

# Record of Proceedings, Including Reasons for Decision

In the Matter of

Applicant Ontario Power Generation Inc.

Subject Application to Renew the Operating Licence for  
the Western Waste Management Facility

Hearing  
Dates January 24, 2007 and April 11, 2007

## RECORD OF PROCEEDINGS

Applicant: Ontario Power Generation Inc.

Address/Location: 700 University Ave, Toronto, Ontario M5G 1X6

Purpose: Application to renew the operating licence for the Western Waste Management Facility

Application received: July 31, 2006

Date(s) of hearing: January 24 and April 11, 2007

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

Members present: L.J. Keen, Chair  
M.J.M. McDill  
A. Harvey

Secretary: M.A. Leblanc  
General Counsel: S. Maislin Dickson  
Recording Secretary: S. Gingras

<b>Applicant Represented By</b>	<b>Document Number</b>
<ul style="list-style-type: none"><li>• K. Nash, Senior Vice-President of Nuclear Waste Management Division</li><li>• K. Mombourquette, Vice-President, Nuclear Waste Operations</li><li>• A. Khan, Manager, Safety Assessment and Licensing</li></ul>	CMD 07-H3.1 CMD 07-H3.1B
<b>CNSC staff</b>	<b>Document Number</b>
<ul style="list-style-type: none"><li>• B. Howden</li><li>• K. Klassen</li><li>• G. Cherkas</li></ul>	CMD 07-H3 CMD 07-H3.A CMD 07-H3.B
<b>Intervenors</b>	<b>Document Number</b>
See appendix A	

**Licence:** Renewed  
**Date of Decision:** April 11, 2007

## Table of Contents

<b>Introduction</b> .....	1
<b>Decision</b> .....	2
<b>Issues and Commission Findings</b> .....	3
<b>Radiation Protection</b> .....	3
<b>Environmental Protection</b> .....	4
<b>Conventional Health and Safety</b> .....	6
<b>Operational Compliance</b> .....	7
<i>Reportable events</i> .....	8
<i>Conclusions on Operational Compliance</i> .....	8
<b>Authorization to Construct Additional Structures</b> .....	8
<b>Quality Management</b> .....	9
<b>Emergency Preparedness and Fire Protection</b> .....	10
<i>Emergency Preparedness</i> .....	10
<i>Fire Protection</i> .....	11
<i>Conclusion on Emergency Preparedness and Fire Protection</i> .....	11
<b>Decommissioning Plan and Financial Guarantee</b> .....	12
<b>Public Information</b> .....	12
<b>Safeguards and Non-Proliferation</b> .....	13
<i>Application of the Canadian Environmental Assessment Act</i> .....	14
<b>Conclusion</b> .....	15

## **Introduction**

1. Ontario Power Generation Inc. (OPG) has applied to the Canadian Nuclear Safety Commission<sup>1</sup> (CNSC) for the renewal of the Class IB operating licence for the Western Waste Management Facility in the Municipality of Kincardine. The current operating licence WFOL-W4-314.06/2007 expires on May 31, 2007. OPG has requested a ten-year licence term.
2. The WWMF is located on approximately 19 of the 932 hectares that is the site of the Bruce Nuclear Power Development (BNPD) on the shores of Lake Huron, within the Municipality of Kincardine. The entire BNPD site is owned by OPG. The majority of the site was leased to Bruce Power Inc. (Bruce Power) in May 2001. OPG is the owner and licensed operator of the WWMF within the BNPD site.
3. OPG is requesting to continue with the activities permitted during the current licence period. These activities include: the management of low and intermediate level waste; the construction of additional low and intermediate level waste storage structures; the management of used fuel in dry storage, including its transportation; the construction of a Dry Storage Container (DSC) storage building; and the maintenance of transportation packages. OPG has also requested approval to construct, on an as-needed basis during the proposed ten years, additional waste storage structures like those currently in operation at the site.

## Issues

4. In considering the application, the Commission was required to decide, pursuant to subsection 24(4) of the *Nuclear Safety and Control Act*<sup>2</sup> (NSCA):
  - a) if OPG is qualified to carry on the activity that the licence would authorize; and
  - b) if, in carrying on that activity, OPG would make adequate provision for the protection of the environment, the health and safety of persons and the maintenance of national security and measures required to implement international obligations to which Canada has agreed.

---

<sup>1</sup> In this *Record of Proceedings*, the *Canadian Nuclear Safety Commission* is referred to as the “CNSC” when referring to the organization and its staff in general, and as the “Commission” when referring to the tribunal component.

<sup>2</sup> S.C. 1997, c. 9.

### Public Hearing

5. The Commission, in making its decision, considered information presented for a public hearing held on January 24, 2007 and April 11, 2007 in Ottawa, Ontario. The public hearing was conducted in accordance with the *Canadian Nuclear Safety Commission Rules of Procedure*<sup>3</sup>. During the public hearing, the Commission received written submissions and heard oral presentations from CNSC staff (CMD 07-H3, CMD 07-H3.A and CMD 07-H3.B) and OPG (CMD 07-H3.1, CMD 07-H3.1A and CMD 07-H3.1B). The Commission also considered oral presentations and written submissions from 42 intervenors (see Appendix A for a list of the interventions).

### **Decision**

6. Based on its consideration of the matter, as described in more detail in the following sections of this *Record of Proceedings*, the Commission concludes that OPG is qualified to carry on the activity that the licence will authorize. The Commission is also satisfied that OPG, in carrying on that activity, will make adequate provision for the protection of the environment, the health and safety of persons and the maintenance of national security and measures required to implement international obligations to which Canada has agreed. Therefore,

the Commission, pursuant to section 24 of the *Nuclear Safety and Control Act*, renews the Class IB Operating Licence to Ontario Power Generation Inc. for its Western Waste Management Facility located in Kincardine, Ontario. The licence WFOL-W4-314.00/2017 is valid from June 1, 2007 to May 31, 2017.

7. The Commission includes in the licence the conditions recommended by CNSC staff, as set out in the draft licence attached to CMD 07-H3.B, with the following modifications:

Licence condition 6.4 a) is replaced with:

6.4 The licensee shall:

- a) arrange for biennial third-party reviews in accordance with Condition 6.2 and the standards listed therein within the first year of the licence and every second year thereafter;

---

<sup>3</sup> S.O.R./2000-211.

8. With this decision, the Commission requests that CNSC staff present a status report to the Commission on the performance of the facility, as soon as possible after the third and seventh year of the licence term. The status report will be presented at a public proceeding of the Commission.

### **Issues and Commission Findings**

9. In making its licensing decision under section 24 of the NSCA, the Commission considered a number of issues relating to OPG's qualifications to carry on the proposed activities, and the adequacy of the proposed measures for protecting the environment, the health and safety of persons, national security and international obligations to which Canada has agreed.
10. The findings of the Commission presented below are based on the Commission's consideration of all of the information and submissions available for reference on the record for the hearing.

### **Radiation Protection**

11. As part of its evaluation of the adequacy of the provisions for protecting the health and safety of persons, the Commission considered the past performance and future plans of OPG in the area of radiation protection.
12. OPG reported that the WWMF facility has an extensive contamination and radiation monitoring program in place, and that this program is based on the OPG radiation protection policies and principles. OPG further noted that it had set new and more stringent administrative targets, in light of the additional hazards associated with OPG's plans to receive refurbishment waste from Bruce Power.
13. CNSC staff reported that it did not issue any action items related to radiation protection during routine inspections. Furthermore, CNSC staff concluded from an inspection of the radiation protection program in August 2006 that this program and its implementation met requirements. The minor deficiencies identified did not impair the effectiveness of the program. CNSC staff also found acceptable OPG's response to the action notice issued following this inspection.
14. OPG reported that radiation doses to the WWMF workers have remained well below regulatory limits and action levels. OPG further noted that the monthly dose average rate at the fence had been consistently below the compliance target. CNSC staff concurred with OPG. CNSC staff also noted that it reviewed and considered acceptable the As Low As Reasonably Achievable (ALARA) assessment submitted by OPG following a complete year of operation of the Western Used Fuel Dry Storage Facility (WUFDSF).

15. OPG reported that radiological emissions were well below regulatory dose limits and contributed to only a small fraction of the total emissions from the Bruce site operations.
16. CNSC staff stated that no regulatory dose limits have been exceeded within the last ten years and no action levels established under section 6 of the *Radiation Protection Regulations* have been reached or exceeded. CNSC staff also noted that doses to the public were well below regulatory dose limits during the licence period.
17. Based on the information provided, the Commission is of the opinion that OPG has made, and will continue to make, adequate provision for the protection of workers and the public from radiation.

### **Environmental Protection**

18. To determine whether OPG will make adequate provisions to protect the environment while carrying on the proposed activities at its waste management facility at the Bruce site, the Commission considered the potential for the continued operation to adversely affect the environment.
19. OPG reported that an assessment of environmental effects was provided in the WWMF safety report submitted to the CNSC staff for approval. OPG added that an integrated environmental assessment (EA) follow-up program was put in place for the expansion project. OPG also indicated that the follow-up program results have confirmed the predictions of the EA that there are no significant impacts on the environment. CNSC staff concurred with OPG. CNSC staff added that environmental management plans were also in place to mitigate the potential impacts of the construction of new structures.
20. CNSC staff reported that it completed an inspection in September 2006 to assess the adequacy and effectiveness of the environmental management process. CNSC staff concluded from that audit that the programs are well developed and effectively implemented, and that none of the deficiencies discovered represents an unreasonable risk to the environment. CNSC staff considers acceptable OPG's action plan to address the deficiencies.
21. OPG stated that the WWMF is included in Bruce Power's radiological environmental monitoring program through a formal agreement between both licensees. CNSC staff noted that the results of the radiological environmental monitoring program were reported to the CNSC via an environmental radiological report for the BNPD.
22. OPG noted that a program was in place to monitor groundwater wells and the incinerator stack emissions, and that the results of the program were reported to CNSC staff on a quarterly basis. CNSC staff stated that compliance verification activities did not identify any issues with the implementation of these controls and programs.

23. OPG further noted that the groundwater quality in the vicinity of the WWMF is monitored by the routine sampling of 18 monitoring wells. Results of the monitoring program are submitted quarterly to the CNSC. OPG noted that the concentrations of tritium in groundwater remain stable.
24. CNSC staff indicated that it is satisfied that the number and placement of the boreholes provide adequate monitoring. CNSC staff also indicated that OPG had assessed the reasons for the subsurface release resulting in higher tritium values at one borehole. CNSC staff is satisfied with the actions taken by OPG to correct this issue and ensure a better control of the releases.
25. OPG reported that the replacement incinerator, which was installed in 2002, met all current emission guidelines and resulted in reduced emissions for dioxins and furans. CNSC staff noted that it examined the results of stack testing conducted on the new incinerator in 2005 and 2006 and confirmed that no limits were exceeded.
26. In its intervention, Citizens for Renewable Energy expressed the view that OPG should stop incinerating oil, on the basis of the increase of airborne releases in 2006. This intervenor also declared that OPG should stop incinerating as a result of the Ontario Ministry of the Environment's (MOE) recently enacted regulation prohibiting the incineration of waste oil.
27. The Commission asked about possible reasons for the increase in annual airborne releases. OPG answered that a number of factors could affect the magnitude of airborne releases, including the characteristics of the waste burned, the number of outages and the amount, volume and nature of waste incinerated. Noting that waste oil was burned in 2006, OPG added that these releases are well below the Derived Release Limits (DRLs). CNSC staff concurred that OPG was operating within the CNSC licence requirements and within the limits specified in the Certificate of Approval issued by the MOE, which includes the authorization to incinerate waste oil.
28. The Commission sought further information regarding provincial inspections of the incinerator. OPG responded that, in addition to holding regular meetings with the MOE, it submits the results of its continuous air monitoring for conventional emissions to the MOE's for review and trend analysis.
29. CNSC staff reviewed stack testing of conventional emissions from the waste incinerator which was completed for the MOE. CNSC staff reported that the values reported met requirements of the Canadian Council of the Ministers of the Environment (CCME Guidelines) for mercury, dioxins and furans which come into effect in 2007. CNSC staff stated that it was also satisfied that the results complied with the values in Ontario's *Guideline A-7 Combustion and Air Pollution Control Requirements for New Municipal Waste Incinerators*<sup>4</sup>.

---

<sup>4</sup> (1746e), Ontario Ministry of the Environment.

30. Based on the information received, the Commission is satisfied that OPG has made, and will continue to make, adequate provision for the protection of the environment during the proposed licence period.

### **Conventional Health and Safety**

31. With respect to the protection of persons from conventional (non-radiological) hazards at the plant, OPG reported that program activities and performance measures have been developed based on the requirements of the International Safety Rating System (ISRS)<sup>5</sup> audit protocol. OPG further indicated that a hazardous materials control program was in place over the duration of the current licence period.
32. OPG declared that its occupational safety record had been excellent for several years, and that there had been no lost-time accidents in more than eleven years.
33. CNSC staff noted that it does not carry out any specific inspections of conventional health and safety practices at the WWMF, but that it makes observations of the safety practices and the controls employed during inspections of the facility. CNSC staff did not observe any items of concern regarding health and safety practices during these inspections.
34. CNSC staff stated that it was satisfied with OPG's environmental, safety and health management system and related programs in place to address potential health and safety hazards. CNSC staff indicated that the risks at the facility are associated with the control and safe handling of hazardous materials and large, heavy waste packages, as well as the use of conventional x-ray equipment which is authorized by the Ontario Ministry of Labour (OML). CNSC staff noted that OML has confirmed that no concerns were identified during recent inspections of the construction sites at the facility and that no orders have been issued.
35. In its intervention, the Power Worker's Union declared that it considered OPG's health and safety structure to be amongst the most inclusive framework to be found in any industry. This intervenor also pointed out the existence of a health and safety committee comprised of senior representatives of OPG and the local unions, a health and safety working committee, as well as a joint committee for radiation protection.
36. Based on this information, the Commission is satisfied that OPG has made, and will continue to make, adequate provision for the protection of persons from conventional (non-radiological) hazards at the WWMF.

---

<sup>5</sup> ISRS is an internationally recognized standard that measures an organization's effectiveness in safety management.

## **Operational Compliance**

37. The Commission considered OPG's current and past operating performance as an indication of its qualifications to operate its facility and, in doing so, to provide adequate protection for the environment, persons, national security and international obligations.
38. CNSC staff explained that operational performance, as indicated by radiation doses to workers, effluent releases and environmental monitoring, indicates that operational programs and controls are adequate and being implemented.
39. OPG reported that it has an ageing management program aimed at ensuring safe containment over the life of the facility. OPG also routinely conducts ageing management activities to ensure the integrity of its containers.
40. The Commission asked for more information on whether certain containers would meet future requirements. OPG answered that part of the ageing management program was to assess the life expectancy of the containers. Since some containers may not last beyond 20 years, OPG expects to perform some repackaging of the waste as needed. CNSC staff stated that OPG's inspections of the containers were an appropriate and expected practice included in the overall maintenance of the facility.
41. CNSC staff indicated that the design of the waste storage structures, buildings and other storage structures includes measures to protect the environment and the safety of persons, and that safety analyses conducted for the WWMF demonstrate that the risks to persons and the environment from the normal operations and postulated abnormal or accident conditions are minimal.
42. The Commission asked whether the buildings used to store the DSCs were designed using the National Building Code. OPG answered that they were, and added that no failures of the buildings had been observed. OPG further noted that these buildings are not containment structures, but are used to provide for weather protection and easier maintenance of the structures.
43. CNSC staff reported that routine inspections are performed in accordance with the CNSC compliance program, and that all inspections performed during the current licence period only identified minor deficiencies.
44. In his intervention, D. Rosart expressed concerns about shipment methods if nuclear waste was originating from the United States. As a response to the Commission's question on the origin of the waste stored at the facility, CNSC staff explained that the WWMF was permitted to accept low and intermediate waste from OPG-owned nuclear generating stations, as well as used waste from Bruce A and Bruce B. The licence does not allow importation of waste from the United States.

*Reportable Events*

45. CNSC staff noted that it was properly informed of the twelve unplanned events which occurred during the current licensing period. There were no releases, radiation exposures, loss of security, or significant impairment of safeguards systems associated with the events. Corrective actions were taken by OPG in a timely manner for each event to prevent recurrence.
46. OPG reported that fire water impairment occurred at the WWMF when Bruce Power experienced a ruptured supply line. This event lasted from February 21 to March 14, 2007. During the impairment, hot work was stopped and combustible materials were relocated. OPG noted that it maintained close contact with CNSC staff throughout the event. OPG further indicated that it hired an external expert to provide review and advice on its response to the event; this expert confirmed that all appropriate actions were taken. CNSC staff noted that it was satisfied with OPG's response to this event.
47. The Commission asked for more information on the possible causes of this incident. CNSC staff answered that it could not provide this information until the root cause analysis had been received and reviewed. The Commission further asked whether issues could have been found during previous inspections which might have prevented this event. CNSC staff answered that if the cause of the event was a design defect or an internal corrosion issue, a fire inspection audit would not have been able to discover it. The Commission notes that it will await a Significant Development Report after the Root Cause Analysis is available.

*Conclusions on Operational Compliance*

48. Based on the information received, the Commission concludes that the operating performance at the WWMF provides a positive indication of OPG's ability to adequately carry on the activities under the proposed licence period and that OPG has in place the necessary programs to assure continued acceptable performance at the facility.

**Authorization to Construct Additional Structures**

49. CNSC staff recommended that the Commission approve OPG's requested changes to the licence to permit the construction of additional low and intermediate level waste storage structures during the period of the proposed licence. CNSC staff noted that the operation of the structures would only begin following OPG's submission of a commissioning report and its acceptance by the Commission or a person authorized by the Commission, in accordance with condition 2.2 of the proposed licence. This commissioning report would provide information to confirm that the storage structures have been constructed and can operate as required.

50. OPG stated that lessons learned from the construction and operation of the Pickering Waste Management Facility were applied to the construction of the Western Used Dry Storage Facility (WUFDSF), which consists of a processing building to receive and process DSCs. According to OPG, operational performance at the WUFDSF has been excellent, and there were no violations of the operating policies and procedures during the current licence period. CNSC staff concurred with OPG's assessment. CNSC staff indicated that the proposed structures are of a type currently used at the WWMF.
51. In its intervention, Great Lakes United expressed the view that, with a massive amount of radioactive waste in this location, CNSC staff provides an unacceptable level of regulatory oversight. Because of the quantity of waste and the location of the waste storage facility which this intervenor considers extremely hazardous, Great Lakes United opposes the expansion of the facility until there is appropriate regulatory oversight. Citizens for Renewable Energy also expressed similar concerns.
52. Regarding the concerns expressed by these intervenors, the Commission considered the information provided by all participants in this hearing. In making its decision, the Commission also considered the fact that this facility is considered low-risk and that OPG has demonstrated good operational performance at the WWMF. The Commission is also of the opinion that, considering the regulatory activities performed by CNSC staff and the regulatory programs in place, CNSC staff's oversight is acceptable for this type of facility. The Commission also notes that it also provides oversight of facilities through licensing and other measures.
53. The Commission agrees with the additional construction of waste storage structures, as requested by OPG and detailed in the proposed licence. The Commission also delegates to CNSC staff the power to authorize the operation of these new waste storage structures after CNSC staff has accepted the commissioning report, as stated in licence condition 2.2.

### **Quality Management**

54. OPG reported that a dedicated performance assurance department was in place to ensure program adequacy. An Environmental Management System (EMS) has also been implemented at the WWMF, and this has been registered under ISO 14001 since December 1999.
55. CNSC staff confirmed that OPG's management system was based on the requirements of the company Det Norske Veritas' (DNV) International Safety Rating System (ISRS) and ISO 14001 and that these organizations had confirmed OPG's rating and certification. CNSC staff also reported that no action notices were issued following its 2005 audit of the management program. The CNSC inspection team concluded that OPG had implemented the processes needed to comply with the requirements of the CSA QA standard N286.0-92.

56. In response to the Commission's question on the integration of requirements between the MOE and the CNSC, CNSC staff explained that the licensee is required to report any significant incidents, and that CNSC staff will cooperate with the MOE to avoid redundancy. OPG noted that it considered requirements well coordinated between the MOE and the CNSC, and that it provided appropriate information to both levels of governments.
57. Upon consideration of the above information, the Commission concludes that OPG is taking adequate steps to comply with all CNSC quality assurance requirements.

### **Emergency Preparedness and Fire Protection**

#### *Emergency Preparedness*

58. With regards to emergency preparedness, OPG reported that emergency procedures and trained personnel are in place, in addition to an emergency response team at the BNPD site. The BNPD site team is trained and available at all times to respond to an emergency at the WWMF. CNSC staff confirmed the existence of a lease agreement between Bruce Power and OPG to provide emergency response services to OPG for all fire, medical, rescue and spill emergencies that may arise from the WWMF.
59. CNSC staff reported that the inspection of a Bruce Power's emergency exercise in October 2006 confirmed that Bruce Power has the ability to effectively manage and implement its emergency response for the entire site. OPG also has detailed procedures and training in place to address immediate WWMF site response to emergencies prior to the arrival of the Bruce emergency response team.
60. The Commission asked how CNSC staff carries out the oversight of the shared services. CNSC staff responded that there is on-going communication between the CNSC staff at the CNSC headquarters in Ottawa and on-site at the facilities, which include project officers as the point of contact for the licensee, plus inspectors and specialists responsible for a specific safety area for several sites. CNSC staff also noted the various reports that ensure information is shared and that appropriate oversight is provided. These reports include, for example, CNSC staff's compliance and assessment reports and the licensee's quarterly, annual and incident reports.
61. In his intervention, A.R. Donald declared having been involved in the local and provincial emergency exercises OPG has carried out in past years, and that at all times, the performance of the people had instilled confidence that OPG would respond appropriately to an emergency.

*Fire Protection*

62. With regards to fire protection at the WWMF facility, CNSC staff reported that OPG has completed the replacement of fire detectors in order to meet current fire code requirements. OPG has also conducted the reviews required under the licence condition and has submitted the results of these reviews to the CNSC.
63. CNSC staff indicated having reviewed the fire protection program and concluded that OPG has an acceptable fire protection program and that it is being implemented. During its compliance inspections, CNSC staff reported that it found proper equipment and controls to be in place.
64. CNSC staff reported that OPG has requested a change to its fire protection conditions to reduce the frequency of the third party reviews to once every three years. Based on its review of the request, CNSC staff stated that it supported the requested change to condition 6.4 a).
65. In its intervention, Citizens for Renewable Energy expressed deep concerns about CNSC staff's endorsement of OPG's request. This intervenor argues that there is no logic with making fewer reviews, since there might be further construction work if OPG's request for construction activities is accepted.
66. The Commission asked for more information on OPG's request. CNSC staff explained that the audits were not producing significant findings, and that OPG has been operating in conformance with the licence requirements. CNSC staff also noted that it already performs two routine inspections per year and that periodic inspection tests of varied frequency (daily to annually) are required under the building and fire codes. Furthermore, the proposed licence condition would still require OPG to retain the services of a third party to perform verification activities, at a three-year interval.
67. The Commission asked whether there were any issues regarding the legal agreement with Bruce Power for services which would prevent the verification activities to be extended to once every three years. CNSC staff answered that there were no issues and that it considered this agreement to be acceptable. OPG explained that, while the services are provided through a legal agreement, there are contingency plans in place in the event of a loss of services. OPG also has the right under these agreements to perform its own audits and inspections.

*Conclusion on Emergency Preparedness and Fire Protection*

68. Based on the information presented, the Commission is satisfied that OPG is making, and will continue to make, adequate provisions for emergency preparedness and fire protection at the WWMF.

69. However, the Commission is concerned that, despite OPG's good performance record, moving from an annual to a three-year third-party inspection would be significant change in regulatory oversight. The Commission also believes that the evidence provided did not allow it to draw the conclusion that the proposed three-year frequency is appropriate. Therefore, the Commission modifies the proposed licence condition 6.4 a) to require OPG to perform third-party reviews once every two years. The Commission would consider a less frequent third-party review at a later date, if OPG's record remains acceptable.

### **Decommissioning Plan and Financial Guarantee**

70. OPG reported that it had prepared and filed with the CNSC a Preliminary Decommissioning Plan (PDP) for all Class I facilities owned by OPG, in accordance with the regulatory guide G-219, *Decommissioning Planning for Licensed Activities*. OPG further noted that a revised financial guarantee for all of its Class I facilities would be put in place before the expiry of the current one (December 2007). The WWMF is included within this financial guarantee. OPG also provided to the CNSC an annual report on the status of the financial guarantee since January 2004.
71. CNSC staff confirmed having received this annual report, as well as the revised PDP. CNSC staff will come back to the Commission before December 31, 2007 with proposed changes to the existing conditions on decommissioning plans and financial guarantees for all of OPG's Class I licences.
72. CNSC staff reported that OPG has committed to submitting in April 2007 the revised cost estimates referenced to in condition 10.1 of the proposed licence. CNSC staff is planning to review these cost estimates.
73. Based on the information provided during this hearing, the Commission concludes that the decommissioning financial guarantee for the WWMF is acceptable for the purpose of the proposed licence renewal.

### **Public Information**

74. With respect to public information activities, OPG reported that it was an active member of the community by sponsoring, and participating in, various community events. BNPD's public affairs department also has a program to maintain and improve community relations.
75. CNSC staff confirmed the existence of a public affairs program for the WWMF. CNSC staff added that it reviewed OPG's program at the time of the last renewal and found it to comply with CNSC Regulatory Guide G-217, *Licensee Public Information Program*.

76. Several intervenors expressed their satisfaction with OPG's public information program for the WWMF, expressing the view that OPG provided ongoing communications activities by, for example, holding regular information meetings and participating in liaison committee meetings. These intervenors consider that OPG has been open and proactive in its communications with the public.
77. In its intervention, the Municipality of Kincardine invited representatives of the CNSC to be present at their Council sessions. The Commission acknowledges this invitation, and invites CNSC staff to respond to this invitation, as appropriate.
78. In its intervention, Citizens for Renewable Energy expressed concerns about whether the Commission listens to people providing submissions in hearings. The Commission reassures this intervenor that it does consider all interventions at public hearings. The Commission does welcome and carefully consider intervenors' submissions, and it believes that the information provided by the public in the course of a hearing is useful in making its decisions. Considering that the Kincardine area and surrounding communities will witness a lot of activity related to the nuclear industry in the near future, the Commission further notes that feedback from the local population remains very important to the Commission.
79. Based on this information, the Commission is satisfied that OPG's public information program meets the regulatory requirements and is effective in keeping the public in the vicinity informed of the effects of operations at the WWMF.

### **Safeguards and Non-Proliferation**

80. Concerning safeguards and non-proliferation, OPG reported that the CNSC and the International Atomic Energy Agency (IAEA) completed compliance inspection activities of OPG's safeguards program annually in July and that no action notices were issued. OPG also noted being involved in discussions with the CNSC and the IAEA on the implementation of the IAEA's Integrated Safeguards Approach at the WWMF.
81. CNSC staff confirmed that the CNSC and the IAEA were provided with all reports and information necessary for IAEA safeguards as per licence conditions, and that OPG has complied with the requirements for the right of complimentary access. CNSC staff also considers that OPG properly maintained safeguards equipment and that backup power was properly provided during planned and unplanned power outages.
82. CNSC staff indicated that one event was reported concerning the premature movement of a DSC into storage without safeguards seals. CNSC staff considers that OPG responded appropriately to the event. CNSC staff noted that the CNSC and the IAEA were satisfied that the incident did not affect Canada's ability to meet international obligations.

83. In response to the Commission's question on the inspection frequency, CNSC staff explained that the current inspections, including interim inventory verifications, take place typically quarterly while physical inventory verification is done once per year. CNSC staff added that it was planning on moving towards unannounced inspections, which would be at a much lower frequency than the current inspections.
84. CNSC staff considers that OPG has maintained a good record of compliance with safeguards requirements. Nothing associated with the WWMF licensing would impair Canada's continuing ability to meet its international obligations.
85. Based on this information, the Commission is satisfied that OPG has made, and will continue to make, adequate provisions in the areas of safeguards and nonproliferation at the WWMF to maintain national security and implement the international obligations to which Canada has agreed.

### **Application of the *Canadian Environmental Assessment Act***

86. Before making a licensing decision, the Commission must be satisfied that all applicable requirements of the *Canadian Environmental Assessment Act*<sup>6</sup> (CEAA) have been fulfilled.
87. CNSC staff reported that, while the proposed project is a trigger because of the significant changes requested to the licence conditions, this project is on the *Exclusion List Regulations*<sup>7</sup> since the proposed modifications are the same as modifications for which an EA has previously been conducted. Therefore, no EA is necessary.
88. The Commission concludes that no environmental assessment under the CEAA is required for the renewal of the operating licence for the WWMF before the Commission may consider and make a decision on the licence renewal application under the NSCA.

### **Licence Length**

89. OPG applied for a ten-year licence. CNSC staff recommended that the Commission accept and grant the proposed term, referencing its criteria for recommending licence duration (as described in CMD 02-M12). CNSC staff indicated that the WWMF facility fulfilled the following criteria:
  - the proposed duration of the licence is commensurate with the licensed activity;
  - the hazards associated with the facility are well characterized and their impacts well predicted;

---

<sup>6</sup> S.C. 1992, c. 37.

<sup>7</sup> S.O.R./94-639.

- the WWMF has in place a management system to provide assurance that the safety-related activities are effective;
  - compliance programs are in place; there is a good history of operating experience and compliance in carrying out the activity;
  - the licence period is consistent with the requirements of the *Cost Recovery Fees Regulations*<sup>8</sup>;
  - and there are no plans for significant changes in the licensed activity.
90. CNSC staff also proposed interim reports to the Commission on relevant performance information at the third and seventh year of the proposed ten-year licence.
91. Several intervenors supported OPG's application and CNSC staff's recommendation. K. Battler supports the ten-year licence as long as there are regular reports to the CNSC on performance in all areas.
92. However, Citizens for Renewable Energy took strong exception to the ten-year request since, in its opinion, it is a facility which houses similarly hazardous substances as Class IA facilities. This intervenor suggested a two-year term, on the basis that OPG cannot be trusted to handle the waste safely. Great Lakes United also suggests a two-year period, with the release of a comprehensive mid-term report to the public detailing how the site meets the highest and most stringent safety standards.
93. The Commission considers that the hazards associated with the operation of the facility and the regulatory oversight to be provided through ongoing compliance activities by CNSC staff during this licence period warrant a 10-year licence period. Based on the information received, the Commission is of the opinion that a ten-year licence term is appropriate.
94. The Commission requests CNSC staff to present interim reports on the status of the facility, as soon as practicable after the third and seventh year of the licence period. These reports will be presented at public proceedings of the Commission. The Commission notes that it may ask for additional status reports, whenever it considers it appropriate. The Commission notes that it will also be provided with relevant information and updates regarding this facility should there be a significant event regarding the WWMF or a licence amendment request from OPG.

### **Conclusion**

95. The Commission has considered the information and submissions of OPG, CNSC staff and intervenors as presented in the material available for reference on the record.

---

<sup>8</sup> S.O.R./2003-212.

96. The Commission is of the opinion that OPG is qualified to carry on the activities that will be permitted under the licence. Furthermore, the Commission is of the opinion that in carrying on those activities, OPG will make adequate provision for the protection of the environment, the health and safety of persons and the maintenance of national security and measures required to implement international obligations to which Canada has agreed.
97. The Commission is of the opinion that the risks posed to the environment, to the health and safety of persons and to national security, given the measures and safety programs that are in place or will be in place by the licensee to control hazards, are not unreasonable.
98. The Commission concludes that an environmental assessment under the CEAA is not required before the Commission may make its decision with respect to the application for the renewal of the licence.
99. The Commission therefore renews, pursuant to section 24 of the NSCA, the Class IB operating licence for the Western Waste Management Facility located in Kincardine, Ontario.
100. The Commission requests CNSC staff to present interim reports on the status of the facility, as soon as practicable after the third and seventh year of the licence period.
101. The Commission includes in the licence the conditions recommended by CNSC staff as set out in the draft licence attached to CMD 07-H3.B, with the above noted changes to condition 6.4 of the licence.

Linda J. Keen,  
President  
Canadian Nuclear Safety Commission

Date of decision: April 11, 2007

Date of release of Reasons for Decision: May 22, 2007

## Appendix A – Intervenors

Intervenors	Document Number
Corporation of the Township of Huron-Kinloss, represented by M. Twolan	CMD 07-H3.2
County of Bruce, represented by M. Twolan	CMD 07-H3.3
Municipality of Kincardine, represented by L. Kraemer	CMD 07-H3.4
Town of Saugeen Shores, represented by M. Smith	CMD 07-H3.5
Power Workers' Union, represented by P. Falconer	CMD 07-H3.6 CMD 07-H3.6A
Citizens For Renewable Energy, represented by Z. Kleinau	CMD 07-H3.7 CMD 07-H3.7A
Don Rosart	CMD 07-H3.8
A.R. (Sandy) Donald	CMD 07-H3.9
Ken King	CMD 07-H3.10
Saugeen Shores Chamber of Commerce	CMD 07-H3.11
Michael Pickup	CMD 07-H3.12
Barry Schmidt	CMD 07-H3.13
Lynn Bos	CMD 07-H3.14
Paul Austin	CMD 07-H3.15
James Pannell	CMD 07-H3.16
Municipality of Brockton	CMD 07-H3.17
Canadian Nuclear Association	CMD 07-H3.18
Municipality of Arran-Elderslie	CMD 07-H3.19
Bruce Retiree's Association	CMD 07-H3.20
Glenn R. Sutton	CMD 07-H3.21
William J. Henderson	CMD 07-H3.22
Maureen A. Couture	CMD 07-H3.23
Energy Solutions Expo	CMD 07-H3.24
Municipality of Kincardine Fire Department	CMD 07-H3.25
Jamie MacKinnon	CMD 07-H3.26
Mark Kraemer	CMD 07-H3.27
Paul Steckle, M.P., Huron-Bruce	CMD 07-H3.28
NUKEN Services Inc.	CMD 07-H3.29
Kincardine Scottish Festival and Highland Games	CMD 07-H3.31
Howard Ribey	CMD 07-H3.32
George Potter	CMD 07-H3.33
South Bruce Impact Advisory Committee	CMD 07-H3.34
Breakers Swim Team	CMD 07-H3.35
Women in Nuclear Canada	CMD 07-H3.36
Great Lakes United	CMD 07-H3.37
Lake Huron Centre for Coastal Conservation	CMD 07-H3.38
Canadian Nuclear Workers Council	CMD 07-H3.39
Kincardine & District Chamber of Commerce	CMD 07-H3.40

Keith Battler	CMD 07-H3.41
Keith Filby	CMD 07-H3.42
Walkerton & District Chamber of Commerce	CMD 07-H3.43