

**Canadian Nuclear  
Safety Commission**

**Commission canadienne de  
sûreté nucléaire**

**Public Meeting**

**Réunion publique**

**December 14, 2001**

**Le 14 décembre 2001**

Public Hearing Room  
14th floor  
280 Slater Street  
Ottawa, Ontario

Salle d'audiences publiques  
14e étage  
280, rue Slater  
Ottawa (Ontario)

**Commission Members present**

**Commissaires présents**

Ms Linda J. Keen, President  
Dr. Christopher R. Barnes  
Dr. Yves M. Giroux  
Mr. Alan R. Graham  
Ms Letha J. MacLachlan

Mme Linda J. Keen, présidente  
M. Christopher R. Barnes  
M. Yves M. Giroux  
M. Alan R. Graham  
Mme Letha J. MacLachlan

**Secretary:** Mr. Marc A. Leblanc

**Secrétaire:** M. Marc A. Leblanc

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1 Ottawa, Ontario

2 --- Upon resuming on Friday, December 14, 2001

3 at 8:35 a.m.

4

5 **01-M84**

6 **Opening Remarks**

7 MR. LEBLANC: Good morning, ladies  
8 and gentlemen.

9 Welcome to the public meeting of  
10 the Canadian Nuclear Safety Commission, in fact  
11 the continuation of a meeting that started  
12 yesterday.

13 On November 15 the Commission made  
14 the decision to postpone all items listed in the  
15 meeting agenda for that day until December 13 and  
16 December 14. These items are listed in  
17 CMD 01-M86, which is the agenda of the meeting of  
18 the Commission.

19 This morning we will proceed with  
20 Agenda items 9 and 10.

21 Mon nom est Marc Leblanc. Je suis  
22 secrétaire de la Commission et j'aimerais aborder  
23 certains aspects touchant le déroulement de la  
24 réunion.

25 Comme toujours les deux langues

1 officielles du Canada peuvent être utilisées  
2 pendant les discussions et les présentations de ce  
3 matin. Pour aider les traducteurs, j'aimerais  
4 suggérer que les présentateurs ne parlent pas trop  
5 rapidement.

6 There are earphones and channel  
7 receivers available at the reception desk. You  
8 will find English on Channel 7 et en français au  
9 poste 8.

10 Les transcriptions devraient être  
11 disponibles sur le site web de la Commission la  
12 semaine prochaine.

13 To aid those transcripts and make  
14 them as meaningful as possible, we would ask  
15 everybody to identify themselves clearly before  
16 speaking so that the transcripts are as complete  
17 and clear as possible.

18 La réunion de la Commission est  
19 enregistrée et transcrite textuellement. La  
20 transcription se fait dans l'une ou l'autre des  
21 langues officielles compte tenu de la langue  
22 utilisée par le participant à la réunion.

23 We would ask you to silence your  
24 cellphones, please.

25 Madame Keen, présidente et

1 première dirigeante de la Commission va présider  
2 la réunion d'aujourd'hui.

3 Madame Keen.

4 LA PRÉSIDENTE: Bonjour et merci,  
5 monsieur Leblanc.

6 Good morning, Ladies and  
7 gentlemen.

8 Before commencing today's agenda I  
9 would like to introduce the Members of the  
10 Commission who are with us today.

11 On my left is Mr. Graham and  
12 Dr. Giroux. On my right is Ms MacLachlan and  
13 Dr. Barnes.

14 In addition to Monsieur Leblanc,  
15 who is the Secretary of the Commission, we also  
16 have Ms Irene Gendron, who is the Senior Legal  
17 Counsel of the Commission with us today.

18 I would like to read a statement  
19 before we start which is applicable to two of the  
20 CMDs that we are looking at today.

21 The letter that is referred to in  
22 my statement will be made available. Copies will  
23 be made available to you to read.

24 On December 11th a letter  
25 referencing CMDs 01-M77 and 01-M78 was sent by

1 e-mail and faxed to me as President of the CNSC  
2 from a number of organizations, namely the  
3 Canadian Coalition for Nuclear Responsibility,  
4 Energy Probe, Northwatch, Port Hope Environmental  
5 Advisory Committee and Sierra Club of Canada.

6 While the CNSC by-laws which  
7 govern the procedure for meetings of the CNSC,  
8 such as this one, do not provide for persons to  
9 have the opportunity to be heard in the normal  
10 course of events, the Commission notes that there  
11 may well be situations where it is appropriate  
12 that such an opportunity is afforded.

13 After due consideration, and even  
14 though the submission arrived late in the process  
15 and arrived not by the normal process, that is  
16 through the Secretary of the Commission, in view  
17 of the fact that certain of the matters in the  
18 letter raise public interest concerns with respect  
19 to the recommended granting of exemptions from  
20 licensing, the Commission has decided to accept  
21 the letter as part of its consideration on the  
22 matters before it.

23 I want to stress that we will be  
24 considering only the submission with respect to  
25 the granting of exemptions from licensing, namely

1           that none of the sites listed in CMDs 01-M77 and  
2           01-M78 should be permitted to remain unlicensed  
3           for an indefinite period.

4                       The other submissions in the  
5           letter related to the eventual licensing of the  
6           various sites and the procedures to be followed  
7           are premature, since there is no licensing  
8           procedure under consideration at this time.

9                       Any applications for licences will  
10          be considered in accordance with the requirements  
11          of the Act and the CNSC rules of procedure.

12                      The Commission notes the interests  
13          of the authors of the letter in being involved in  
14          any such future licensing procedures.

15                      I am making this statement in  
16          respect of CMD 01-M77 and CMD 01-M78.

17                      With that statement in the record,  
18          copies of the letter, as I mentioned earlier, will  
19          be made available to people in the room as soon as  
20          possible.

21                      I will now move on to the agenda  
22          of the meeting.

23                      I will start by Item No. 9.1,  
24          unlicensed uranium tailings management sites.

25                      I note that we will start with an

1 oral presentation by the CNSC staff, as noted in  
2 CMDs 01-M77 and 01-M77.A and I will turn it over  
3 to Mr. Pereira.

4

5 **01-M77 / 01-M77.A**

6 **Oral presentation by CNSC staff**

7 MR. PEREIRA: Thank you,  
8 Madam Chair.

9 Good morning, Madam Chair and  
10 Members of the Commission.

11 For the record, my name is Ken  
12 Pereira. I am the Director General of the CNSC  
13 Directorate of Fuel Cycle and Materials  
14 Regulation.

15 The subject matter of this CMD is  
16 the activities leading to CNSC licensing of  
17 unlicensed uranium mine tailing sites. With one  
18 exception these sites were mined before there was  
19 regulatory control of uranium mining by the Atomic  
20 Energy Control Board.

21 With the coming into effect of the  
22 Nuclear Safety and Control Act in 2000, the  
23 applicability of federal control to these sites,  
24 as well as the tools available to the CNSC to  
25 apply that control have been clarified greatly.

1 CNSC staff has undertaken a program to bring all  
2 of these sites under regulatory control required  
3 by legislation.

4 In addition to tailings at four  
5 operating uranium mining sites in northern  
6 Saskatchewan there are tailings resulting from  
7 former uranium mining and milling activities at  
8 19 other sites in Canada, located in the Northwest  
9 Territories, Saskatchewan and Ontario.

10 Of these 19, eight are already  
11 under CNSC licence. We have now received an  
12 application or a written commitment to apply for a  
13 licence for the 11 remaining sites, although  
14 multiple ownership issues at the Bicroft site  
15 still need to be resolved.

16 In the CMD you will see reference  
17 to Lac Properties and that may be a bit confusing.  
18 Lac Properties is part of the Bicroft site.

19 In addition to tailing sites,  
20 there may be some other sites -- or there are some  
21 other sites associated with former uranium mining  
22 activities. A review of these sites is under way,  
23 which will determine whether each of these sites  
24 qualifies for an exemption under the regulations,  
25 or a specific exemption by the Commission, or for

1 a licence.

2 Of the 11 sites not yet licensed,  
3 only one, Agnew Lake, has previously been  
4 licensed. That site was released from licensing  
5 under the Atomic Energy Control Act in the early  
6 1990s when the mining company's leases reverted to  
7 the provincial Crown.

8 Nine of these unlicensed sites  
9 consist only of static tailings impoundments. The  
10 other two unlicensed sites, in the Elliot Lake  
11 area, also have water treatment systems to treat  
12 effluent so that it meets environmental acceptance  
13 criteria before it is discharged to the  
14 environment.

15 At least two of the 11 unlicensed  
16 sites, the ones at Gunnar and Lorado, will require  
17 significant rehabilitation work. It is expected  
18 that this work will be done under the terms of a  
19 decommissioning licence.

20 Regardless of whether or not there  
21 is any short term remediation or effluent  
22 treatment work required, all of the uranium  
23 tailing sites will require some form of permanent  
24 control to prevent unsuitable activities such as  
25 residential use of the land, which could result in

1 doses exceeding the regulatory limit.

2 One exemption quantity of  
3 dispersable natural uranium, that is 10 kBq,  
4 corresponds to at most a few handfuls of tailings.  
5 There is more than one exemption quantity of  
6 radioactive material at all of the tailings sites,  
7 and potentially at some of the mining sites  
8 without tailings, so an exemption under section 5  
9 of the Nuclear Substances and Radiation Devices  
10 Regulations is not possible. Therefore, the  
11 regulatory action under consideration for these  
12 sites is licensing.

13 If any major remediation work --  
14 for example, reconstruction of dams -- is  
15 required, we expect that this would be done under  
16 a Uranium Mine Decommissioning Licence.

17 At many of the sites we do not  
18 anticipate that major remediation work will be  
19 required, and for the most part these sites can be  
20 licensed under the terms of a Waste Nuclear  
21 Substances Licence.

22 However, at least one of the  
23 tailings sites in the Elliot Lake area has more  
24 than 1 Terabecquerel of activity, which makes it a  
25 nuclear facility under section 19 of the General

1 Nuclear Safety and Control Regulations.

2 The assessment and licensing  
3 process, including associated environmental  
4 assessments, can take considerable time. CNSC  
5 staff is recommending that exemptions be put in at  
6 the sites which are not yet under licence. The  
7 purpose of these exemptions would be to avoid  
8 placing licence applicants in a position of  
9 non-compliance with the law while their licence  
10 applications are being assessed.

11 The issuing of exemptions  
12 contributes to the dialogue leading to licensing  
13 in two ways.

14 Firstly, by avoiding confrontation  
15 over the issue of current non-compliance for  
16 existing historic material; and

17 Secondly, by subjecting the  
18 discussion process to the discipline of a time  
19 limit.

20 It should be noted that the  
21 proposed exemptions would permit possession and  
22 routine monitoring and maintenance, but not  
23 decommissioning activities such as construction or  
24 rehabilitation of dams.

25 As a result of a study of the

1 situation at each of these sites, CNSC staff  
2 concludes that:

3 The granting of the proposed  
4 time-limited exemptions would meet the  
5 requirements of section 11 of the General Nuclear  
6 Safety and Control Regulations;

7 The issuing of exemptions is not a  
8 trigger under section 5 of the Canadian  
9 Environmental Assessment Act, and therefore an  
10 environmental assessment is not required for this  
11 action; and

12 Issuing of the proposed exemptions  
13 will not reduce or deny opportunities for public  
14 involvement.

15 Note that these conclusions apply  
16 to the exemptions sought in this CMD and not to  
17 the subsequent activity of licensing.

18 Therefore, CNSC staff recommends  
19 that the Commission grant exemptions from the  
20 requirement for a licence to possess, manage and  
21 store nuclear substances at the following sites:

22 At the Spanish American, Milliken,  
23 Lacnor, Nordic/Buckles and Pronto sites near  
24 Elliot Lake, Ontario, until December 31, 2002;

25 At the Dyno site near Bancroft,

1 Ontario, until December 31, 2003;

2 At the Agnew Lake site near  
3 Sudbury, Ontario, the Port Radium site in the  
4 Northwest Territories; the Bicroft site near  
5 Bancroft, Ontario; and the Gunnar and Lorado sites  
6 in northern Saskatchewan, until December 31, 2004;  
7 and

8 At former uranium mine sites where  
9 there are not tailings, until December 31, 2004.

10 That concludes our presentation,  
11 Madam Chair. CNSC staff are available to answer  
12 any questions the Commission may have.

13 THE CHAIRPERSON: Thank you very  
14 much.

15 The floor is now open for  
16 questions from the Commission Members.

17 Ms MacLachlan.

18 MEMBER MacLACHLAN: In CMD 01-M77,  
19 under the issue of public interest, you say that:

20 "Generally no public interest  
21 has been expressed concerning  
22 the CLEAN program, nor  
23 specifically for the  
24 exemption of sites and  
25 activities described in this

1 CMD." (As read)

2 Could you tell me what processes  
3 were used for soliciting public input on these  
4 issues?

5 MR. PEREIRA: The CLEAN program is  
6 the subject of the subsequent CMD, M78, but we can  
7 provide some information on what public interest  
8 has been solicited.

9 I will ask Mr. Stenson to comment  
10 on that.

11 MEMBER MacLACHLAN: If I could  
12 just be clear, not just the CLEAN program but also  
13 the move to exempt these areas from licensing for  
14 the specified periods of time.

15 MR. PEREIRA: I will ask  
16 Mr. Clement to comment on public involvement in  
17 the mining exemption activities.

18 Any comment on that aspect,  
19 Mr. Clement?

20 MR. CLEMENT: Thank you,  
21 Mr. Pereira.

22 For the record, my name is Chris  
23 Clement. I am a Project Officer in the Waste and  
24 Decommissioning Division.

25 The interactions have been mainly

1 with respect to these exemptions with the  
2 proponents or the future licensees. There has  
3 been some interaction with other parties, but it  
4 has been very limited at this time.

5 Our view is that the public  
6 consultation period will happen during the  
7 licensing phases which will occur after the  
8 exemption has been granted, if the exemption is  
9 granted.

10 Maybe I will ask Mr. Stenson to  
11 elaborate further on the CLEAN program itself in  
12 more broad context.

13 MR. STENSON: Thank you. I am Ron  
14 Stenson, also a Project Officer with the Waste and  
15 Decommissioning Division.

16 The CLEAN program was designed as  
17 an administrative program in order to deal with a  
18 number of issues that arose because of changes in  
19 the regulatory requirements from the old Act to  
20 the new Act.

21 We haven't actively solicited  
22 public input on any of the administrative actions  
23 that were taken today because the public input  
24 would be more appropriate during a licensing phase  
25 if we went to licensing of certain things or

1           during any activities that may occur subsequent to  
2           the exemption.

3                           For instance, some of the historic  
4           properties in the long run, as required, will be  
5           cleaned up and the clean up will be done under  
6           licence and at that time obviously the licensing  
7           activities would trigger public consultation.

8                           MEMBER MacLACHLAN: Just to be  
9           clear, the onus for conducting public consultation  
10          will be on the potential licensees?

11                          MR. STENSON: That is correct.

12                          MEMBER MacLACHLAN: Thank you.

13                          THE CHAIRPERSON: Dr. Giroux.

14                          MEMBER GIROUX: Yes. I would like  
15          to address first the physical state of the  
16          tailings management and to hear from staff  
17          assurances that all the retaining ponds and dams  
18          and water treatment systems are in good shape and  
19          able to function for at least the time of the  
20          duration of the limit -- the duration of the  
21          exemption that you propose.

22                          MR. PEREIRA: Thank you,  
23          Dr. Giroux.

24                          CNSC staff have visited all of  
25          these sites and so have carried out preliminary

1 assessment work.

2 I will ask Mr. Clement again to  
3 provide information on what our observations are  
4 from those preliminary assessments.

5 MR. CLEMENT: Yes. As Mr. Pereira  
6 said, staff have visited all of the sites. This  
7 is not simply in the recent days. Many of these  
8 sites have been visited for many years informally  
9 even though they weren't under licence.

10 Staff have not noted any gross  
11 deficiencies at the sites where there are  
12 containment structures, for example, and as part  
13 of the licensing and environmental assessment  
14 process we will be conducting -- or asking the  
15 proponents to conduct more detailed assessments to  
16 ensure that health, safety and the environment are  
17 adequately protected.

18 If significant action needs to be  
19 undertaken to improve the status of any of the  
20 sites, there will be licence conditions or other  
21 mechanisms we put into place to ensure that that  
22 is taken care of.

23 MEMBER GIROUX: I would like to  
24 explore now the quality of the dialogue that you  
25 mentioned you had with prospective licensees. I

1 understand from the supplementary CMD that you  
2 have received letters of intent from all of the  
3 responsible authorities.

4 Am I correct in assuming that the  
5 duration of the exemptions that you propose, which  
6 vary from site to site, have been discussed and  
7 sort of agreed with the authorities responsible?  
8 There is an agreement that this is the time  
9 required to come to licensing?

10 MR. PEREIRA: The duration of the  
11 exemption is related to how far we have  
12 progressed. In many instances we already have  
13 applications for licences and we are already  
14 processing those applications, carrying out  
15 assessments.

16 Many of these processes will  
17 trigger CEAA, so in the duration is including a  
18 period that is appropriate to allow a CEAA  
19 assessment to be completed and public consultation  
20 to be completed.

21 Yes, the duration of the  
22 exemptions has been discussed with the applicants  
23 or the organizations that have indicated an intent  
24 to apply, and they are aware of the duration and  
25 what is expected to be covered during that time.

1 THE CHAIRPERSON: Mr. Graham.

2 MEMBER GRAHAM: A couple of  
3 questions with regard to these sites.

4 I realize we are dealing with  
5 exemptions, but in every instance on these sites  
6 is the financial ability of the owners there to do  
7 the decommissioning and are there guarantees in  
8 place? I realize there is no licence so there is  
9 no licence requirement for a guarantee, but I am  
10 wondering in which way has there been licences  
11 or bonds posted with provincial authorities, or  
12 so on?

13 MR. PEREIRA: Some of the sites  
14 are now controlled or owned by provincial  
15 governments, so there is sort of an assurance  
16 there that there is government funding behind any  
17 proposed action.

18 But many are also in the private  
19 sector and we do have financial assurance in the  
20 case of some of the sites.

21 I will ask Mr. Clement again to be  
22 more specific about what is in place for which  
23 sites.

24 In some cases the letter of intent  
25 just indicates a commitment on the part of the

1 private industry company to do what is required  
2 under the legislation.

3 I will ask Mr. Clement to  
4 elaborate, though.

5 MR. CLEMENT: Thank you.

6 Yes. As Mr. Pereira indicated the  
7 sites for which the Crown is the owner or  
8 caretaker are not in issue.

9 For the other sites, many of the  
10 applicants or future applicants are licensees for  
11 other sites, in which case many of them have  
12 financial guarantees in place already. They are  
13 large enough companies that we don't see an issue  
14 in the next three years that they will default on  
15 any financial obligations.

16 In addition, having made a  
17 commitment in writing to proceed with licensing  
18 shows that they are committed to actually taking  
19 care of the problems at these sites. So staff has  
20 no serious concerns that financial obligations are  
21 required in the interim until licensing phase when  
22 it would normally occur.

23 MEMBER GRAHAM: My question really  
24 was, are any of these mines -- or any of these  
25 sites, I should say, owned by a company that is

1           either insolvent or non-existent at this time or  
2           has very limited ability to do major expenditures?

3                         MR. PEREIRA: No, that is not the  
4           case for any of these sites.

5                         Where companies have gone out of  
6           business the sites have been taken over by the  
7           provincial government in the province in question.

8                         MEMBER GRAHAM: So you have had  
9           consultation, then, with provincial authorities on  
10          those sites and they would then be the applicant,  
11          would they, for the licence?

12                        MR. PEREIRA: That is correct. We  
13          have had discussions with the Government of  
14          Ontario and with the Government of Saskatchewan.

15                        In the case of Ontario the process  
16          is more advanced than in Saskatchewan.

17                        THE CHAIRPERSON: Dr. Barnes.

18                        MEMBER BARNES: Yes, just a few  
19          more then.

20                        I realize my questions might  
21          pertain to later work, but is there much  
22          anticipated further study or research at these  
23          sites involved to better assess their problems?

24                        MR. PEREIRA: I can ask  
25          Mr. Clement to elaborate on what we expect to do

1 in the assessment phase.

2 MR. CLEMENT: In the short term  
3 there will be, for likely all of these sites, an  
4 environmental assessment undertaken of one degree  
5 or another. We will also undertake assessments  
6 with respect to licensing so we can determine  
7 definitely what work needs to be done at these  
8 sites to make sure that safety is maintained.

9 We don't anticipate significant  
10 work at most of the sites that is beyond care,  
11 maintenance and monitoring work, except for the  
12 Gunnar and Lorado sites in northern Saskatchewan  
13 where we do anticipate that full decommissioning  
14 work will be required. That will require a  
15 significant environmental assessment and further  
16 study.

17 MEMBER BARNES: I realize that  
18 many of the sites are in somewhat remote areas,  
19 but are they adequately signed as a potential  
20 hazard?

21 MR. PEREIRA: Again I will ask  
22 Mr. Clement to provide the information.

23 MR. CLEMENT: Yes, they are, for  
24 the most part, adequate for today. There may be  
25 further requirements as we proceed through

1 environmental assessment and licensing.

2 MEMBER BARNES: Are there any  
3 other sites yet to be formally identified?

4 MR. PEREIRA: There is some -- in  
5 terms of tailings we believe not, but we are  
6 examining some of the other former mine sites that  
7 do not have tailings.

8 I will ask Mr. Clement whether he  
9 has any indication -- any assessment of how many  
10 sites are involved here.

11 MR. CLEMENT: Yes. We believe we  
12 have a full list of potential sites that were  
13 uranium mines without tailings. In Saskatchewan  
14 the number is approximately 40. In Ontario the  
15 number may be as many as 50 or so. In the  
16 Northwest Territories we have only identified one.

17 We don't believe there are any  
18 more sites on this list, and I should caution that  
19 many of these sites will likely fall off the list  
20 if they were simply explorations or very small or  
21 no nuclear substances remain, or other hazards.

22 MEMBER BARNES: Finally, Madawaska  
23 Mines Limited, is that still an active company?

24 MR. PEREIRA: Again, Mr. Clement  
25 can respond.

1 MR. CLEMENT: Yes, there are. In  
2 fact, they hold a licence for one site currently.

3 MEMBER BARNES: I recognize that.  
4 That's fine.

5 THE CHAIRPERSON: I just have a  
6 couple of questions.

7 The work that we are doing in this  
8 area with regards to uranium tailings management  
9 sites, how does it fit into any broader discussion  
10 that is going on nationally or provincially with  
11 regards to mining sites and rehabilitation and  
12 responsibility?

13 MR. PEREIRA: Perhaps Mr. Clement  
14 will elaborate on that.

15 MR. CLEMENT: We have had some  
16 discussions with the Province of Ontario in  
17 particular about what happens to mine sites at the  
18 end of their life. They are looking at a program  
19 of taking into their control mine sites that are  
20 no longer active, but we have not gone far down  
21 that road yet.

22 THE CHAIRPERSON: How does the  
23 principle of risk management apply in looking at  
24 these particular sites in terms of the licensing  
25 for them? I see one is 2003 and one is 2004. We

1           talked a little bit about the ability for the  
2           companies to go forward, but are there some issues  
3           that we should be aware of in terms of risk  
4           management that would mean that we would want to  
5           push something further forward faster in that  
6           regard?

7                           MR. PEREIRA:   In our assessment  
8           that we have carried out over the past few years,  
9           we have looked at the impacts on environment, on  
10          the public, and in general we have found that  
11          these sites are in a fairly quiescent state.  
12          There is perhaps only one site where there is  
13          evidence of movement of the tailings.  But other  
14          than that, our assessment of the sites do not  
15          cause an immediate hazard to the public or the  
16          environment and so we believe that the time period  
17          we are proposing is appropriate in terms of risk  
18          management.

19                          THE CHAIRPERSON:  My final  
20          question is, I suppose:  What are the risks of the  
21          letters of intent not being followed up on in  
22          terms of licensing?  I mean, is there anything  
23          that specifically has to be done, to be frank, to  
24          make sure that this is followed up with?

25                           I note that there were some very

1 late letters of intent that came in on these  
2 properties and I am just concerned that -- I  
3 wouldn't want to be suspicious and think that  
4 those letters of intent were prompted by the fact  
5 that we were looking at this, I would like to  
6 think that people are just ready to move forward  
7 with this. But how do we help ensure that what we  
8 say today is translated into licence applications  
9 and movement on this?

10 MR. PEREIRA: I think the  
11 challenges that we are faced with is making the  
12 owners of these various sites aware of the  
13 legislated requirements. That has taken some  
14 time. It has taken a lot of patient  
15 communication, meetings, and this has translated  
16 now to these letters of intent.

17 What has happened is that when  
18 owners have seen the other responsible authorities  
19 for sites are also applying, it has a snowball  
20 effect and some of it is due to that.

21 Now, whether some of these owners  
22 will back out is something that we have to be  
23 watchful for and, if necessary, follow up with  
24 stronger regulatory action. There are legal means  
25 by which we can require, under the Act, owners of

1 properties to apply for licences. So for now we  
2 don't believe that it is appropriate or necessary,  
3 indeed, to take such measures, but those options  
4 remain available to us should it be necessary.  
5 But we remain reasonably confident now that we are  
6 progressing.

7 THE CHAIRPERSON: Dr. Giroux.

8 MEMBER GIROUX: Yes, a final  
9 question.

10 In CMD M77, the very last sentence  
11 there you state that you may conclude that it  
12 might be appropriate to bring some matters before  
13 the Commission which would normally go to a  
14 designated officer.

15 My question is: Out of the  
16 18 sites, how many do you envision you might have  
17 to bring to the Commission.

18 MR. PEREIRA: I will ask  
19 Mr. Clement to address the question.

20 MR. CLEMENT: Five of the sites  
21 are the subject of an application being reviewed  
22 by staff right now for the Elliot Lake area. They  
23 will come before the Commission because the total  
24 activity there qualifies the combined sites to be  
25 Class I facility.

1                   There will also be a requirement  
2                   to bring before the Commission decommissioning  
3                   licenses for the Gunnar and Lorado sites. There  
4                   is no question they will also come before the  
5                   Commission.

6                   None of the other ones likely are  
7                   required to come before the Commission, however a  
8                   designated officer obviously can make the decision  
9                   at any time to refer these to the Commission if he  
10                  deems it necessary or beneficial.

11                  MEMBER GIROUX: A supplementary.  
12                  You also mentioned that some of the sites are high  
13                  profile for that reason. Are these included in  
14                  the ones you just mentioned now or will these be  
15                  additional? You are talking about half of them,  
16                  if I understand correctly.

17                  MR. CLEMENT: That's right.  
18                  Approximately half of them will come before the  
19                  Commission and the highest profile ones are the  
20                  Gunnar and Lorado sites which, as I mentioned,  
21                  must come before the Commission for  
22                  decommissioning licences.

23                  THE CHAIRPERSON: Dr. Barnes.

24                  MEMBER BARNES: Just a couple  
25                  more.

1                   Mr. Pereira mentioned about the  
2 business of tailings, but what about is there  
3 adequate groundwater monitoring of the tailings  
4 issue?

5                   MR. PEREIRA: Again, Mr. Clement.  
6 I will invite Mr. Clement to respond.

7                   MR. CLEMENT: In some cases the  
8 answer is yes, in particular at the Elliot Lake  
9 sites where they have been treated more or less  
10 like the other Elliot Lake sites which are under  
11 licence. At other sites, no. That will be part  
12 of the assessment made for licensing an  
13 environmental assessment and likely there will be  
14 requirements for additional groundwater  
15 monitoring.

16                  MEMBER BARNES: Just a follow up  
17 to a question that President Keen made on the mine  
18 legislation. I mean, most provinces have  
19 introduced much more rigorous legislation for mine  
20 remediation and repair, but I suspect in most of  
21 these cases they are sort of grand-personed out of  
22 it, are they? Are they exempt in most provinces  
23 from this since they are old mines?

24                  MR. PEREIRA: That is the case. A  
25 lot of these are grandfathered by the -- just from

1 such a long time in the past that they are exempt  
2 because of that.

3 THE CHAIRPERSON: Thank you very  
4 much.

5 That will end the discussion on  
6 that item. Thank you very much for your  
7 participation.

8 We will now move to item 9.2 which  
9 is waste management areas owned by the Crown,  
10 historic contaminated lands, landfills and  
11 radium-luminescent devices.

12 The oral presentation by CNSC  
13 staff is contained in the following documents:  
14 CMD 01-M78, 01-M78.A, 01-M78.B, and I will again  
15 turn to Mr. Pereira for the presentation.

16

17 **01-M78 / 01-M78.A / 01-M78.B**

18 **Oral presentation by CNSC staff**

19 MR. PEREIRA: Thank you,  
20 Madam Chair.

21 For the record, my name is Ken  
22 Pereira. I am the Director General of the CNSC  
23 Directorate of Fuel Cycle and Materials  
24 Regulation.

25 The subject matter of this CMD is

1 quite diverse, but there is a common thread. All  
2 of the sites and activities discussed involved  
3 historic contamination or devices which existed  
4 prior to the coming into effect of the Nuclear  
5 Safety and Control Act, but which are not exempted  
6 from regulatory control under this legislation.

7 Major examples include:

8 Waste management sites operated by  
9 either the federal or provincial Crown, which was  
10 not bound under the Atomic Energy Control Act;

11 Properties which were contaminated  
12 as a result of formerly unregulated activities,  
13 and where the concentration of radioactive  
14 substances did not exceed the former concentration  
15 limit;

16 Landfill sites which may receive  
17 small quantities of material at low concentrations  
18 from licensed activities where the possibility  
19 exists that the total quantity of radioactive  
20 material may exceed the exemption quantity; and

21 Possession of more than 10 devices  
22 containing radium-luminescent compound, whether in  
23 aircraft, in museums or in the hands of private  
24 collectors.

25 In order to deal with the

1 outstanding matters related to these sites and  
2 activities, CNSC staff is recommending the  
3 granting of three types of exemptions.

4 The first type of exemption  
5 recommended is the issuing of time-limited  
6 exemptions for sites where the licensing process  
7 is already under way, in order to permit  
8 completion of the process. These include:

9 Consolidated waste storage mounds  
10 at Tulita and Fort Smith in the Northwest  
11 Territories, Fort McMurray in Alberta, and two  
12 sites in Toronto;

13 Second, the Deloro contaminated  
14 site in eastern Ontario;

15 Thirdly, the unlicensed  
16 contaminated sites and properties in Port Hope,  
17 Ontario; and

18 Finally, the Fort McMurray  
19 Waterways site. Contamination from this site is  
20 to be moved to the Fort McMurray mound site in the  
21 summer of 2002.

22 A second category of exemption  
23 relates to properties in both private and  
24 institutional hands at which there is historic  
25 contamination which has been remediated

1 sufficiently that the sites are safe for present  
2 occupancy and use, but where possible future  
3 activities such as demolition of part of a  
4 building or excavation of soil could expose  
5 persons to unacceptable levels of contamination.

6 All of these properties are  
7 inspected regularly by the AECL Low Level  
8 Radioactive Waste Management Office and controls  
9 are in place to ensure that any work that would  
10 expose persons to undesirable levels of  
11 contamination will be carried out by the Low Level  
12 Radioactive Waste Management Office under a CNSC  
13 licence. Staff is recommending indefinite  
14 exemptions from licensing, conditional upon  
15 unchanged usage.

16 The third category of exemption is  
17 requested to permit CNSC staff to complete further  
18 assessment and development of regulatory  
19 strategies.

20 In the case of landfills, the  
21 potential exists that small quantities of  
22 radioactive materials released to these sites  
23 under the control of CNSC licences could  
24 accumulate to total quantities exceeding one  
25 exemption quantity, albeit at very low

1 concentrations.

2 One of the issues which arises is  
3 the fact that provincial legislation continues to  
4 reference the former regulatory limit of one  
5 Scheduled Quantity per kilogram, which has been  
6 replaced under the Nuclear Safety and Control Act  
7 by a total quantity limit of one Exemption  
8 Quantity. This change in regulatory limits has  
9 triggered an assessment, which has not yet been  
10 completed, whose goal will be to ensure that the  
11 present and future practices and limits achieve an  
12 acceptable level of protection and safety.

13 Radium-luminescent devices include  
14 dials and instruments which were manufactured in  
15 large quantities and continue to exist in aircraft  
16 and vehicles, in museums, and in the possession of  
17 the general public. The most significant hazard  
18 from these devices arises from the possibility  
19 that they could be opened, resulting in the spread  
20 of radium contamination.

21 The primary mechanism of control  
22 of this hazard has been the requirement for  
23 licence to service or open of these devices. This  
24 licensing requirement has been implemented and  
25 will be continued. However, it is necessary to

1 put in place a program to control hazards that may  
2 arise from possession and use of a significant  
3 number of these devices. A temporary exemption  
4 from the requirement for licensing for possession  
5 of more than 10 devices is sought to permit a  
6 development and initiation of his this program.

7 As a result of its assessment of  
8 the situation at each of these sites and  
9 activities, CNSC staff concludes that:

10 First, the granting of the  
11 proposed exemptions would meet the requirements of  
12 Section 11 of the General Nuclear Safety and  
13 Control Regulations;

14 Secondly, the issuing of  
15 exemptions is not a trigger under section 5 of the  
16 Canadian Environmental Assessment Act, and  
17 therefore an environmental assessment is not  
18 required for this action; and

19 Finally, the issuing of the  
20 proposed exemptions will not reduce or deny  
21 opportunities for public involvement.

22 Therefore, CNSC staff recommends  
23 that the Commission grant exemption from the  
24 requirement for a licence to possess, manage and  
25 store nuclear substances on the following sites:

1                   At the Fort McMurray Waterways  
2                   site until August 31, 2002;

3                   At the consolidated mound sites in  
4                   Fort McMurray, Fort Smith, Tulita, and Toronto,  
5                   until December 31, 2002;

6                   At the Deloro site in Ontario,  
7                   until December 31, 2004; and

8                   At unlicensed sites in Port Hope,  
9                   Ontario, until December 31, 2006.

10                  Staff also recommends that the  
11                  Commission grant exemptions from the requirement  
12                  for a licence to possess, manage and store nuclear  
13                  substances as follows:

14                  At landfill sites in Canada, until  
15                  December 31, 2004;

16                  At unlicensed contaminated sites  
17                  in Toronto, Fort Fitzgerald, Fort Smith and the  
18                  Sahtu Region, for an indefinite period, subject to  
19                  the condition that the condition that the property  
20                  usage does not change in such a way so as to  
21                  increase the radiological hazard.

22  
23                  Based on an a reassessment of the  
24                  proposed wording provided in CMD 01-M78.B, staff  
25                  recommends that the Commission grant the following

1 exemption for devices containing radium-luminous  
2 compounds, exempt any person who possesses more  
3 than ten devices containing a radium-luminous  
4 compound from licensing, pursuant to Paragraph  
5 8(b) of the Nuclear Substance and Radiation  
6 Devices Regulation, until December 31, 2004.

7 That concludes the staff  
8 presentation, Madam Chair.

9 Thank you very much.

10 THE CHAIRPERSON: Thank you,  
11 Mr. Pereira.

12 Now we will open the floor for  
13 questioning. I would like to note that there are  
14 representatives here from the low-level  
15 Radioactive Waste Management Office and I would  
16 appreciate if they could move forward into the  
17 intervenors area for possible questioning by the  
18 Commission members.

19 MR. PEREIRA: I would like also to  
20 point out that there is a representative from  
21 Natural Resources Canada as well and Mr. Dave  
22 McCauley.

23 THE CHAIRPERSON: Perhaps he could  
24 approach as well, perhaps under where the  
25 applicant sits, that might be better,

1 Mr. McCauley.

2 --- Pause

3 THE CHAIRPERSON: Okay. We will  
4 now open the floor for questioning from the  
5 Commission members.

6 Dr. Giroux, would you like to  
7 start?

8 MEMBER GIROUX: Yes, thank you.

9 Two lines. You mention that there  
10 are sites where you have contaminated material on  
11 structural elements in buildings behind walls. I  
12 am assuming that there is not enough radiation at  
13 that point to be dangerous where they have people  
14 who might be working or living there. That is  
15 fairly obvious otherwise you would not come with  
16 that recommendation.

17 I was wondering about the source  
18 of this. Is that the fire protection or fire  
19 retardant materials spread on the structural  
20 elements which might contain radiation?

21 MR. PEREIRA: The radiation exists  
22 there from activities that took place in the past  
23 and many of these sites were remediated to a  
24 certain point where the hazard to occupants was  
25 low and now we have a situation where

1 institutional controls are in place.

2 But I will ask Mr. Stenson to  
3 comment further.

4 MR. STENSON: Thank you. Ron  
5 Stenson, Waste Decommissioning Division.

6 The structural elements in the  
7 buildings which are contaminated, the  
8 contamination is fixed to those materials and  
9 can't be easily removed. All of those materials  
10 are isolated behind second walls or second  
11 ceilings and I don't know whether they are fire  
12 retardant or not.

13 Perhaps the Low-Level Office who  
14 has been monitoring and is aware of these sites  
15 for many years could answer that question.

16 MR. ZELMER: Yes. My name is  
17 Robert Zelmer. I am the Director of the Low-Level  
18 Radioactive Waste Management Office.

19 The answer to Mr. Stenson's  
20 question is basically it goes back to a time that  
21 precedes the establishment of the Low-Level  
22 Office. Members may be interested in knowing that  
23 we succeed a Federal-Provincial Task Force in  
24 Radioactivity that undertook various cleanups at  
25 locations in Canada before 1982 and at the time

1 the criteria applied for their cleanup work those  
2 criteria were aimed at the existing use of land  
3 and properties sufficient that there would be no  
4 negative health impact on users of those  
5 properties and structures.

6 Therefore, in some cases, the  
7 cleanups don't go as far in those buildings as we  
8 would undertake today to totally walk away from  
9 these areas with no further concern.

10 But in the interim, institutional  
11 controls or what we would regard as  
12 investigations, visitations to the sites,  
13 monitoring by the Low-Level Office, does occur at  
14 these sites and we actually engage in, from time  
15 to time, upgrades to the remediation activities at  
16 these sites.

17 The nature of contamination at  
18 these properties tends to go back to the use of  
19 radium at the sites in the distant past,  
20 spillages, I guess perhaps transfer or migration  
21 of materials at these sites. So I believe it's  
22 more related to radium contamination than anything  
23 used in building materials or anything else.

24 Thank you.

25 MEMBER GIROUX: Thank you.

1                   A further question. Considering  
2                   the recommendation for indefinite duration for the  
3                   exemption from licensing, I am assuming there is  
4                   an organization to whom the exemption would be  
5                   granted and that this organization is responsible,  
6                   for instance, for reporting to the Commission any  
7                   changes in their circumstances like modifications  
8                   to buildings or change of ownership so that you  
9                   have a clear link to any changes and you would be  
10                  informed and would be in a position to act.

11                  MR. PEREIRA: That is correct, and  
12                  again Mr. Stenson can provide some information on  
13                  the different organizations involved because there  
14                  is more than one.

15                  MR. STENSON: Fundamentally there  
16                  is one organization which is the Low-Level  
17                  Radioactive Waste Management Office. These sites  
18                  are historic contaminated sites and as such the  
19                  federal government has some responsibility for a  
20                  long-term management and disposition of the sites.  
21                  That responsibility is discharged through the  
22                  Low-Level Office at this point.

23                  On top of that, there are also  
24                  other government agencies which help the CNSC and  
25                  the Low-Level Office monitor the sites, including

1 the MacKenzie Valley Land and Water Boards, the  
2 Sahtu Land and Water Boards, Indian and Northern  
3 Affairs, Fisheries and Oceans, some departments in  
4 Toronto. Those agencies at some point would  
5 necessarily have to issue a permit or give  
6 permission for activities to take place which may,  
7 in fact, create the hazard, the long-term hazard  
8 due to land use change. So there is more than  
9 just one layer of control, although ultimately  
10 there is a common thread for all of these sites  
11 leading back to the Low-Level Radioactive Waste  
12 Management Office.

13 To be clear they have filled that  
14 role in an informal way certainly since the sites  
15 have been identified to them, in some cases from  
16 the inception of the Low-Level Office in 1982 and  
17 as sites have been identified. So part of what  
18 the institutional control is on the sites now is  
19 really a formalization of something that has  
20 actually been in place for 20 years in some cases.

21 MEMBER GIROUX: If I may just  
22 pursue on this.

23 THE CHAIRPERSON: Yes.

24 MEMBER GIROUX: Turning again to  
25 the Low-Level Waste Management Office, I am

1 thinking again of the case of the buildings. I  
2 don't know how many there are, but you would be  
3 monitoring which means inspecting the building at  
4 some intervals to make sure that nothing has  
5 changed.

6 The question is: Are the  
7 intervals tight enough that somebody would not be  
8 able to tear down a few walls to enlarge a room or  
9 an office and that this might escape you or that  
10 you might catch it after the fact?

11 MR. ZELMER: Yes, I would like to  
12 respond to that.

13 All of the owners of these  
14 properties to my knowledge are well aware of the  
15 circumstances in their structures and so are  
16 tenants at these properties. So we would expect  
17 in many cases we would be informed at any time  
18 there are changes made to land or buildings in the  
19 circumstance.

20 In addition to that, our staff  
21 regularly visit using best judgement and the  
22 limitation of the resources we may have make  
23 regular visits to these locations. We do this  
24 hand in hand with staff of the Commission, that is  
25 to say we try to time our visits on occasion, but

1           also with the knowledge of the staff of the  
2           Commission and it's our intention to, recognizing  
3           that the circumstance may continue for a number of  
4           years into the future, it's our intention to  
5           become a little more formal with regard to regular  
6           communication by letter with the owners to remind  
7           them of the circumstances and our availability to  
8           assist them if there are changes at these  
9           locations.

10                           THE CHAIRPERSON: Mr. Graham.

11                           MEMBER GRAHAM: A lot of my  
12           questions, I believe, have been answered, but  
13           regarding that second category. You have a  
14           catalogued list, I guess that's what you are  
15           saying now. You know pretty well all the sites.  
16           Do you add to that list at any time or does the  
17           list grow or are they all identified now?

18                           MR. ZELMER: I think with respect  
19           to historic radium sites, we were very well  
20           informed and confident that we know the extent of  
21           the list. There are other occasions when we are  
22           called in at the request of CNSC staff or by NRCan  
23           if news comes to then of other low-level  
24           radioactive waste occurrences in the country.

25                           There are products that rely on

1 the use of radioactivity that are used in  
2 industrial applications, and so on, and these  
3 either come to light in disposal yards, and so on.  
4 So I would say our list of sites of interests can  
5 grow a little bit arising from those kinds of  
6 occurrences.

7 Similarly the knowledge that we  
8 have of a particular site will improve with time  
9 as we characterize the site and this will change  
10 the volume and the scope and maybe the areas of  
11 impact on the site.

12 So there are many uncertainties in  
13 the world of low-level radioactive waste  
14 management, but we have a fair level of confidence  
15 that the properties and structures of concern are  
16 known to us.

17 MEMBER GRAHAM: My only other  
18 question is: The comfort level, or what you are  
19 explaining is that conditional upon unchanged  
20 usage, is there satisfactory control of each site  
21 that the owner, the occupant is aware that before  
22 anything is done that notification has to be  
23 given?

24 The comfort level, I guess, is my  
25 concern and I am following up from Dr. Giroux's

1 questions.

2 MR. ZELMER: We try to apply  
3 judgement as time goes on in our historical waste  
4 program and that is one of the reasons we plan to  
5 upgrade the level of contact with property owners  
6 in the case of these sites.

7 I think given that exercise of  
8 judgement, I think that the control is adequate.

9 MEMBER GRAHAM: Just one other  
10 question. How large is your group that monitors  
11 this, and so on, and roughly how many sites are  
12 there?

13 MR. ZELMER: The staff of the  
14 Low-Level Office is going through a major  
15 expansion at the current time because of the Port  
16 Hope area initiative. Our size has increased in  
17 the last 12 months from approximately 13  
18 positions. Currently we are at the 21 position  
19 level and we have approximately 40 positions  
20 authorized in total that we expect to fill in the  
21 coming months.

22 The number of sites that are  
23 subject to our current discussion, I have to count  
24 them up quickly in my head with the assistance of  
25 my staff. Under 20.

1 THE CHAIRPERSON: Ms MacLachlan.

2 MEMBER MacLACHLAN: With respect  
3 to the northern transportation route and the  
4 communities along the route in the waterways  
5 between Fort McMurray and Great Bear Lake, what  
6 type of oversight do you have and what type of  
7 monitoring is taking place? In particular I am  
8 aware that around Great Bear Lake there are fairly  
9 high incidence of cancer in the people who live  
10 there.

11 So what kinds of monitoring are  
12 there specifically with respect to water and any  
13 type of uptake and ingestion of contamination by  
14 fish or wildlife like caribou that people depend  
15 on for food?

16 MR. ZELMER: I think this question  
17 may be better answered by my colleague Dave  
18 McCauley from Natural Resources Canada, but what I  
19 would like to say is that the Low-Level Office  
20 provides technical support to a group called the  
21 Canada Deline Uranium Table which has developed an  
22 action program to deal with exactly some of those  
23 issues that you are raising.

24 The Low-Level Office also sits on  
25 the Tulita Uranium Working Group. Tulita is a

1 very small community at the mouth of the Bear  
2 River and the MacKenzie River and it's one of  
3 these sites, and we are working with the community  
4 to complete remediations there and to investigate  
5 issues of interest to the very small community.

6 In addition to that, we do have a  
7 small storage mound in the community of Tulita and  
8 it's visited at least once a year to ensure the  
9 integrity of the mound is still in place, and so  
10 on.

11 We are participating, as I said,  
12 in these discussions which causes our staff to  
13 have to go to the north at intervals and when we  
14 are there we often take time to visit the sites  
15 again and sometimes to walk over them or monitor  
16 them with meters, and so on.

17 But I would differ sort of the  
18 discussion on the action plan to Mr. McCauley if  
19 you have interest.

20 THE CHAIRPERSON: Mr. McCauley.

21 MR. McCAULEY: Thank you. Good  
22 morning, Commission Members. My name is David  
23 McCauley. I'm with the Uranium and Radioactive  
24 Waste Division at Natural Resources Canada and I  
25 must confess that I really have nothing further to

1 add on the action plan in terms of the situation  
2 in the Northwest Territories.

3 Thank you.

4 THE CHAIRPERSON: Ms MacLachlan, I  
5 gather that the CNSC staff would like to add, if  
6 you wish to hear from them.

7 MR. PEREIRA: Yes, Madam Chair.  
8 Mr. Stenson will provide some additional  
9 information.

10 MR. STENSON: Thank you.

11 With regards to monitoring of fish  
12 and wildlife, Environment Canada has a regular  
13 sampling program in the Sahtu region as does the  
14 territorial government where they test for  
15 numerous substances, heavy metals, including  
16 uranium.

17 With regards to specifically Port  
18 Hope and Deline, obviously there is the ongoing  
19 action plan which Mr. Zelmer and Mr. McCauley  
20 referred to, and that includes plans for some very  
21 intensive monitoring of indicators species within  
22 the wildlife and fisheries.

23 MEMBER MacLACHLAN: Thank you.

24 I noticed that in discussing the  
25 Fort Fitzgerald contaminated sites that there is

1           acknowledgement that the lands, although they are  
2           federal crown lands, they are being administered  
3           under native land arrangement, or agreement I  
4           should say.

5                           Does that reflect the settlement  
6           of the recent land claim between the crown and the  
7           people of Fort Fitzgerald/Fort Smith and also are  
8           there any resources, financial or human, made  
9           available to aboriginal land owners for the  
10          management of these land over time?

11                          MR. PEREIRA:  Again, I will ask  
12          Mr. Stenson to respond.

13                          MR. STENSON:  I'm not aware of the  
14          land claim settlement.  To the best of my  
15          knowledge it was ongoing.  If there has been some  
16          conclusion, I am not aware of it.

17                          As far as resources for the  
18          management of these lands, if there is  
19          contamination on the land that has been part of  
20          the settlement our view is that it's still the  
21          responsibility of the federal government as  
22          historic waste and ultimately the resources of the  
23          Low-Level Office would be made available for  
24          cleanups if that was required.

25                          MEMBER MacLACHLAN:  Thank you.

1                   That claim has just been settled  
2                   in the last few weeks, by the way.

3                   THE CHAIRPERSON: Perhaps we could  
4                   ask Mr. Zelmer to comment further on that.

5                   MR. ZELMER: I have no knowledge  
6                   of the land claim issue either.

7                   THE CHAIRPERSON: With regards to  
8                   responsibility issue that Mr. Stenson made.

9                   MR. ZELMER: I think with regard  
10                  for responsibility for historic low-level  
11                  radioactive waste sites we take direction from  
12                  Natural Resources Canada. In the case of Fort  
13                  Fitzgerald we are well aware of some properties  
14                  owned by private residents, by the municipality,  
15                  and we have a small storage mound at the Nuisance  
16                  Ground in the area at Fort Smith.

17                  Our intention is to include  
18                  remediation of these sites in our northern  
19                  transport route to remediation plan. We are  
20                  having discussions with Natural Resources Canada  
21                  currently on the phasing of our activities in the  
22                  areas, hopefully over the next four to five years,  
23                  and we have also had discussions with various  
24                  community representatives and authorities in  
25                  anticipation of moving forward with this work.

1                   So in terms of responsibility we  
2                   receive responsibility for given occurrences of  
3                   waste from Natural Resources Canada and then we  
4                   take responsibility and resolve the remedial  
5                   issues with the assistance of Commission staff and  
6                   licensing that you offer as well.

7                   THE CHAIRPERSON: Any comments,  
8                   Mr. McCauley?

9                   MR. McCAULEY: Thank you very  
10                  much.

11                  Well, that is correct what  
12                  Mr. Zelmer has indicated. We look at these  
13                  incidences of historic waste on a case by case  
14                  basis and then determine the level of the federal  
15                  government's involvement and whether it's  
16                  warranted.

17                  As he has indicated, on the  
18                  northern transportation route we have initiated a  
19                  phased cleanup of the sites there.

20                  Thank you.

21                  THE CHAIRPERSON: Further  
22                  questions?

23                  Dr. Barnes.

24                  MEMBER BARNES: Most of mine have  
25                  been answered I think. I was intrigued by the

1 expansion of the Low-Level Office. Could you give  
2 me an idea of the level of resources that you put  
3 into really investigating and doing more study  
4 research on the sites themselves as opposed to  
5 so-called monitoring where one has essentially  
6 more a watching brief of these.

7 MR. ZELMER: Certainly. We are  
8 very excited about the resource expansion for the  
9 Low-Level Office this year. The announcement of  
10 the Port Hope area initiative by the government is  
11 the key to that and it signalled in this current  
12 year about a 700 per cent increase in our budget.  
13 Most of the budget this year and in future years  
14 with regard to remediation action of the Office is  
15 to be spent flowthrough to consultants and  
16 contractors to actually engage in remedial work.

17 I would think much less than 10  
18 per cent would be spent on staffing and operating  
19 the program. Most of it will be on remedial  
20 activities.

21 However, most of our resources are  
22 going to the Port Hope area. It has a great need  
23 and high priority. The rest of the country, we  
24 have modest resources because of available  
25 funding. In the current year we have about one

1 million dollars that are being spent on activities  
2 in the rest of the country that go to monitoring  
3 planning and trying to move forward on the rest of  
4 the historic waste program.

5 I hope that gives you at least the  
6 context and an answer to your question.

7 THE CHAIRPERSON: Ms MacLachlan.

8 MEMBER MacLACHLAN: Yes. This is  
9 a question for staff. Can you provide me with the  
10 rationale for recommending that any of these sites  
11 be exempt from licensing for an indefinite period  
12 of time?

13 MR. PEREIRA: Again, I will invite  
14 Mr. Stenson to provide a response.

15 MR. STENSON: Staff's view of the  
16 sites with the information available is that they  
17 don't currently pose a hazard to humans or the  
18 environment and that only under changing land  
19 usage would that hazard possibly exist.

20 Given that and the relative  
21 remoteness of many of the sites, it's unlikely  
22 that land use change will be an issue in the near  
23 future.

24 Having said that, we never know  
25 when land use change will take place and we also

1 recognize that there is an ongoing initiative from  
2 the Low-Level Office to remediate the sites.

3 None of that has any timeframes  
4 associated with it and given the very low risk of  
5 the sites presently we didn't feel that it was  
6 warranted to necessarily raise the spectre of  
7 these sites posing any more immediate hazard than  
8 they actually do.

9 So we recommended based on that  
10 that we have really no timeframes for the  
11 remediation of the site, that as long as the  
12 status quo exists that the same arguments would  
13 apply for exempting the site from licensing for  
14 possession. So we chose indefinite rather than  
15 any specific period of time simply because we  
16 really have no frame of reference to identify a  
17 three year, a five or a ten-year kind of a  
18 timeframe.

19 MEMBER MacLACHLAN: But would it  
20 not bring the matter back into -- well provide an  
21 opportunity for both the Commission and the public  
22 to know and have the confidence that this matter  
23 was just being put in a box somewhere or filed  
24 into the ether, lost to the ether, that there  
25 would be an opportunity for a regular review that

1           this matter could be brought forward and even if  
2           there were an indefinite period of time, that  
3           there could be some regular oversight?

4                       MR. STENSON:  By granting an  
5           exemption we are certainly not going to stop  
6           paying attention to the sites.  We don't mean to  
7           imply that at all.  We do have commitment from  
8           numerous institutes to report to us if there is  
9           any activity at the site, but at the same time the  
10          Low-Level Office has committed to visiting the  
11          sites on a regular basis, doing verification of  
12          land use on a regular basis, and reporting to us.

13                      So we are now walking away from  
14          these sites by granting this exemption.  There is  
15          still going to be verification certainly of staff  
16          in the area.  At licensed facilities we will still  
17          verify the site ourselves and it would tend to  
18          imply that once the exemption was granted that we  
19          wouldn't be visiting the sites unless there was a  
20          land use change.

21                      Certainly we will be verifying as  
22          appropriate the sites as it's convenient for us.  
23          We do have licensed facilities there.  We are  
24          going to have sites that are licensed within the  
25          area of all of these sites and the Low-Level

1 Office will be reporting to us on a regular basis.

2 MEMBER MacLACHLAN: If I may one  
3 more question. When it comes to the plans for  
4 remediation of a particular site, how do you see  
5 that affecting an unlicensed area? Would you see  
6 that remediation activity requiring licensing at  
7 that point prior to remediation?

8 MR. STENSON: Absolutely and the  
9 Low-Level Office has a licence to do remediation  
10 work. It's WNSL-202 and when they proceed with  
11 remediating a site, they have to provide us with  
12 notification that they are doing remediation of a  
13 site. They have to provide us with notification  
14 that they have completed and what was done with  
15 the material.

16 Within the licence there are two  
17 triggers, the material being remediated exceeds --  
18 they anticipate that it would exceed 300 meters  
19 cubed or one exemption quantity per kilogram, then  
20 they have to apply to us for permission, approval  
21 to proceed with that remediation.

22 So if it's a very large site, a  
23 very large remediation, then they would require  
24 approval from us and that in all likelihood would  
25 trigger CEAA as well we will go through that

1 process at that time.

2 MEMBER MacLACHLAN: Is this a  
3 general sort of an umbrella type licence that you  
4 are speaking of?

5 MR. STENSON: Yes. It's  
6 unspecified locations.

7 MEMBER MacLACHLAN: Right.

8 THE CHAIRPERSON: I just have a  
9 couple of further questions. One is, for the  
10 record, I would like NRCan and Low-Level  
11 Radioactive Waste Management Office to put on the  
12 record exactly what is the relationship between  
13 the Office and NRCan.

14 MR. McCAULEY: Certainly, thank  
15 you.

16 The Low-Level Radioactive Waste  
17 Management Office is a division of Atomic Energy  
18 of Canada Limited. It was established in 1982  
19 under a Memorandum of Understanding between  
20 Natural Resources Canada, then Energy, Mines and  
21 Resources, and AECL. The Office receives its  
22 policy direction and its funding from the Uranium  
23 and Radioactive Waste Division of NRCan within the  
24 energy sector, and it is staffed by AECL employees  
25 and follows AECL operational and technical

1 procedures.

2 Bob, would you like to add  
3 anything else?

4 MR. ZELMER: Yes, I would agree  
5 with Mr. McCauley and only add that we do have  
6 four licences with the Canadian Nuclear Safety  
7 Commission at the current time. So we are the  
8 holders of the licence and NRCan is not named in  
9 the licence but the liabilities and  
10 responsibilities that accrue from those licences  
11 are taken on by us and then acted by us on behalf  
12 of NRCan, not on behalf of Atomic Energy of Canada  
13 Limited.

14 THE CHAIRPERSON: My other  
15 question is with regards -- to come back to a line  
16 of questioning that was started by Dr. Giroux and  
17 furthered by Mr. Graham.

18 Coming back to this issue if a  
19 property owner decided to go ahead -- I realize  
20 that there is a lot of education and there is  
21 monitoring, et cetera -- is there liens or some  
22 other legal method by which it is clear of their  
23 obligations to inform you? What is there in place  
24 that is perhaps a little more formal, or is there  
25 anything in place or is there anything possible to

1 put in place?

2 MR. ZELMER: Well, I think what we  
3 have done in the past with respect to advising  
4 owners as to their obligations is to, first of  
5 all, remind them that they could be subject to the  
6 Canadian Nuclear Safety Control Act and previously  
7 Atomic Energy Control Act, as with anyone else,  
8 because they are in possession of the land that  
9 structures the properties, and so on, but that the  
10 Low-Level Office has assisted owners and has  
11 usually taken action to ensure compliance to legal  
12 obligations because it has recognized that there  
13 would be undo hardships on owners such as them in  
14 having to deal with all the costs, the safety  
15 protocols, knowledgeable activities on the site  
16 that we would do.

17 Also just a dilemma that the owner  
18 would face in dealing with responsibilities to  
19 store or dispose of any recovered materials. So  
20 in the past there has been knowledge on the part  
21 of the owner or occupant that there are some  
22 pretty stringent obligations that one has when one  
23 deals with radioactive materials or low-level  
24 radioactive waste materials.

25 In addition to that, we have a

1 certain rapport with owners of land because our  
2 staff are familiar to owners, visit them on  
3 occasion and hopefully frequently enough. So I  
4 think that would tend to dissuade owners from  
5 taking action. We do get phone calls from owners  
6 advising us of their intentions.

7                   Nonetheless, it is possible, and  
8 it could happen, that someone just gets into a  
9 project without our knowledge and that's why we  
10 try to visit and inspect and observe what happens  
11 on these properties at appropriate intervals and  
12 we are stepping these intervals up and formalizing  
13 them, as I have said perviously.

14                   I think there is a certain level  
15 of trust that relates to this, and I don't think I  
16 can say much more than that except the Low-Level  
17 Office is not a policing organization and I think  
18 the Commission probably has staff and inspectors  
19 that are also in the field exercising due  
20 diligence in these matters. But I can't really  
21 speak to that.

22                   THE CHAIRPERSON: I will ask the  
23 staff to speak to that, but my question is: Has  
24 there been violations of this trust relationship?  
25 Have you had property owners who have gone ahead

1 and developed properties despite this work that  
2 you have done with them?

3 MR. ZELMER: I am trying to think  
4 of an example. Even in a place such as the Town  
5 of Port Hope where we have a very proactive  
6 construction monitoring program, we have staff in  
7 the town that travel the streets of the town just  
8 in the course of their living in the town. We  
9 have come up on occasions when parties will have  
10 begun construction or moved materials around  
11 probably not knowing the consequences of their  
12 actions.

13 To my best knowledge, I don't  
14 believe an undue health hazard or exposure has  
15 occurred from those activities, but I have to say  
16 that I am aware of cases like that where materials  
17 have been moved around. We have found out later  
18 in the process than we would have liked to have  
19 learned of this and we have intervened and  
20 assisted the owner or the workforce at that point.

21 THE CHAIRPERSON: Would staff like  
22 to comment on that?

23 MR. PEREIRA: I will ask  
24 Mr. Stenson to comment.

25 MR. STENSON: Thank you.

1                   Just to clarify Mr. Zelmer's last  
2 point is that in those situations the person that  
3 did move the material around did so inadvertently.  
4 They weren't aware of the hazard associated with  
5 the material. For the sites that we are  
6 discussing, the owners are very aware of the  
7 material. They are aware of the hazards  
8 associated with the material and have been  
9 informed, at least verbally in all cases, and in  
10 other cases by letter, of their responsibilities  
11 under the Canadian Nuclear Safety Control Act.

12                   It is also staff's intent, working  
13 with the Low-Level Office, to formulate a letter  
14 also formally informing owners in urban areas of  
15 their responsibilities under our Act as well.  
16 There have been numerous letters written to  
17 municipalities who happen to own property and to  
18 owners of properties in the north informing them  
19 of their responsibilities under the Act as well.

20                   THE CHAIRPERSON: Ms MacLachlan.

21                   MEMBER MacLACHLAN: This is a  
22 question for the Low-Level Office. There are a  
23 number of sites that CNSC staff have recommended  
24 that the Commission -- they are unlicensed now and  
25 that they remain unlicensed for an indefinite

1 period of time. These sites are enumerated and I  
2 can go through them. What are the plans that you  
3 have for remediating these sites and what kind of  
4 a timetable do you have for the remediation? They  
5 include Toronto, Fort Fitzgerald, Fort Smith and  
6 the Sahtu region.

7 MR. ZELMER: Yes, these are the  
8 sites listed in recommendations 5 through 8 on  
9 page 13 of the staff report.

10 I think, first of all, I would  
11 like to say that one of the issues in advancing  
12 the historic waste program is finding suitable  
13 storage or disposal locations for any of the  
14 materials we recover from the environment.

15 Our options are very limited. The  
16 recent announcement in the Port Hope area gives us  
17 a great opportunity to move forward, but only in  
18 the three -- now two municipalities in the Port  
19 Hope area. So the rest of the country still  
20 presents us problems when we recover volumes of  
21 material of any significance. The problem is  
22 where do we store it, how do we deal with these  
23 materials.

24 What we have in process, and what  
25 the staff have recommended to you, is to give us

1           some time deadlines for getting some of these  
2           other interim storage sites that we have created  
3           under licensing, and so on.

4                           The helpful aspect of  
5           recommendations 5 to 8 is that in the case of  
6           these areas we don't have a regional storage  
7           location or a practical location to store even a  
8           few hundred cubic metres of material. The  
9           circumstances at these sites which are in public  
10          ownership pretty well are such that we believe the  
11          materials are controlled, the impacts are  
12          negligible in the current land use, and so on.

13                           So it's very helpful to us and  
14          probably to the owners in case they might be named  
15          in an obligation to licence the material they  
16          possess, it's very helpful to us to proceed as we  
17          are now with regular monitoring inspections hoping  
18          that as we advance the historic waste program we  
19          can find opportunity to store these materials in a  
20          different setting in the longer term.

21                           So in terms of the timetable that  
22          we are on, again we take direction from Natural  
23          Resources Canada in terms of what is a priority  
24          within our program and what are the resources that  
25          we can tap into to make these things come about.

1                   So I think from my personal  
2                   perspective it's a practical approach to recognize  
3                   that the hardship on the Office, the financial  
4                   program of the Office, and potentially owners of  
5                   the site would be pretty significant if we were  
6                   required to do remediations and create facilities  
7                   for these materials. Siting is a very prickly  
8                   issue in our business and finding sites for  
9                   storage or disposal is a major conundrum.

10                   So it's hard to forecast when  
11                   those storage opportunities would be available.

12                   THE CHAIRPERSON: Thank you very  
13                   much, and particularly thanks to NRCan and to the  
14                   Low-Level Radioactive Waste Management Office for  
15                   coming here today. It was very helpful.

16                   That is the end of this item.

17                   I would like to -- yes,  
18                   Mr. Graham?

19                   MEMBER GRAHAM: Just a question to  
20                   Mr. Pereira.

21                   In your recommendations 1, 2 and  
22                   3, my book did not have 3. I wonder if we could  
23                   get a copy of that, just before decisions are  
24                   made, the recommendation 3?

25                   THE CHAIRPERSON: The secretary

1 will take care of that.

2 MEMBER GRAHAM: Thanks.

3 THE CHAIRPERSON: Thank you.

4 We will now move on then to item  
5 No. 10.1, update on regulatory change pertaining  
6 to exemption from Class II Nuclear Facilities and  
7 Prescribed Equipment Regulations as noted in CMD  
8 document 01-M83.

9 I will again call on Mr. Pereira  
10 to do the oral presentation by CNSC staff.

11

12 **01-M83**

13 **Update on regulatory change pertaining to**  
14 **Exemption from Class II Nuclear Facilities and**  
15 **Prescribed Equipment Regulations**

16 MR. PEREIRA: Thank you, Madam  
17 Chair. For the record, my name is Ken Pereira.

18 At the Commission meeting in May  
19 of this year, CNSC staff recommended an exemption  
20 from certain subsections of the Class II  
21 regulations for certain types of particle  
22 accelerators. At the time the exemption was  
23 granted and the Commission asked us whether these  
24 changes would eventually be implemented in changes  
25 in the regulation.

1                   The purpose of this CMD is to  
2                   advise the Commission that in fact those changes  
3                   have been drafted and are now under consideration  
4                   for amendment of the regulation, along with other  
5                   amendments that are being worked on in other  
6                   regulations.

7                   That is all. That is just a  
8                   statement of completion of an action.

9                   THE CHAIRPERSON: Thank you.

10                   The floor is open for questions  
11                   from the Commission members.

12                   --- Pause

13                   Thank you very much, Mr. Pereira.

14

15                   **Closing of meeting**

16                   This brings to an end today's  
17                   Commission business. The meeting is therefore  
18                   closed.

19                   Thank you very much to the  
20                   participants.

21                   --- Whereupon the meeting concluded at 10:02 p.m.