

**Canadian Nuclear
Safety Commission**

**Commission canadienne de
sûreté nucléaire**

**Opportunity to be heard on the
Designated Officer Order issued
On August 31, 2009 to Canadian
Sub-Surface Energy Services Inc.
CNSC Licence No. 12813-1-09.4**

**Possibilité d'être entendu sur
l'ordre du fonctionnaire désigné
émis le 31 août 2009 à Canadian
Sub-Surface Energy Services Inc.
No. De permis de la CCSN
12813-1-09.4**

October 21st, 2009

Le 21 octobre 2009

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

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

Commission Members present

Commissaires présents

Mr. Michael Binder

M. Michael Binder

Secretary:

Mr. Marc Leblanc

Secrétaire

M. Marc Leblanc

Senior Counsel :

Mr. Michael James

Conseiller principal:

M. Michael James

(ii)
TABLE OF CONTENTS

	PAGE
Opening Remarks	1
09-H128	4
Oral presentation by CNSC Staff	
09-H128.1 / 09-H128.1A / 09-H128.1B	10
Oral presentation by the Canadian Sub-Surface Energy Inc.	

Ottawa, Ontario

--- Upon commencing at 5:09 p.m./

L'audience débute à 17h09

MR. LEBLANC: Good afternoon. This is a hearing of the Canadian Nuclear Safety Commission. Mon nom est Marc Leblanc. I am the secretary to the Commission and I'll just touch on a few additional items. We are about to start the hearing on the appointment to be heard on the DO order issued on August 31st, 2009 to Canadian Sub-Surface Energy Services Inc., licence number 12813-1-09.04.

This hearing is being transcribed and those transcriptions will be on the website of the Commission next week. And to make these transcripts as meaningful as possible, I would ask everyone to identify themselves before speaking, at least once. No need to repeat it all the time; just so the transcribers will know who they're dealing with.

And President Binder will be presiding this appointment to be heard.

THE CHAIRMAN: Welcome, everybody. I'd like to begin by introducing my colleagues. You just heard from Marc Leblanc, who is our secretary -- the secretary to the Commission -- and we also have here Michael James, who is acting as senior counsel to the

1 Commission.

2 **MR. LEBLANC:** So as mentioned earlier, the
3 order was issued in August 2009 by the designated officer.
4 A letter was sent on September 3rd to Canadian Sub-
5 Surface, to provide them with an appointment to be heard
6 on the order. A notice of hearing was also published on
7 the CNSC website. The recommendations from CNSC staff on
8 this matter were filed on October 9th, 2009 under
9 commissioner document or CMD-09-H128.

10 Canadian Sub-Surface Energy filed letters
11 dated September 8th and September 17th, 2009, as outlined
12 in CMD-09-H128.1. Supplementary information was filed by
13 the licensee on October 16th, as outlined in 09-H128.1A,
14 and the presentation is outlined in 128.1B.

15 For the record, I wish to note that the
16 licensee had requested that the matter be heard in camera
17 for security reasons. Counsel of the licensee has been
18 advised earlier that the matter will not be heard in
19 camera. However, the President may at any time require
20 that part of the appointment to be heard proceed in camera
21 so that would be justified pursuant to Rule 12 of the *CNSC*
22 *Rules of Procedure*.

23 **THE CHAIRMAN:** Okay, maybe we should deal
24 with the some issue about the in-camera. To me the in
25 camera means that there is no record or anything like

1 this. What we mean by that is that there is transcript of
2 what's going on and we will eventually publish it. So do
3 you want to talk to us a little bit about why this has to
4 be in camera?

5 **MR. PROWSE:** It's Cam Prowse, sir.

6 The original request for the in-camera
7 meeting was based on our concern that we would have to get
8 into a detailed description of the security issues
9 surrounding the way that we look after the sources when
10 they are off the well site and when they are not in our
11 locked secure storage. We weren't sure exactly what the
12 concerns of the staff might be and how we might have to
13 address those concerns, but we wanted to alert the
14 Commission that we might need to get into those things.

15 As this has unfolded, it appears to us that
16 we're not going to have to get into those kinds of
17 discussions and those kinds of disclosures that we would
18 consider might cause a security problem, and so it appears
19 to us that we will not likely be requiring an in camera --
20 or any portion of this to be in camera.

21 **THE CHAIRMAN:** Thank you for this
22 clarification. If we actually venture into this security
23 zone, you know, let us know and we'll deal with it at that
24 time.

25 **MR. PROWSE:** Thank you, sir.

1 **THE CHAIRMAN:** Okay, so before we give you
2 floor, Mr. Prowse, I would like to turn to the CNSC staff
3 and we have Mr. Régimbald here that will make a
4 presentation.

5

6 **09-H128**

7 **Oral presentation by**

8 **CNSC staff**

9

10 **MR. RÉGIMBALD:** Thank you, Mr. President.
11 Good afternoon, everyone. My name is André Régimbald.
12 I'm the Director General of the Directorate of Nuclear
13 Substance Regulation. I'm accompanied by Mr. Henry
14 Rabski, who is the Director of the Operations Inspections
15 Division, and Mr. Peter Larkin, inspector in our Calgary
16 office in the same division, with Kim Hazelton, also an
17 Inspector in the Calgary office of the Operations
18 Inspections Division, Ms. Caroline Purvis, who is the
19 Acting Director of Radiation Protection Division, and Mr.
20 Robert Buhr, who is a Radiation Protection Officer in the
21 Radiation Protection Division.

22 I will turn the microphone immediately to
23 Mr. Rabski, who will do the presentation.

24 **MR. RABSKI:** Good afternoon, members of the
25 Commission. For the record, my name is Henry Rabski.

1 Canadian Sub-Surface Energy Services
2 Incorporated, which will be further referred in my
3 presentation as Cansub, provides a variety of services to
4 the oil and gas industry. One of these services involves
5 the use of nuclear sources, in particular caesium 137 and
6 americium 241 beryllium sources as part of geological
7 evaluations required by the industry.

8 The Nuclear Substance and Radiation Devices
9 Licence number 12813-1-09.4, issued by the Canadian
10 Nuclear Safety Commission, authorized Cansub to possess,
11 transfer, use and store -- storage of specified nuclear
12 sealed sources.

13 The incident that triggered the issuance of
14 the designated officer order was a series of events that
15 occurred at a drilling site in southern Manitoba, where a
16 Cansub employee was working. Sometime on the 13th of
17 August, 2009 the employee of the company, which had been
18 designated as a nuclear energy worker, failed to return a
19 two-curie caesium source to its shielded container.

20 The following day the employee realized
21 that the source had not been safely stored. During his
22 attempt to return the source to its container he dropped
23 the source, picked it up and returned it to the storage
24 container. On the following day, August 15th, 2009, he
25 reported his failure to return the source to its container

1 to the company radiation safety officer who, on August
2 18th, 2009, three days later, reported the incident to the
3 CNSC duty officer.

4 Staff based in the CNSC Calgary regional
5 office initiated an investigation into the incident by
6 conducting a series of interviews starting on August 19th
7 through to the 27th of August 2009. The purpose of the
8 investigation was to collect information to determine
9 estimated doses to the nuclear energy worker and any
10 members of the public that may have been at that site.

11 Officials of the company, the nuclear
12 energy worker, and members of the public were interviewed
13 as part of the investigation. CNSC staff from the
14 Radiation Protection Division estimated that the worker
15 received an extremity dose of 38 millisieverts. This is
16 below the regulatory limit for nuclear energy workers of
17 500 millisieverts for skin, and a 20-millisievert whole-
18 body dose, below the annual limit of 50 millisieverts for
19 nuclear energy workers.

20 In addition, doses were calculated for
21 seven members of the public who were at the site, two of
22 which exceeded the public dose limit of one millisievert
23 per year. For the record, I'd like to put that into
24 perspective of how the dose was received; that it would
25 only take a worker to exceed the public dose limit in as

1 little as 53 seconds of that person one foot away from the
2 source in an unshielded position.

3 During a second interview of Cansub
4 officials held on August 27th, 2009, information provided
5 to the CNSC inspectors revealed that the shipping
6 container used during the incident had been modified,
7 compromising the safety of workers, the public and the
8 environment.

9 At that time a verbal order was issued by
10 the inspector to cease all operations authorized under the
11 company's licence. The verbal order was superseded by the
12 designated officer order issued on August 31st, 2009.
13 This order ceased all operational activities authorized
14 under the company's nuclear substance licence and required
15 the company to verify their entire nuclear source
16 inventory.

17 The investigation identified a number of
18 findings that have been summarized in the following two
19 slides. The nuclear energy worker did not follow the
20 licensee's work practices and procedures during the use
21 and transport of nuclear sources associated with the task
22 performed on August 13th and 14th, 2009.

23 Secondly, the shielded container Type A
24 package and the caesium source had been modified, putting
25 the worker, members of the public and the environment at

1 risk.

2 Thirdly, false information concerning the
3 encapsulation of caesium sources by the company was
4 provided during the course of the investigation.

5 Fourth finding is based on the information
6 gathered through interviews conducted by the CNSC
7 inspectors. Two members of the public likely had received
8 doses in excess of the public dose limit of one
9 milliSieverts per year.

10 The fifth finding. Training provided to
11 the worker, was not effective and was a contributing
12 factor to the exposure to the worker and the members of
13 the public.

14 The sixth finding. The licensee did not
15 exercise adequate control of the workers to ensure that
16 work practices and procedures of the company were
17 followed.

18 And, finally, the incident was not
19 immediately reported to the CNSC as required under the
20 regulation.

21 Corrective measures. For the company to
22 resume activities authorized under their Nuclear Substance
23 Licence, the following is being proposed. The training to
24 workers with respect to the company work practices and
25 procedures and the requirements under the CNSC Packaging

1 and Transport of Nuclear Substance Regulation needs to
2 take place as outlined in the action plan presented by
3 Cansub.

4 Secondly, the company needs to purchase two
5 new Type A containers that meet the regulatory
6 requirements for the three caesium sources so that they
7 can be safely transported and stored during operational
8 activities and use.

9 Thirdly, there needs to be a commitment to
10 implement an incident root cause analysis for any future
11 incidents and that commitment needs to be made by the
12 company.

13 Finally, a site and field verification by
14 CNSC inspectors is required to ensure that the company has
15 completed the above actions, so that we can verify that
16 the adequate measures necessary to protect the workers,
17 the public and the environment are in place.

18 That ends our presentation for this
19 afternoon.

20 **THE CHAIRMAN:** Thank you.

21 I will now turn to the licensee for their
22 presentation and I understand that Mr. Prowse is going to
23 make the presentation.

24 The floor is yours.
25

1 **09-H128.1 / 09-H128.1A / 09-H128.1B**

2 **Oral presentation by**

3 **Canadian Sub-Surface Energy Inc.**

4

5

MR. PROWSE: Thank you, sir.

6

 I'm here today with Mr. Brad Gabel, who is
7 the President and Chief Executive Officer of Canadian Sub-
8 Surface; Mr. Troy Simoneau, who is the Chief Operating
9 Officer of Canadian Sub-Surface; and Corrie Doyle who is
10 the third party radiation safety consultant that was
11 retained by Canadian Sub-Surface to help them rework their
12 training and compliance packages.

13

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 I'm told that it's somewhat unusual for
14 lawyers to actually be involved in applications before the
15 panel, but this situation is a little unusual and my
16 clients asked for my assistance in seeing if we could come
17 to some resolution of this.

18

19

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 As a lawyer, my inclination is to attack
19 the order and to attack the findings that led to the
20 order.

21

22

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24

25

 Well, frankly, we're hoping to avoid that
22 today. We think that there were things that happened in
23 the past -- and it's unfortunate that they happened --
24 and, if necessary, we can offer explanations for what
25 happened and how things happened.

1 But we have preferred to look to the future
2 and we believe that Canadian Sub-Surface has now dealt
3 with all of the issues that were of concern to the
4 department and the staff and that amendment or revocation
5 of the order is appropriate today.

6 We think that it's appropriate that you
7 know something about Canadian Sub-Surface and its business
8 and I thank Mr. Rabski for his very brief introduction,
9 but Mr. Gabel will make a brief presentation to you on
10 Canadian Sub-Surface and he'll tell you something about
11 what it is, what it does, and how many people it employs.

12 **MR. GABEL:** Thank you, and good afternoon
13 to the Commission. For the record, my name is Brad Gabel.

14 Does everybody have the ability to see the
15 presentation?

16 **THE CHAIRMAN:** Yes.

17 **MR. GABEL:** So I'll start on the second
18 page. A little bit of history on Canadian Sub-Surface. I
19 founded the organization back in 1996. The company began
20 operations with one wireline truck. It was a private
21 company.

22 We entered the well-testing business, which
23 is a division not related to the wireline business, in
24 1997 and we continued growth in the Western Canadian
25 Sedimentary Basin -- which is Saskatchewan, Alberta, and

1 British Columbia -- throughout the years of '96 to 2006
2 for a 10-year period until going public.

3 On February 14th of 2006, we entered the
4 public markets with a business combination of a tax-loss
5 company called Canada West Capital. And on June 22nd,
6 2009, we entered into a merger with Pure Energy Services
7 where we were acquired by Pure Energy Services.

8 Quick information about the company -- the
9 size -- currently traded on the Toronto Stock Exchange
10 under the symbol PSV. The combined asset value; we've got
11 about \$307 million in equipment which creates about a \$40
12 million market cap based on our shares outstanding.

13 Canadian Sub-Surface is remaining a wholly
14 owned subsidiary of Pure Energy Services until December
15 31st of this year, at which time we will be amalgamated.

16 To give an idea of the scope of the
17 locations we operate from. We've got two corporate
18 headquarters, one in Calgary, Alberta and one in Denver,
19 Colorado. We've got 14 field locations in Canada
20 throughout B.C., Saskatchewan and Alberta, and we've got
21 four locations in the United States.

22 Pre-merger org chart. This is Canadian
23 Sub-Surface as a stand-alone organization, myself and Troy
24 Simoneau being the officers of the organization including
25 our CFO and Executive VP. So we've got a fairly extensive

1 group of management within the organization. There's only
2 about six locations and six managements, other than the
3 senior management, that deal with radioactive sources.

4 Post-merger org chart. I will be the
5 president of the Canadian operation which will include the
6 assets under Pure Energy Services, with Troy Simoneau
7 beside me here as the Chief Operating Officer, and we'll
8 be answering to Kevin Delaney, who is the CEO of Pure
9 Energy Services.

10 So post-merger org chart. We've added
11 again more people and more locations to the business since
12 the merger, however, again, just to give an idea of the
13 critical mass of the organization and the number of
14 people. So, again, there is still about six managers,
15 seven managers in here that deal with radioactive
16 material.

17 To give an idea of scope of equipment and
18 number of people, in Canada we operate 83 wireline trucks,
19 80 production testing pieces of equipment, and 10 swabbing
20 units, and we employ about 575 people.

21 In the United States, we employ about 210
22 people working on 36 production testing units and six
23 wireline trucks. We also have a drilling services
24 division in Canada operating 10 drilling rigs with
25 approximately 78 people, so a total of about 863 people in

1 the company.

2 A quick outline of the services that we
3 provide: Electric line, which is logging and perforating.
4 This is the primary division that we use radioactive
5 material in on our logging tools. We work on new
6 completions, producing wells and abandonments, so we're
7 used throughout the life cycle of the well.

8 And here is a picture of a unit that
9 deploys tools with radioactive material in them.

10 Slickline -- another type of wireline
11 services; it's a mechanical service. There are times in
12 which we would deploy our tools on a slickline service as
13 well so, again, completion and production related.

14 Well-optimization and swabbing: Two
15 divisions that have no relation to radioactive sources and
16 cater towards the production side of the business.

17 Production testing. Production testing,
18 again, has no relation to radioactive sources. It's used
19 for surface well testing.

20 So the revenue of the organization for year
21 ended December 31st, 2008 was \$226 million. Revenue by
22 service; the wireline business is about 42 percent of our
23 revenue.

24 The well testing business is about 41 and
25 the drilling business is about 17 percent. And the

1 Canadian completions portion, which is the Canada division
2 that you're working with her, represents about 62 percent
3 of our annual revenue.

4 We felt it would be of value to identify
5 the number of jobs that we do in the field and what number
6 of jobs relates to the use of radioactive material or
7 neutron source. We currently -- for the last 12 months we
8 did 14,560 jobs as Canadian Sub-Surface alone. Of those
9 jobs we estimate about 900 of them used radioactive
10 material or about 6.2 percent of the jobs that we did.
11 And the estimated number of workers that are solely
12 employed from the use of neutron sources that are still
13 with the organization is between 25 and 30 at this point.

14 The above numbers do not include pure
15 energy services work on the last 12 months and we
16 represent that it's approximately one third of the above
17 numbers.

18 We felt it would be appropriate to talk
19 about our Destination Zero Program. As an organization we
20 take safety very seriously. We believe that having our
21 workers go home in the same condition that they came to
22 work is our primary concern.

23 So what is Destination Zero? We're one of
24 very few companies in the industry that's adopted a
25 program such as Destination Zero, which is essentially

1 trying to get our operational and the safety incidents to
2 zero. It's achieved through adding safety to our
3 company's core values, increased management involvement at
4 the field level throughout the year, gaining trust in the
5 frontline crews, emphasis on hazard identifications and
6 interventions and a reward program that we have in place
7 for awareness, not for safety performance, and our goal is
8 to eliminate health, safety, and environment related
9 incidents.

10 That concludes the presentation on the
11 company. If there's any questions from any of the
12 Commission Members I'd be happy to answer them.

13 **MR. PROWSE:** If there are no questions,
14 sir, then I would propose to proceed with the rest of my
15 presentation.

16 **THE CHAIRMAN:** Okay. Just a clarification,
17 I thought somewhere in the documents I was reading that
18 there were 92 people involved in radioactive kind of work.
19 So I'm looking at your 25 to 30. What am I missing?

20 **MR. PROWSE:** The initial document that was
21 submitted was submitted by myself, sir. And my
22 understanding from the company was that there were 92
23 employees who were involved in radiation work but there
24 are only 25 to 30 who are solely involved with radiation
25 work.

1 **MR. GABEL:** Many of our employees do other
2 things on a location or it's not solely their job. So
3 we've got 45 workers right now that are radioactive
4 workers that we have retrained and gone through the
5 process.

6 **THE CHAIRMAN:** One other clarification, if
7 I may. In your organization charts I'm always looking at
8 where is the SRO located. Who is the SRO? I've got two
9 names in some of the material I was reading.

10 The SRO that was involved with -- obviously
11 in the incident and giving advice and all this is -- I'm
12 thinking in the legal piece, which I actually found very
13 useful, so the lawyers can be useful from time to time.

14 **(LAUGHTER)**

15 **THE CHAIRMAN:** So it identifies Roger
16 Milette.

17 **MR. GABEL:** That's correct. Roger Milette
18 was the RSO of the organization at the time of the
19 incident. Mr. Milette has since been suspended of his RSO
20 duties. He is still with the organization in a different
21 capacity.

22 And Lorne Hyvonen has been -- it's been
23 requested and put in for the change of RSOs to the CNSC
24 and I believe that went to Kendall.

25 **THE CHAIRMAN:** So in terms of reporting,

1 this particular RSO has access to senior management; are
2 you considering him to be part of -- you know, at least
3 have access to senior management on such issues?

4 **MR. GABEL:** Would the RSO have had access
5 to senior management? Yes, definitely.

6 **THE CHAIRMAN:** Because organization chart
7 it was like you know -- in a bureaucracy is when we're
8 looking at reporting line, sometimes the chain of command.

9 **MR. GABEL:** I'm sorry; you might have a
10 confusion where it says SRO. Is that where you're ---

11 **THE CHAIRMAN:** Yes.

12 **MR. GABEL:** Yeah, I'm sorry, that's a
13 different division within the organization. RRSO is part
14 of the health and safety group.

15 **THE CHAIRMAN:** So where do I find them?

16 **MR. GABEL:** In the new organization it is
17 HSE Manager, which is right under Troy Simoneau off to the
18 left in the post-merger chart, which is Lorne Hyvonen.

19 **THE CHAIRMAN:** Yeah, okay, I got it.

20 **MR. GABEL:** Okay. And just for
21 clarification, SRO is a division that has nothing to do
22 with radiation in our organization, and it stands for
23 surface read out.

24 **THE CHAIRMAN:** My mistake. Okay. Thank
25 you.

1 **MR. PROWSE:** Thank you, sir.

2 What we're asking you to do today, I'm told
3 by Mr. James, is perhaps unusual, but is certainly within
4 your discretion and within your power. And what we are
5 asking you to do is to issue a verbal decision this
6 evening that will allow Canadian Sub-Surface to go back to
7 work effective immediately and then follow up your verbal
8 decision with your written reasons in due course.

9 And here's why we're asking for that.
10 First of all, the company has already been shut down for
11 two full months. They have completed an action plan that
12 was developed with the assistance of the CNSC staff and we
13 believe the action plan addresses all of their concerns
14 and the action plan is in large measure complete already,
15 and of course some of the items are ongoing items that
16 ultimately won't be complete at any point in time.

17 They have demonstrated a commitment to
18 safety and to training and to compliance with regulations.
19 Mr. Gabel and Mr. Simoneau have now become personally
20 involved in this. Where before they had left the
21 operation of the division to their division manager and
22 relied upon that person, they have now taken personal
23 charge of this because they consider these radiation
24 issues to be a very significant issue for their company
25 and especially for their Destination Zero policy. And in

1 fact, Mr. Gabel and Mr. Simoneau are themselves going to
2 be trained in radiation safety. They were actually
3 scheduled to be trained today but obviously we're here so
4 that training will be for them personally next week.

5 So what they've done is they've implemented
6 this education and training policy right from the very top
7 of their organization. And keep in mind, if you will,
8 this is a large organization. This isn't a two-man
9 company. This is 863 employees spread across five
10 divisions in two countries.

11 Canadian Sub-Surface voluntarily ceased
12 operations a full week before the inspector gave them the
13 verbal order to cease operations, and the reason that they
14 stopped operations was that Mr. Gabel found out that there
15 were some problems. He was concerned enough about safety
16 that he said "That's it. We're going to shut the whole
17 operation down until we're satisfied that there's not
18 going to be any ongoing risk to anyone." That shows and
19 demonstrates a real concern for the health and safety of
20 his workers and the public, and that should count for
21 something. That kind of action on the part of a company
22 ought to be encouraged, not discouraged.

23 So far Canadian Sub-Surface has not laid
24 off any of its radiation workers. Even though they have
25 nothing to do for the last two months, they've continued

1 to pay them. Obviously they can't continue to do that
2 much longer because at 25 salaries -- and these people are
3 not paid minimum wage -- that's a very significant
4 commitment. And they have millions of dollars of
5 equipment that's tied up that they cannot use either and
6 they haven't been using for the last two months.

7 Senior management has been very cooperative
8 with CNSC staff throughout. They brought in an outside
9 consultant to develop their action plan, rework their
10 training program and their compliance program and their
11 competency program and so on. And as I said, almost
12 everything on the action plan is done or is basically
13 done.

14 They have a new RSO; they put in the
15 application for approval of him as an RSO, he's been
16 freshly trained. He is well aware of all of these issues
17 that are before the Commission today.

18 He's been given specific instructions about
19 how to deal with any kind of an issue in the future and
20 specific instructions on how sensitive he is. He reports
21 now directly to Mr. Simoneau.

22 I looked at the required corrective
23 measures as Mr. Rabski was making his submission and I
24 went through the three required corrective measures and
25 they're all pretty much satisfied.

1 The first one is train workers on the
2 licensee work practices and procedures and so on. Well,
3 that training is now more than 90 percent complete and the
4 company has made a commitment that no radiation worker
5 will go into the field until he has completed his new
6 training, his retraining, and his competency assessment.
7 But over 90 percent of their workers have already gone
8 through this. They're ready to go back to work; they're
9 just sitting waiting at this point.

10 The second one that the staff put forward
11 is to replace the Type A shielding containers. Well,
12 those containers have been ordered; they won't be
13 delivered for several more weeks, apparently.

14 In fact, Mr. Gabel has advised me that he's
15 now been advised that the containers have been shipped and
16 they will be arriving in the week of November 6th.

17 But, in any event, the company has
18 committed to not using the modified containers at all,
19 period. So the sources in those containers will stay in
20 locked storage until the new containers come.

21 The third one is that the company has to
22 commit to performing a systematic analysis on any future
23 events. Well, as part of their action plan, they have
24 already committed to a systematic root cause analysis for
25 any events that occur in the future. So all of the

1 required corrective measures have already been dealt with
2 by the company.

3 The net result of all of that, sir, is that
4 there is no danger to the public, the employees or the
5 environment, and this company needs to get back to work;
6 not next week, not next month, but right away.

7 And as I said, you have the discretion and
8 the power to allow that and that's what we're asking you
9 to do.

10 Now, as I said to you before, my natural
11 inclination as a lawyer is go through each of the findings
12 of the inspector and go after them, deal with them each in
13 turn, but unless there are any specific ones that you
14 would like me to address, I propose to simply say this.
15 Most of the findings relate to the actions and failures of
16 an individual worker.

17 That worker had been with Canadian Sub-
18 Surface for just under two years. He had gone through a
19 training program with them, but this was not the first
20 radiation job that he had. He had 10 years prior
21 experience with competitors of Canadian Sub-Surface and he
22 had been trained previously before coming to Canadian Sub-
23 Surface as well.

24 Every time he told his story about leaving
25 the source unshielded, his story changed. It appears that

1 he has told at least five different stories, each one a
2 little worse than the previous.

3 We'll likely never know the truth as to
4 what really happened.

5 **MR. LeBLANC:** Mr. Prowse, we'll just wait a
6 few seconds.

7 **MR. PROWSE:** Until the lights come back?

8 **MR. LeBLANC:** Yes.

9 **MR. PROWSE:** Okay.

10 **MR. LeBLANC:** They'll be back in a few
11 seconds.

12 Here we are.

13 **MR. PROWSE:** There we go.

14 **MR. LeBLANC:** Thank you.

15 **MR. PROWSE:** As I said, we'll likely never
16 know the truth, the real truth, but he told two different
17 stories, even to the CNSC investigators when they talked
18 to him the second time.

19 The only reason that these incidents got
20 reported to the CNSC was through the diligence of
21 management at Canadian Sub-Surface.

22 He told his story the first time and his
23 supervisor had some suspicions about his story because it
24 didn't quite sound like he was being candid, so they
25 pressed him again and he told a different story. Then

1 later he sent an email and said his first two stories were
2 false and he told a third story.

3 So in the findings where it says -- it
4 makes it appear -- if you just look at the findings, it
5 sounds like Canadian Sub-Surface knew there was a serious
6 incident and they didn't report it for three days. Well,
7 in fact, Canadian Sub-Surface reported it once they found
8 out from the worker how serious the matter really was;
9 that the device had been left unshielded outside a motel,
10 for example.

11 That was the first time that they found out
12 about that. The first time that they ever heard that he
13 had dropped the source and had to pick it up was when they
14 read it in the CNSC report from the CNSC staff members
15 having interviewed the worker. He had never told anyone
16 at Canadian Sub-Surface that.

17 Canadian Sub-Surface has been punished far
18 enough for the failings of this worker. And, as I said,
19 all of the issues that arose from his failures and his
20 falsehoods have been dealt with in the action plan that
21 they have developed and implemented.

22 There was another employee that modified
23 the two shipping containers by removing some material from
24 the lid. Not to the point of actual danger because they
25 apparently were still within the "safe range", but

1 for Canadian Sub-Surface are no longer in a position to do
2 so. The radiation worker who told the lies has been
3 terminated. Not because he made a mistake, not because he
4 left the source unshielded and reported the incident, but
5 because he lied and lied not once, not twice, but it
6 appears four and maybe even five times.

7 They've made it clear in their organization
8 it's okay to make a mistake, it's not okay to lie to try
9 and cover up your mistake.

10 They have their action plan in place.
11 There are 32 items on the action plan, 19 of them have
12 already been completed and the remainder are well underway
13 and are basically complete, and it includes retraining and
14 competency assessment for everyone, and it's this level of
15 commitment that they have shown is the reason that we're
16 asking that you exercise your discretion to issue the
17 verbal order, allowing them to go back to work tomorrow.

18 As I said, if you look at the required
19 corrective measures that the staff have put together,
20 those are already basically done. The second and third
21 ones have been completed and the first one, as I said, is
22 90 percent completed. There are couple of workers that
23 have not yet been trained, but they will be picked up as
24 soon as the training courses are available, and they will
25 not work until they have been retrained and gone through

1 their competency assessment.

2 And it's our submission that it's not
3 necessary to wait until the staff has gone out to one of
4 the locations and done an assessment to see if the action
5 plan is working. This company has four locations with, as
6 I say -- as I've told you -- a number of workers.

7 The mandate of the CNSC is, of course, not
8 to keep people from working until there's perfection in
9 the eye of the investigator, but to ensure that the safety
10 and health of workers and the public is ensured. That can
11 be accomplished by allowing Canadian Sub-Surface to go
12 back to work tomorrow.

13 The level of commitment that has been
14 shown, and the level of cooperation that has been shown,
15 should give you comfort that if there are any issues that
16 arise when the inspectors come out to -- whenever they do
17 make it out for their inspections -- if any issues arise,
18 that Canadian Sub-Surface will deal with them
19 appropriately. They've been cooperative; there's no
20 reason to suspect that they might be anything less than
21 cooperative. There were five suggestions made for
22 additions to the action plan. Canadian Sub-Surface
23 adopted all five of them.

24 There's one minor issue that Mr. Rabski
25 brought to our attention today and that was that the

1 licence presently sits in the name of Canadian Sub-Surface
2 Energy Services Inc. and the actual name of the
3 corporation is Canadian Sub-Surface Energy Services
4 Corporation. The name change, as I understand it, arose
5 not as a result of a change in control but as the result
6 of a collapse of subsidiaries, wholly-owned subsidiaries,
7 into a parent company.

8 In any event, the paperwork requesting the
9 name change has been submitted and we submit that there's
10 no reason to hold up the return to work until that
11 paperwork can be processed by the department.

12 And those would be my submissions. Thank
13 you, sir.

14 **THE CHAIRMAN:** Thank you. The action plan
15 that you keep referring to is the October 16 note which
16 was sent from Mr. Gabel with the attachment, is that the
17 one I'm ---

18 **MR. PROWSE:** Yes, sir.

19 **THE CHAIRMAN:** Okay. And that does not
20 include the five additional matters, does it?

21 **MR. GABEL:** Yes, the one that was submitted
22 on October 16th was the one that included the comments
23 from Mr. Rabski in his ---

24 **THE CHAIRMAN:** Okay, staff, you heard the
25 comments. Are you happy with the action plan? What's

1 your views of the action plan here?

2 **MR. RABSKI:** Henry Rabski, for the record.

3 Last Friday we met with Mr. Gabel and his
4 staff to review the action plan that was originally
5 submitted as part of their September 3rd investigation
6 report.

7 We provided feedback on several important
8 aspects that we think are essential for this file to move
9 forward; one being the fact that we've made a commitment
10 in the action plan that next week we would go to one of
11 the facilities where nuclear energy workers have been
12 retrained into the company's training programs and
13 procedures and verify that, in fact, the training that
14 they have initiated is effective and sufficient to ensure
15 us that they can now work safely in the field. We have
16 included that as a recommendation to their action plan
17 that they have submitted.

18 As well, we have identified the fact that
19 there are still items pending. However, there could be
20 limited use of one of the sources because the company does
21 possess one container; that would allow us then to verify
22 the training in an actual field scenario any time
23 following the initial verification. So we would be
24 supportive of those measures.

25 We would also like to point out that it is

1 also essential for the company to have their licence
2 amended so that they can continue to operate and the order
3 could be issued to the entity of Canadian Sub-Surface
4 Incorporated.

5 **THE CHAIRMAN:** But if I understand what
6 you're saying, the proposal here to allow the company to
7 resume operation tomorrow morning, subject to whatever --
8 subject to -- one might want to put in.

9 What's staff view on that and the risk
10 involved in actually doing this, or you are suggesting
11 that you'd feel more comfortable waiting to see once
12 you've done your field view or trial audit?

13 **MR. RABSKI:** Henry Rabski, for the record.

14 We would not be comfortable with the -- we
15 would not recommend operations resuming tomorrow.

16 We strongly stand behind the need to verify
17 at one of the facilities that has been mentioned in the
18 action plan -- next week -- that the appropriate training
19 has been performed of the workers and they clearly
20 understand their obligations and their responsibilities
21 when handling nuclear materials, and we've demonstrated
22 flexibility in saying that we could then see them use one
23 of those in the field under an order to test whether, in
24 fact, that training has been effective, and we can move
25 forward in that manner.

1 **THE CHAIRMAN:** Next week? When is that
2 happening next week?

3 **MR. RABSKI:** Henry Rabski, for the record.
4 Next Wednesday. We have made a commitment
5 that we could go out to the Blackfalls facility of Cansub
6 and do the verification. That was discussed last Friday
7 with Mr. Gabel and his staff.

8 **THE CHAIRMAN:** Would you like to comment on
9 that?

10 **MR. PROWSE:** Yes, sir, I would. It's Cam
11 Prowse, for the record, sir.

12 The retraining was not done in-house. The
13 retraining was done by Alara Consulting, which is a third-
14 party consultant. It's not the company that Ms. Doyle is
15 with; it's a separate company. Alara consulting I believe
16 is well known to the department. They do training all
17 over the place.

18 And, of course, the training was done in
19 the context of, and in the wake of, these events, so it
20 would be reasonable for you to expect and assume that the
21 level of training and the concentration of the workers in
22 the training would be very high.

23 I appreciate that Mr. Rabski's department
24 would like to be 100 percent comfortable before
25 recommending that anybody be allowed to go back to work,

1 but the difficulty, sir, is that we've already been out of
2 work for two full months and the training has been done.
3 They go out and they visit one of four locations and they
4 deal with one or two employees, and they're going to make
5 their assessment of whether the training has been
6 effective by dealing with those however many employees
7 happen to be at that site when they get there on
8 Wednesday.

9 That may tell them something, but it
10 doesn't eliminate risk entirely. The risk has been
11 eliminated by the level of awareness that the employees
12 all have, the commitment that the company has shown from
13 the very highest levels of the company on down to the line
14 workers, and by the fact that they have brought in outside
15 people to do the training. They didn't try and do it
16 inside. They didn't try and do it with their own staff
17 and say, you know, "Here, we think this will work". They
18 brought in specialists to do this.

19 Waiting until Wednesday, while it may give
20 Mr. Rabski more comfort, simply adds to the pain that the
21 company is continuing to suffer and isn't going to change
22 the risk factor at all. I would submit to you that on the
23 information that you have there is no real risk to the
24 health and safety of the workers or the public if you
25 allow Canadian Sub-Surface to go back to work tomorrow.

1 And that's what, I would submit, you ought
2 to be concerned about -- is what's the risk. Not what's
3 the comfort level of the department because if you ask
4 someone for their comfort level you may have a different
5 comfort level than I have. I might be comfortable with 90
6 percent; you might only be comfortable with 100 percent.
7 It doesn't mean that I'm wrong. It doesn't mean that
8 you're absolutely correct, and I suspect that Mr. Rabski's
9 department is looking for 100 percent comfort and that's
10 not where you need to be in order to allow Canadian Sub-
11 Surface to go back to work.

12 **THE CHAIRMAN:** I think if I understand what
13 happened, it's a combination of not only if it was one
14 employee, one event -- I think you're quite right.

15 It's the fact that their equipment itself
16 was changed and you'd think that somebody would be smart
17 enough in terms of radioactive material not to pick it up
18 with their hands and all that stuff. It's a combination
19 of events which I think have caused the angst to staff
20 here.

21 Nevertheless, you pose a good question.
22 What is staff -- what is the risk of saying okay go back
23 to work? We can always -- you can always issue an order
24 again; right? Issuing an order is not something that is a
25 one-time event. If you're unhappy or you can amend an

1 order or you can do all kinds of things in there.

2 But what's the risk of allowing them to go
3 to work tomorrow?

4 **MR. RABSKI:** Henry Rabski, for the record.

5 Clearly our input to the action plan is, I
6 think, essential for this company to move forward in a
7 safe manner that protects their workers and members of the
8 public. When we had our discussions with Mr. Gabel last
9 Friday, we felt that the evaluation that we were proposing
10 was amenable to verification to give us an assurance that
11 it wasn't 100 percent as the company is saying, 100
12 percent compliance. But they've made effective change to
13 ensure that they can operate safely.

14 Our expectation was to do an audit so that
15 we can have that verification of the training prior to
16 them actively going into the use of nuclear sources. We
17 think that's a reasonable approach and we made that
18 available to Mr. Gabel that the soonest we could get out
19 to his Black Falls facility would be Wednesday and he felt
20 that that was reasonable last Friday during our
21 discussions and that he could accommodate that.

22 In our plan, we also proposed that should
23 that verification at the facility be positive, based on
24 all the changes in the commitments stated today, that
25 would be the assumption, that then they could start to use

1 the one source that they had and at a later date at some
2 time when it was active, we could do a field verification.

3 So it's not a total restriction that has
4 been placed in front of the Commission. I think we've
5 demonstrated flexibility but we need to have assurances
6 for both ourselves as representatives of the CNSC and for
7 the public that the proper changes have been put in place.

8 So we're standing by our recommendation
9 that the field audit -- the audit at the facility would
10 take place next Wednesday; we can commit to that -- and
11 that Mr. Gabel assured us that he would have a good
12 representative of staff that had been trained at the site
13 available so that we could do a random audit that would
14 suffice and demonstrate that the training has been
15 effective.

16 **THE CHAIRMAN:** I understand all of this,
17 but why can't you do this while the operation is going on?
18 I'm trying to understand the risk of doing it
19 sequentially. You first do the audit and then the start
20 operation, or doing the audit while they're doing the
21 operation.

22 **MR. RABSKI:** Henry Rabski, for the record.

23 We don't have confidence until we can see
24 the -- the proof is in the pudding, when we actually see
25 that the training has been implemented and is effective.

1 Based on our findings throughout this investigation we had
2 very little confidence -- and that was the action that was
3 taken -- that there were adequate provisions being placed
4 by the company to ensure that workers were operating
5 safely and also that they were not putting the public at
6 risk.

7 I would refer our opinion to previous
8 inspections where in 2008 there was a commitment made by
9 the company to do internal auditing of their workers.
10 What we realized in this investigation -- that that had
11 not taken place. We had to point that out last Friday to
12 Mr. Gabel that this was not a commitment that they
13 followed through.

14 So our confidence is very low right now and
15 we want some confirmation that the company has seriously
16 taken our recommendations and their proposals to task.

17 **THE CHAIRMAN:** Counsel, do you want to
18 comment on that?

19 **MR. PROWSE:** Thank you, sir. Mr. Rabski
20 looks for assurances and I submit to you that you can get
21 no better assurances than those of the President, Chief
22 Executive Officer, and the Chief Operating Officer of the
23 company. And Mr. Rabski says that, well, they found out
24 that while there was a commitment by somebody at Canadian
25 Sub-Surface to do audits in 2008, that was news to Mr.

1 Gabel.

2 Well, I can tell you the response of Mr.
3 Gabel was, "That's going to be done." That's part of the
4 action plan. And in fact, they have an audit program that
5 they have now put in place that is far more stringent than
6 any audit program that the department would have required
7 and this is simply so they can get to their Destination
8 Zero for health and safety.

9 The assurance that the Commission has is
10 the assurance of Mr. Gabel and Mr. Simoneau as the two top
11 men that if there are any issues that arise during the
12 inspection and during the audit that is performed next
13 week, they will deal with that in the same fashion that
14 they have dealt with this entire investigation right from
15 the time that it began.

16 There may have been problems previously.
17 Those problems were not problems that Mr. Gabel and Mr.
18 Simoneau were involved in and those problems have not
19 existed since they became involved. I submit to you that
20 with the assurances of those two gentlemen -- and they're
21 both quite prepared to speak up and give you their
22 personal assurances this evening. With those assurances
23 that they will work with the department if -- if -- any
24 issues arise during the audit next week, there is no risk
25 to the public to allow them back to work and allow the

1 audit to proceed.

2 And I suppose that we run into a potential
3 concern as well. So something goes on when they come to
4 the audit next week and there's a piece of paper that's
5 not missing or there's something that isn't quite 100
6 percent to whoever is conducting the audit. So they don't
7 sign off on the audit. And where does that leave us?

8 Well, when they issued this order, they
9 didn't tell us in the order what we needed to do to solve
10 the problem. They simply issued an order and said,
11 "You're out of work. You're out of business. Close your
12 doors. Lock the stuff up."

13 We've had to come here two months later to
14 try and get back to work. We've tried to deal with this
15 in a fashion which would allow us to get back to work
16 sooner but it hasn't worked. Here we are; it's two months
17 later and the department is saying, well, we need a few
18 more days. We need another -- actually, it's not a few
19 more days. We need another week.

20 But I ask you, sir, what happens if, at the
21 end of the week, there's an issue and it's a paperwork
22 issue? Mr. Rabski suggested to Mr. Gabel tonight before
23 the hearing started that because the name is wrong on the
24 licence -- Inc. instead of Corp. -- that we don't have a
25 valid licence and can't go back to work. Frankly, that's

1 form over substance.

2 You have the power to fix that tonight and
3 we would ask you to fix that tonight.

4 **THE CHAIRMAN:** My last question here is, of
5 the 25 to 30 people that you have, how long have they been
6 in the business, the radioactive business?

7 **MR. GABEL:** It ranges. However, the
8 workers that are dedicated for that are a minimum of about
9 five to seven years within the organization or within
10 industry. However, many of them are 15-20-year guys that
11 are working with the material.

12 Radioactive sources tend to be worked with
13 with the more experienced, more technical people within
14 the organization.

15 **THE CHAIRMAN:** Do you have any incident
16 with any of those people?

17 And staff, I'd like to hear from you, where
18 in previous -- this company has been around for 13 years
19 if I've got my math right.

20 **MR. GABEL:** That's correct.

21 **THE CHAIRMAN:** Did we ever have any other
22 issues, aside from this incident?

23 Did you ever have any kind of accident
24 associated with the radioactive?

25 **MR. GABEL:** No, sir, we have not.

1 **THE CHAIRMAN:** Staff, in previous audit
2 inspection did we detect -- I mean, what caused the
3 recommendation to do an audit, internal audit, or is that
4 purely a routine process?

5 **MR. LARKIN:** Peter Larkin, for the record.
6 There was an inspection done at the
7 Blackfalls head office, or our main base of operations
8 back in February, 2008.

9 There were some minor deficiencies
10 identified, but also there was the absence of any internal
11 fields audit program was identified as a deficiency.

12 That was -- has only now been addressed by
13 the licensee, that are now giving us a promise they will
14 now implement an internal inspection process or an
15 internal audit program.

16 **THE CHAIRMAN:** No other of a more serious -
17 --

18 **MR. LARKIN:** Well. at the last -- at the
19 last inspection back in February of 2008, there were no
20 sources present during that inspection, but at a previous
21 inspection in August '05, the radioactive source were
22 actually present and there were -- 10 deficiencies were
23 cited, many related to the -- related to transport
24 aspects; to the packaging, labelling of the packages
25 themselves were deficiencies in various safety control

1 areas, such as radiation protection was below
2 requirements; the training and qualification of workers
3 and, in particular, with regards to the packaging and
4 transport was found to be significantly below
5 requirements.

6 So it is an ongoing issue with respect to
7 the transportation goods requirements.

8 **THE CHAIRMAN:** Okay, I got all the
9 information I need.

10 Not being a lawyer, I've learned never to
11 do anything verbally, but I understand the urgency
12 involved in here and the only thing I can promise you is a
13 quick decision. And we -- I need to ponder about what
14 I've just heard.

15 So, thank you for being here and for the
16 presentation.

17 Marc, you want to do the ---

18 **MR. LeBLANC:** No, I think you've done it,
19 so we're good.

20 Thank you.

21 **THE CHAIRMAN:** Okay, thank you very much.

22 **MR. GABEL:** Thank you, sir.

23 --- Upon adjourning at 6:12 p.m.

24