset would be returned to AREVA.
29. The Commission observed that many of the issues raised in V. Drummond and R. Gardiner's written intervention had been addressed during the 2016<sup>10</sup> and 2017.<sup>11</sup> public Commission meetings while presenting the *Regulatory Oversight Report (ROR) for Uranium Mines, Mills, Historic and Decommissioned Sites in Canada: 2015* and the *ROR for Uranium Mines and Mills in Canada: 2016*, respectively. CNSC staff also

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<sup>8</sup> N294-09, *Decommissioning of facilities containing nuclear substances*, CSA Group, 2014.

<sup>9</sup> SMOE Letter, A. Merkowsky (SMOE) to D. Huffman (AREVA), *Cluff Lake Project-Detailed Decommissioning and Reclamation Plan & Financial Assurance*, July 6, 2015, File S25020-50/CL/06.

<sup>10</sup> *Minutes of the Canadian Nuclear Safety Commission (CNSC) Meeting held on December 14, 2016*.

<sup>11</sup> *Minutes of the Canadian Nuclear Safety Commission (CNSC) Meeting held on December 13 and 14, 2017*.



informed the Commission that both AREVA and CNSC staff had addressed R. Gardiner's concerns in a magazine article<sup>12</sup> and during a site visit.

30. In their written intervention, V. Drummond and R. Gardiner expressed concerns to the Commission about environmental protections pertaining to legacy projects and tailings management. CNSC staff informed the Commission that the decommissioning of the Cluff Lake Project had been designed and maintained in accordance with regulatory requirements. CNSC staff provided additional details about the long-term performance requirements for which the tailings management area (TMA) had been designed. Based on the information provided, the Commission is satisfied that the TMA had been designed to manage both radioactive and non-radioactive contaminants.
31. The Commission further considered the concerns expressed by V. Drummond and R. Gardiner's intervention in respect of environmental releases from the TMA interacting with surface water and local wildlife including moose. In its written submission, CNSC staff informed the Commission that the concentrations of hazardous substances in surface waters were below the decommissioning objectives established in the DDP, which had been evaluated and accepted by CNSC staff. Further, CNSC staff reported to the Commission that the results of a moose sample provided by the intervenor had been determined to originate from a healthy moose which was safe to eat. The Commission notes that these results had been previously presented and discussed at a public Commission meeting<sup>13</sup> and is satisfied that the TMA did not present a risk to people, animals or the environment.
32. The Commission noted that, in their intervention, V. Drummond and R. Gardiner stated that 14 years of decommissioning and monitoring represented an insufficient period of time to draw any conclusions prior to returning the site to the Province of Saskatchewan's ICP. V. Drummond and R. Gardiner also stated that the proposed financial guarantee of C\$26.8 million was insufficient to cover the future decommissioning costs. In this regard, CNSC staff reported to the Commission that the financial guarantee was specific to the DDP, which had been reviewed, determined to be acceptable, and accepted by CNSC staff and the SMOE.
33. After examining the information provided, the Commission is satisfied that the proposed 2014 DDP is in accordance with regulatory requirements and provides a credible cost estimate for the continued Cluff Lake Project decommissioning activities.

### **3.3 Financial Guarantee Proposal**

34. The Commission assessed the decommissioning costs estimate associated with the remaining decommissioning and monitoring activities for the Cluff Lake Project, as described in the 2014 DDP. AREVA submitted that the estimated decommissioning cost was C\$26.8 million, representing a decrease of C\$6.8 million from the current financial

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<sup>12</sup> *Cluff Lake Decommissioning: Is it Complete*, Opportunity North (Magazine), January-February 2018, p. 12-16.

<sup>13</sup> *Minutes of the Canadian Nuclear Safety Commission (CNSC) Meeting held on December 14, 2016.*

guarantee.

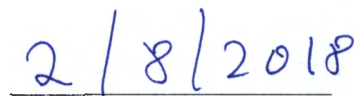
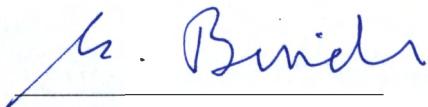
35. The Commission notes that AREVA currently maintains a financial guarantee of C\$33.6 million for its Cluff Lake Project through irrevocable letters of credit. AREVA further submitted that it intended to continue to use irrevocable letters of credit as the financial guarantee instrument.
36. In its written materials, CNSC staff confirmed the information provided by AREVA and explained that, upon Commission acceptance of the proposed revised financial guarantee, Orano would provide new irrevocable letters of credit to the SMOE with copies to the CNSC. CNSC staff also confirmed to the Commission in its written submission that AREVA's proposed financial guarantee and instrument met the specifications of G-206.
37. After considering the submissions from AREVA and CNSC staff, the Commission is satisfied that the proposed financial guarantee amount and the financial guarantee instrument is adequate to provide for the Cluff Lake Project decommissioning activities.

#### **4.0 CONCLUSION**

38. The Commission has considered the licence amendment applications and the application for the acceptance of an updated financial guarantee submitted by the licensee. Based on its consideration of the information submitted, the Commission is satisfied that the applications meet the requirements of the NSCA, the GNSCR and other applicable regulations made under the NSCA.
39. The Commission has also considered the information and submissions of the applicant, CNSC staff and all participants as set out in the material available for reference on the record, as well as the written interventions for the hearing.
40. In respect of the licence amendments, the Commission is satisfied that Orano meets the test set out in subsection 24(4) of the *Nuclear Safety and Control Act*. That is, the Commission is of the opinion that Orano is qualified to carry on the activity that the proposed licence will authorize and that it 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.
41. In respect of the acceptance of the updated financial guarantee and financial guarantee instruments for the Cluff Lake Project, the Commission is satisfied that the 2014 DDP submitted by AREVA meets the test set out in subsection 24(4) of the *Nuclear Safety and Control Act*. That is, the Commission is of the opinion that 2014 DDP submitted by AREVA provides a credible cost estimate for the Cluff Lake Project decommissioning activities and that the proposed financial guarantee and financial guarantee instrument is adequate.
42. Therefore, the Commission, pursuant to section 24 of the *Nuclear Safety and Control*

*Act*, amends the Uranium Mine Decommissioning Licence for the Cluff Lake Project issued to AREVA Resources Canada Inc. to reflect the licensee corporate name change to Orano Canada Inc. The amended licence, UMDL-MINEMILL-CLUFF.01/2019, is valid until July 31, 2019.

43. The Commission expects Orano to amend all relevant documentation to account for the corporate name change and to advise all stakeholders in regard to this change.
44. Additionally, pursuant to section 24 of the *Nuclear Safety and Control Act*, the Commission accepts the proposed financial guarantee for the Cluff Lake Project in the amount of C\$26.8 million in the form of irrevocable letters of credit and amends the Uranium Mine Decommissioning Licence for the Cluff Lake Project issued to Orano to reflect the updated surface property lease area map (Appendix A), and the updated DDP (Appendix B).
45. The Commission recognizes that, pursuant to the MOU between the CNSC and the province of Saskatchewan, Orano will provide the SMOE with the new letters of credit as financial guarantee instruments and expects Orano to submit copies of the letters of credit to CNSC staff with 90 days of the publication of the decision. The Commission reminds Orano, that only the Commission and not SMOE, can determine the acceptability and amount of the financial guarantee for the purposes of the NSCA.



Michael Binder  
President,  
Canadian Nuclear Safety Commission

Date

## Appendix A – Intervenors

The Buffalo Narrows Metis Community Council	18-H102.2
Val Drummond and Rodney Gardiner	18-H102.3