

Record of Proceedings, Including Reasons for Decision

In the Matter of

Proponent GE Hitachi Nuclear Energy Canada

Subject Environmental Assessment Guidelines for the
Proposed Low Enriched Uranium Fuel Bundle
Production at Peterborough Facility

Public Hearing August 1, 2008
Date

RECORD OF PROCEEDINGS

Proponent: GE Hitachi Nuclear Energy Canada

Address/Location: 1160 Monaghan Road, Peterborough, Ontario, K9J 3V6

Purpose: Environmental Assessment Guidelines (scope of Project and Assessment) for the Proposed Low Enriched Uranium Fuel Bundle Production at Peterborough Facility

Date of hearing: August 1, 2008

Location: Canadian Nuclear Safety Commission (CNSC) Public Hearing Room, 280 Slater St., 14th. Floor, Ottawa, Ontario

Members present: Michael Binder
Secretary: K. McGee
Recording Secretary: P. Reinhardt

Date of Release of Decision: August 19, 2008

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Introduction

1. GE Hitachi Nuclear Energy Canada (GE Hitachi) has notified the Canadian Nuclear Safety Commission¹ (CNSC) of its intention to manufacture Low Enriched Uranium (LEU) Fuel bundles, of enrichment less than 5% U-235 by weight at its Peterborough facility, using uranium dioxide pellets manufactured in Wilmington, North Carolina.
2. The proposed project involves the addition of new equipment to support an LEU manufacturing line, including a LEU receipt area, a LEU fuel bundle production area and a LEU fuel bundle storage area. No new structures or new licensed facilities are proposed. No expansion to licensed areas and no change in production limit are requested.
3. Before the Commission is able to make licensing decisions in respect of the proposed project, pursuant to the *Nuclear Safety and Control Act*² (NSCA), it must, in accordance with the requirements of the *Canadian Environmental Assessment Act*³ (CEAA), make a decision on an environmental assessment (EA) of the proposal. The Commission is the sole Responsible Authority for the EA⁴.
4. As a responsible authority under the CEAA, the Commission must first determine the *scope of the project* and the *scope of the assessment for the project*. To assist the Commission in this regard, CNSC staff prepared a draft Environmental Assessment Guidelines document (EA Guidelines) in consultation with other government departments, the public and other stakeholders. The draft EA Guidelines Proposed [*EA Guidelines (Scope of Project and Assessment), for the Proposed Low Enriched Uranium Fuel Bundle Production at GE Hitachi Facility in Peterborough, Ontario*] contains draft statements of scope for the approval of the Commission. The draft EA Guidelines also contain recommendations and instructions for the approach to be used in completing the EA, including for the conduct of further public and stakeholder consultations. The draft EA Guidelines are presented in the CNSC staff document CMD 08-H126.

Issues

5. In considering the EA Guidelines, the Commission was required to decide, pursuant to subsections 15(1) and 16(3) of the CEAA respectively:
 - a) the *scope of the project* for which the EA is to be conducted; and

¹ 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.

² S.C. 1997, c. 9.

³ S.C. 1992, c.37.

⁴ Responsible Authority in relation to an EA is determined in accordance with subsection 11(1) of the CEAA.

- b) the *scope of the factors* to be taken into consideration in the conduct of the EA.
6. The Commission also considered whether it would, at this time, recommend to the federal Minister of the Environment, pursuant to section 25 of the CEAA, to refer the project to a mediator or a review panel.
 7. The Commission considered whether it would, pursuant to subsection 17(1) of the CEAA, delegate the conduct of technical support studies to GE Hitachi and the writing of the technical Report to CNSC staff or the proponent.
 8. Furthermore, the Commission undertook to decide whether or not it will consider the completed EA Screening Report (Screening Report) in a public hearing or in a closed session.

Public Hearing

9. Pursuant to section 22 of the NSCA, the President of the Commission established a Panel of the Commission to hear this matter.
10. In making its decision, the Commission considered information presented for a hearing held on August 01, 2008 in Ottawa, Ontario. The hearing was conducted in accordance with the Commission's process for determining matters under the CEAA. During the hearing, the Commission received written submissions from CNSC staff (CMD 08-H126) and GE Hitachi (CMD 08-H126.1).

Decision

11. Based on its consideration of the matter, as described in more detail in the following sections of this *Record of Proceedings*,

the Canadian Nuclear Safety Commission, pursuant to sections 15 and 16 of the CEAA, approves the *Proposed EA Guidelines (Scope of Project and Assessment), Environmental Assessment of the Proposed Low Enriched Uranium Fuel Bundle Production at GE Hitachi Facility in Peterborough, Ontario* .

12. The Commission decides that it will not, at this time, refer the project to the federal Minister of the Environment for his referral to a mediator or review panel. The Commission notes that it may make such a referral at any time during the course of the EA process if warranted.
13. The Commission decides that it will delegate the conduct of technical support

studies to the proponent, GE Hitachi.

14. Finally, the Commission decides that it will consider the completed EA Screening Report in the context of a closed session of the Commission.

Issues and Commission Findings

Type of Environmental Assessment Required

Screening vs. Comprehensive Study

15. The proposed project is not of a type identified in the *Comprehensive Study List Regulations*⁵. Therefore, pursuant to subsection 18(1) of the CEAA, the CNSC is required to ensure that a screening EA of the project is performed and a Screening Report prepared before a licensing decision to allow the project to proceed in whole or in part can be made by the Commission under the NSCA.
16. Based on information included in CNSC staff's submission, there is no, at this point in time, potential significant environmental effects or public concern associated with the project that would warrant having the project referred to a mediator or a review panel. The Commission concludes that, pursuant to the CEAA, a screening EA of the project is satisfactory.

Consultations on the Draft EA Guidelines

17. As part of its review of the adequacy of the draft EA Guidelines and, in particular, to assess the level of public concern about the project, the Commission took account of the views of the public and other stakeholders. In this regard, the Commission considered whether the consultations carried out thus far by CNSC staff and the proponent provided the public and other stakeholders with adequate opportunity to become informed and express their views about the EA.

Public Consultation

18. With respect to public consultation on the draft EA Guidelines, CNSC staff reported that a public registry was established for this environmental assessment, as required by section 55 of the CEAA, and identified in the Canadian Environmental Assessment Registry with the following number: 07-01-26561. The public was provided with an opportunity to comment on the draft EA Guidelines from January 25, 2008 to February 22, 2008. Notices of the period for commenting were placed on the CEA Registry on-line and on the CNSC Web Site. Copies of the Draft guidelines were also made available at the Public library in

⁵ S.O.R./94-638.

Peterborough. No comments were sent from the public.

Government Consultation

19. CNSC staff reported that, in accordance with the *CEAA Regulations Respecting the Coordination by Federal Authorities of Environmental Assessment Procedures and Requirements*⁶, CNSC staff started to consult on the draft EA Guidelines, and will continue to consult during the course of the EA, with the relevant Federal Authorities: Health Canada, Environment Canada and Natural Resources Canada. Comments were received from Environment Canada and Natural Resources Canada.
20. CNSC staff stated that the Ontario Ministry of the Environment (OMOE) was also consulted and confirmed that the Ontario *Environmental Assessment Act*⁷ did not apply to the proposed project.
21. The City of Peterborough, Hiawatha First Nation, Curve Lake First Nation and Alderville First Nation were solicited for comments during the drafting of the EA guidelines. Only the City of Peterborough sent comments. They are listed and addressed in appendix B on the proposed EA Guidelines.

Conclusion on the EA Guidelines Consultation

22. CNSC staff noted that all comments received during the above consultations were taken into consideration in the preparation of the draft EA Guidelines. The comments and how they were disposed of are attached to CMD 07-H126 as Appendix B.
23. The Commission is satisfied of the adequacy of the consultation with the public and other stakeholders during the preparation of the draft EA Guidelines.

Environmental Assessment Studies and EA Screening Report

24. The Commission determines the process to be followed for the EA Screening Report, including if the EA Screening studies would be delegate to GE-Hitachi and if the Screening Report would be reviewed in the context of a public hearing of the Commission.
25. CNSC staff recommended that, pursuant to Subsection 17(1) of the CEAA, the technical studies required by CEAA be delegated to GE-Hitachi. GE-Hitachi will be provided with the guidelines to carry out the environmental assessment studies

⁶ S.O.R./97-181.

⁷ R.S.O. 1990, c.E18.

and will have to submit later to CNSC staff a detailed Environmental Impact Statement report. The report will undergo CNSC staff and other Federal Authorities review before CNSC staff prepares a draft Screening Report and submits it for public consultation. After the consultation, a final EA Report will be prepared by CNSC staff and will be submitted to the Commission for consideration.

26. CNSC staff recommended that the EA Screening studies be delegated to GE-Hitachi and that the final EA Screening Report be considered by the Commission in the context of a hearing in closed session based on the low level of public concern observed during the consultation for the EA Guidelines.
27. Based on CNSC staff's recommendation, the Commission decides to delegate the EA Screening studies to GE-Hitachi and that the EA Screening Report for this project will be reviewed by the Commission in the context of closed session.

Scope of the Project

28. CNSC staff stated that the physical works involved in this project are the GE-Hitachi Peterborough buildings and facilities required for the proposed project, including the receipt and storage arrangements for the LEU pellets, the LEU fuel production line, storage arrangements for the LEU fuel bundles and waste recovery facilities. CNSC staff further stated that the undertakings in relation to the physical works are the systems and activities required for the construction and operation of the physical works.
29. CNSC staff noted that while a decommissioning plan will be included in the assessment, it will be preliminary in nature. It will further be reviewed to ensure that it is adequate and updated if necessary. Decommissioning plan is not within the scope of the EA.
30. CNSC staff included in the draft EA Guidelines a list of associated operations and activities that are within the scope of the proposed project, including preparation and construction activities and operation of the LEU nuclear fuel processing lines.
31. GE Hitachi stated that no new structures or licensed facilities, neither expansion to licensed areas are proposed for this project and that no change in the production limit is requested.
32. CNSC staff concurred with GE Hitachi's project description and with the types of effect generated by the project.
33. Based on the information received, the Commission accepts CNSC staff's recommendations concerning the *scope of the project* and approves the definition of the project scope as set out in Section 4.1 of the draft EA Guidelines without

change.

Scope of the Assessment (scope of the factors)

34. The mandatory factors in subsection 16(1) of the CEAA are: the environmental effects of the project, including the environmental effects of malfunctions or accidents that may occur in connection with the project and any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out; the significance of these effects; the comments from the public that are received in accordance with the CEAA and its regulations; and measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects of the project.
35. As allowed by paragraph 16(1)(e) of the CEAA, CNSC staff recommended that the CNSC would also require consideration of the purpose of the project and the need for the project, and the need for, and requirements of, a follow-up program in respect of the project.
36. CNSC staff is satisfied with the scope of the factors to be studied described in the EA guidelines and also recommends that the follow-up program would be based on the regulatory principles of compliance, adaptive management, reporting and analysis already in place for GE-Hitachi.

Conclusion on the Scope of the Assessment

37. Based on the above information reported by CNSC staff, the Commission concludes that the *scope of the assessment*, as described in section 4.3 of the draft EA Guidelines, is appropriate for the purpose of the environmental assessment of the proposed project.

EA Structure and Approach

38. CNSC staff included in the EA Guidelines an extensive structure for the Screening Report. CNSC staff also stated that the Screening Report will present a conclusion as to whether the project is likely to cause significant adverse environmental effects, taking into account the appropriate mitigation measures. CNSC staff will make recommendations to the Commission related to the project when the EA report will be available, consistent with section 20 of the CEAA.
39. Based on the CNSC staff recommendation, the Commission is satisfied with the structure, approach, and other instructions for conducting the EA, as described in the EA Guidelines attached to CMD 08-H126.

Public Concern on the Project

40. No concerns from the public were raised during the public consultation on the EA guidelines.

Conclusion

41. The Commission has considered the submissions of CNSC staff as presented for reference on the record for the hearing.
42. The Commission, pursuant to sections 15 and 16 of the CEAA, approves the *Proposed EA Guidelines (Scope of Project and Assessment), Environmental Assessment of the Proposed Low Enriched Uranium Fuel Bundle Production at GE Hitachi Facility in Peterborough, Ontario* presented in CMD 08-H126.
43. The Commission also concludes that, at this time, it will not refer the project to the federal Minister of the Environment for referral to a mediator or review panel in accordance with the provisions of the CEAA.
44. The Commission decides that, pursuant to subsection 17(1) of the CEAA, the conduct of technical support studies will be delegated to GE Hitachi.
45. Furthermore, the Commission decides that the completed EA Screening Report will not be considered by the Commission for approval at a public hearing but in a closed session.



Michael Binder,
President
Canadian Nuclear Safety Commission

Date of release of Reasons for Decision: August 19, 2008