



Canadian Nuclear
Safety Commission

Commission canadienne
de sûreté nucléaire

Record of Proceedings, Including Reasons for Decision

In the Matter of

Licensee
Named in or
Subject to
Order

Best Theratronics Ltd.

Subject

Redetermination, under subsection 43(3) of the
Nuclear Safety and Control Act, of the Order
issued by the Commission on September 28,
2015.

Decision Date

February 29, 2016

RECORD OF PROCEEDINGS

Purpose: Redetermination, under subsection 43(3) of the *Nuclear Safety and Control Act*, of the Designated Officer Order amended by the Commission on September 28, 2015

Date of decision: February 29, 2016

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

Member present: M. Binder, Chair

Order: Amended

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1.0 INTRODUCTION

1. The Canadian Nuclear Safety Commission¹ (CNSC), under subsection 43(3) of the *Nuclear Safety and Control Act*² (NSCA), is considering a redetermination on its own initiative in light of new developments in regards to the Designated Officer Order (Order) issued to Best Theratronics Limited (BTL) on August 24, 2015 and subsequently amended by the Commission on September 28, 2015.
2. Condition 4 of the Order issued to BTL in August 2015 was amended by the Commission in September 2015 as follows:

“Best Theratronics Ltd. is to dispose of or transfer sealed sources at the BTL facility located at 413 March Road to a licensed facility by June 1, 2016, to dispose of or transfer prescribed equipment containing radioactive sources at the BTL facility located at 413 March Road to a licensed facility by February 1, 2016, and to dispose of or transfer depleted uranium at the BTL facility located at 413 March Road to a licensed facility by October 1, 2016, such that the inventory of any remaining sealed sources, prescribed equipment and depleted uranium shall not have a disposal cost in excess of the value of the established Financial Guarantee.”

3. CNSC staff informed the Commission on February 17, 2016 that BTL had not disposed of all prescribed equipment containing radioactive sources (devices) by February 1, 2016, as required by Condition 4 of the amended Order. CNSC staff reported that, on February 1, 2016, BTL indicated its intention to sell the remaining 12 devices and to increase its financial guarantee by \$36,000 to cover the costs of transferring the devices to another licensee. However, BTL’s proposal would not be in place until February 29, 2016, which is already beyond the stipulated date for Condition 4 of the Order.
4. In light of this new information, CNSC staff recommended that the Commission, through a redetermination on its own initiative under paragraph 43(3) of the NSCA, amend Condition 4 of the Order to allow for the continued storage of 12 refurbished devices in the BTL facility located at 413 March Road, Ottawa, ON, until the revised financial guarantee is in place by February 29, 2016.

Issue

5. Pursuant to subsection 43(3) of the NSCA, the Commission may, on its own initiative, redetermine any decision or order made by it or by an inspector or designated officer or any term or condition of a licence. Under paragraph 43(4)(i), on considering a redetermination, the Commission may hear new evidence or rehear such evidence as it considers necessary and may, in the case of an amendment of an order, confirm the amendment or cancel the amendment and confirm, amend, revoke or replace the order.

¹ The *Canadian Nuclear Safety Commission* is referred to as the “CNSC” when referring to the organization and its staff in general, and as the “Commission” when referring to the tribunal component.

² Statutes of Canada (S.C.) 1997, chapter (c.) 9.

6. Whereas Rule 31 of the *Canadian Nuclear Safety Commission Rules of Procedure*³ provides that the Commission shall send a notice of redetermination to participants in the matter being redetermined, the Commission has varied this Rule pursuant to subrule 3(1) to ensure that the proceeding be dealt with as informally and expeditiously as the circumstances and considerations of fairness permit. In this instance, the only participant was BTL and the proposed redetermination accords with BTL's intended course of action respecting the Financial Guarantee and its remaining inventory. The Commission will give notice and send a copy of its decision to BTL in due course.

Panel

7. Pursuant to section 22 of the NSCA, the President of the Commission established a Panel of the Commission to review this matter. The Commission considered a written submission from CNSC staff (CMD 16-H106) and BTL (CMD 16-H106.1).

2.0 DECISION

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

the Commission, pursuant to paragraph 43(4)(i) of the *Nuclear Safety and Control Act*, amends on its own initiative the Order issued to Best Theratronics on September 28, 2015.

9. The Commission amends the Order as follows:

Condition 4: Best Theratronics Ltd. is to dispose of or transfer sealed sources at the BTL facility located at 413 March Road to a licensed facility by June 1, 2016, to dispose of or transfer prescribed equipment containing radioactive sources at the BTL facility located at 413 March Road to a licensed facility by **February 29, 2016**, and to dispose of or transfer depleted uranium at the BTL facility located at 413 March Road to a licensed facility by October 1, 2016, such that the inventory of any remaining sealed sources, prescribed equipment and depleted uranium shall not have a disposal cost in excess of the value of the established Financial Guarantee.

³ Statutory Orders and Regulations (SOR)/2000-211.

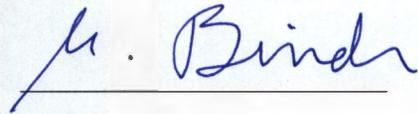
3.0 ISSUES AND COMMISSION FINDINGS

10. CNSC staff reported on the status of BTL's compliance with the Order, including BTL's progress on the disposal or transfer of sealed sources, prescribed equipment and depleted uranium (devices). CNSC staff also submitted that BTL has increased the value of its Letter of Credit for the Financial Guarantee from \$175,000 to \$200,000. CNSC staff reported that BTL intends to increase the Financial Guarantee by an additional \$36,000 to cover the costs for transfer of the devices. The proposed costs for transferring the 12 remaining devices were found by CNSC staff to be consistent with cost estimates provided for the BTL facility.
11. Because BTL's proposal would not be in place until February 29, 2016, which is beyond the stipulated date for Condition 4 of the Order, CNSC staff recommended that the Commission redetermine the Order and amend Condition 4 to allow for the continued storage of the 12 refurbished devices in the BTL facility located at 413 March Road, Ottawa, ON until February 29, 2016, the date by which the Financial Guarantee would be increased to \$236,000.

4.0 CONCLUSION

12. The Commission has considered the information from CNSC staff and BTL. On February 1, 2016, BTL became non-compliant with Condition 4 of the Order for failure to dispose or transfer the 12 remaining refurbished devices. However, the Commission is satisfied that BTL's proposed increase to the Financial Guarantee is sufficient to cover the future decommissioning of the facility if BTL keeps the 12 refurbished devices. The Commission accepts the date by which the increase to the Financial Guarantee will be in place. The Commission is of the view that extending the date of Condition 4 to February 29, 2016 would not pose an unreasonable risk to the health, safety and security of people and the environment.
13. Therefore, the Commission amends the Order amended on September 28, 2015 in the manner described in paragraph 9 above.
14. With this decision, BTL continues to be non-compliant with Licence Condition 1.3 of its Nuclear Substance Processing Facility Operating Licence NSPFOL-14.00/2019. The Commission requests that BTL continue to fund its Financial Guarantee to the amount accepted by the Commission on March 27, 2015.

15. With this decision, the Commission expects BTL to fully comply with the revised schedule for Condition 4 as per its prior commitment to meeting the deadlines established in its proposed plan for divestiture of legacy sources⁴.



Michael Binder
President,
Canadian Nuclear Safety Commission

FEB 29 2016

Date

⁴ Refer to paragraph 30 of the Record of Proceedings, Including Reasons for Decision on Review by the Commission of the Designated Officer Order issued on August 24, 2015 (Best Theratronics Ltd.), September 28, 2015.