ONE-DAY HEARING

Atomic Energy of Canada Limited: Financial guarantee for decommissioning of Whiteshell Laboratories

The next item on the agenda is a One-Day Hearing on the matter of the financial guarantee for the decommissioning of the Whiteshell Laboratories.

This is a One-Day Public Hearing.


The public was invited to participate either by oral presentation or written submission. August 16th, 2004 was the deadline set for filing by intervenors. The Commission received two requests for intervention.

September 8th was the deadline for filing of supplementary information and I note that supplementary information has been filed by the applicant and an intervenor.

Before we begin with the presentations -- and we are going to do actually all four presentations before we open for questions today -- I would like to address the issue raised by intervenors considering the venue.
for this hearing.

Manitoba Conservation and the Local Government District of Pinawa have expressed disappointment that the Commission is not holding this hearing in Manitoba.

I and my colleagues on the Commission with to reassure everyone in Manitoba that the Commission is deeply interested in the public and stakeholder views in Manitoba and we know that you are the most directly affected by this project.

However, the Commission holds many public hearings during the year on nuclear facilities and activities and these facilities are located across the country. While the Commission understands and appreciates the desire of many communities to have us come to their communities in person and we receive many requests in that regard, it is unfortunately not possible in the majority of cases to do so. The cost and the logistical challenges simply do not allow us to go on the road that often.

For example, with the current session of public hearings, the Commission covers a wide range of parties and locations on the same
day and in the same session, and therefore, the majority of the hearings are located in the national headquarters in Ottawa.

The Commission assists parties by allowing for and encouraging the submission of written interventions and by making arrangements for intervenors to participate by teleconference or by video-conference. In fact, we had an intervenor participate very effectively by video-conference, in yesterday's proceedings, from Saskatoon.

All interventions, whether written or oral, are given equal consideration by the Commission in making its decisions.

We do take note of the requests from the intervenors from Manitoba for us to visit and to have hearings there and we will continue to look for opportunities in those communities as logistics and schedule permit.

So on that basis, what I would like to do is proceed.

I am going to start by calling on the presentation from Atomic Energy Canada Limited, outlined in CMD 04-H22.1 and 04-H22.1A, and I will turn to Dr. Fehrenbach again.
Sir, the floor is yours.

04-H22.1 / 04-H22.1A

Oral presentation by Atomic Energy Canada Limited

DR. FEHRENBACK: Thank you, Madam Chair, members of the Commission, for the opportunity, again, to speak with you about the financial guarantee for decommissioning of Whiteshell Laboratories.

This presentation, of course, is further to the presentation made earlier for decommissioning of financial guarantee for Chalk River, MAPLE and the New Processing Facilities at Chalk River.

Again, before beginning, I would like to introduce the new members of our presentation team.

To my right is Dr. Bill Kupferschmidt, General Manager of Decommissioning and Waste Management and the Site Licence Holder for the Whiteshell site.

I would ask people to raise their hand so people can associate the name with the face.

Jean Pierre Letourneau is still
beside Bill.

   Behind me is Wayne TerMarsch,
Finance Director of Nuclear Laboratories, and
Bruce Lange.

   A new member of the team is Grant
Koroll, who is Manager of the Whiteshell
Laboratories Decommissioning Project.

   In the last row is Ray Lambert and
a new member of the team there is Bob McCamis, who
is the Whiteshell Laboratories Nuclear Facility
Authority.

So the subject areas that I would
like to address in this presentation cover, again,
background information related to the 2002 licence
approval, our position on the financial guarantee
for decommissioning of the Whiteshell site, some
examples of decommissioning process at Whiteshell
in the last two years, and I will close with some
concluding remarks.

Starting with some background, in
2002 May, AECL applied for a six-year
decommissioning licence for the Whiteshell
Laboratories site. The requested licensing time
frame was selected to approximately coincide with
the first of the three decommissioning phases

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which were described in the Whiteshell Detailed Decommissioning Plan or in DDP. This plan for the Whiteshell site had been found by Environment Canada and by the CNSC to be acceptable.

The CNSC issued on 2002 December 20th the Whiteshell Nuclear Research and Test Establishment Decommissioning Licence and Licence Condition 11.1 required that AECL provide by 2003 December 31st a financial guarantee acceptable to the Commission or a person authorized by the Commission and, of course, this is the subject of our hearing today.

In the CNSC Record of Proceedings, the Commission also requested CNSC staff to present interim status reports to the Commission approximately every two years during the term of the licence.

The first report to the Commission was specified to be due later this year but I will provide some brief examples of our progress to date today.

Madam Chair, members of the Commission, to meet the requirement of the previously mentioned Whiteshell Licence Condition 11.1, AECL submitted to the CNSC on 2003 December 20th
16th a copy of the letter from the Minister of EnerCan, which we discussed in the previous presentation.

Our view is, therefore, that the requirement for financial guarantee for Whiteshell decommissioning has also been met and we are in agreement with the CNSC staff position expressed in the Commission Member Document 04-H22.

With respect to implementation of this financial guarantee, as I previously stated in the presentation on the Chalk River guarantee, AECL's corporate planning process is the framework used to allocate funding for decommissioning work over the planned period. In fact, Whiteshell Decommissioning Project is one of several decommissioning projects included in the current AECL five-year corporate planning forecast.

To illustrate the progress made to date, I would like to give you a few examples of the decommissioning-related work done since the Whiteshell Decommissioning Licence became effective in 2003 January.

The Quality Assurance Program for decommissioning of the Whiteshell site is established, the Decommissioning Quality Assurance
Plan was issued for implementation in 2003 January, and an internal audit was completed in the same year on that plan and the audit recommendations have been implemented.

The Neutron Generator and the Van de Graaff Accelerator, both significant facilities in the Whiteshell site, are not fully decommissioned.

Decommissioning of hot cells 6-12 and the Scanning Electron Microscope in the Shielded Facilities is also near completion.

The Active Liquid Waste Solidification Plant is installed and commissioned and the design of the above-ground storage bunker to store the solidified waste is completed.

Characterization of the Cesium Experimental Ponds is completed and a remediation plan has been prepared.

Non-nuclear structures have been inspected and surveyed to confirm that no contamination has resulted from adjacent nuclear operations.

All redundant temporary structures have been removed and some site services have been modified to facilitate decommissioning work.
I go through these examples to indicate to the Commission and provide assurance that although we speak about financial guarantees and plans, in fact, in reality, things are happening and moving forward.

Regarding public consultation, AECL has initiated the formation of a Public Liaison Committee made up of elected municipal officials from the region, on-site business tenants and a senior official from Manitoba Conservation. The Committee operates under written terms of reference. CSNC staff are invited and have attended recent meetings.

AECL has also established a communication protocol with Sagkeeng First Nation and meets periodically with the Band Council. Youth of Sagkeeng First Nation have been involved in the meetings and tours of the Whiteshell site.

The Environmental Assessment Follow-up Program is being implemented on the committed schedule.

Establishment of the Enhanced Monitoring Programs is well advanced.

A fitness-for service assessment of medium-level waste bunkers has been completed.
In the meantime, the WR-1 Reactor has been maintained in the storage-with-surveillance state, already established through decommissioning work completed in 1994.

Finally, I would like to inform you that AECL is reviewing the potential for accelerating phases 2 and 3 of Whiteshell decommissioning, as recommended during the 2002 November hearings, and will engage the regional stakeholders in a review of any proposed changes as a result of this review.

In conclusion, Madam Chair and members of the Commission, I would like to reiterate our view that AECL has met the requirement of the Licence Condition for a decommissioning financial guarantee for Whiteshell.

We are also confident that the AECL corporate planning process for funding decommissioning work will continue to provide the required funding for decommissioning activities at Whiteshell.

Thank you for providing AECL the opportunity to address the Commission in this public setting.
THE CHAIRPERSON: Thank you.

We will now move to the presentation by CNSC staff. This is outlined in CMD document 04-H22. I will turn to Mr. Barclay Howden, DG, for the presentation.

Mr. Howden, you have the floor.

04-H22

Oral presentation by CNSC staff

MR. HOWDEN: Thank you. Good afternoon, Madam Chair, members of the Commission.

For the record, my name is Barclay Howden. I am the Director General of the Directorate of Nuclear Cycle and Facilities Regulation.

With me today are Mr. Greg Lamarre, Director of the Research Facilities Division; Mr. Bob Lojk, Director of the Waste and Geosciences Division; and the rest of the CNSC Licensing Team for this issue.

Mr. Lamarre will be making the presentation today to the Commission on behalf of the CNSC staff.

MR. LAMARRE: Thank you, Mr. Howden.
For the record, my name is Greg Lamarre.

CNSC staff has reviewed AECL's proposal for a financial guarantee for the decommissioning of AECL's Whiteshell Laboratories.

The primary purpose of this presentation is to outline staff's position on the proposed financial guarantee so that the Commission can make a decision on its acceptability.

A secondary purpose of this presentation is to present to the Commission information on the decommissioning planning for Whiteshell.

CMD 04-H22 is being submitted today to the Commission for a decision on the acceptability of the financial guarantee for decommissioning proposed by AECL for its Whiteshell Laboratories.

This presentation will therefore begin with a brief overview of the Whiteshell Laboratories and background information related to CMD 04-H22.

This will be followed first by a discussion of key issues relevant to a financial
guarantee, next by an outline of the financial guarantee arrangement proposal from the licensee, and finally by some additional notes with respect to decommissioning of the facility.

My presentation will end with conclusions and recommendations of CNSC staff with respect to the financial guarantee arrangement for the Whiteshell Laboratories.

Whiteshell Laboratories are a nuclear research and test establishment located in Manitoba, approximately 100 kilometres northeast of Winnipeg, near the municipalities of Pinawa and Lac du Bonnet.

The Laboratories comprise a number of nuclear and non-nuclear facilities.

The main nuclear facilities include the WR-1 Reactor, the Shielded Facilities, the Research Laboratories, the Solid Radioactive Waste Management area, the Decontamination Centre and concrete canister storage containing irradiated reactor fuel.

The current Whiteshell licence authorizes AECL to operate and undertake Phase 1 decommissioning activities at the Whiteshell Laboratories until December 31st, 2008.
As part of this licence, Condition 11.1 requires AECL to provide no later than December 31st, 2003 a financial guarantee acceptable to the Commission or a person authorized by the Commission.

CMD 04-H22 is being submitted to the Commission today for a decision on the acceptability of the financial guarantee arrangement submitted by AECL for the Whiteshell Laboratories.

In its Regulatory Guide G206, entitled "Financial Guarantees for the Decommissioning of Licensed Activities," the CNSC states that:

"An acceptable form of guarantee includes, amongst others, express commitments from a government, whether federal or provincial."

(As read)

In addition, in its Record of Proceedings including Reasons for Decision Errata of January 23rd, 2003, the Commission agreed that:

"The financial guarantee for the Whiteshell Laboratories
can consist of a fund and/or
a government commitment."

(As read)

The Government of Canada

incorporated AECL pursuant to provisions of the
Atomic Energy Control Act, now the Nuclear Energy
Act. By virtue of Subsection 11(2) of the Nuclear
Energy Act, AECL, which is listed as a Schedule 3
Part I Crown Corporation under the Financial
Administration Act, is for all its purposes an
agent of Her Majesty in Right of Canada.
Therefore, any liabilities incurred by AECL are
ultimately liabilities of Her Majesty in Right of
Canada.

CNSC staff accepts that given that
AECL is an agent of Her Majesty in Right of
Canada, any liabilities, including the cost of
decommissioning of any of AECL's nuclear
facilities, are liabilities of Her Majesty in
Right of Canada.

On December 16th, 2003, AECL
submitted a letter signed by the Minister of
Natural Resources Canada, the Honourable Herb
Dhaliwal, as AECL's proposal for a financial
guarantee. The letter reaffirmed that:
"As an agent of Her Majesty in Right of Canada, AECL's liabilities are ultimately liabilities of Her Majesty in Right of Canada." (As read)

The letter from the Minister of Natural Resources Canada is considered as an express commitment from the government.

The proposed arrangement would cover all costs of all phases of decommissioning and would continue to apply whether or not AECL itself were capable of meeting its obligations as long as AECL is an agent of the Crown.

Therefore, the proposed financial guarantee arrangement for AECL's Whiteshell Laboratories facilities fulfils the acceptance criteria of sections 4.3 and 5.2.5 of CNSC Regulatory Guide G206, entitled "Financial Guarantees for the Decommissioning of Licensed Activities."

Should AECL's status as an agent of the Crown change, the matter of an acceptable financial guarantee should be revisited.

AECL's decommissioning plan includes three phases of decommissioning.
For the first phase of decommissioning, AECL submitted a Detailed Decommissioning Plan that characterizes the hazards associated with Phase 1 decommissioning and their potential impacts.

Only the Detailed Decommissioning Plan for phase I has been approved previously by the Commission. It was accepted by the Commission that:

"With the measures and programs that AECL has in place to protect the health and safety of persons as well as the environment, the risk to the public, workers and the environment was acceptably low throughout the licence period for Phase 1 decommissioning."

(As read)

All decommissioning work plans that come after Phase 1 decommissioning will be the subject of future applications to the Commission.

As of yet, no application has been
Phase 1 decommissioning is presently under way. Phase 1 decommissioning is scheduled to last approximately six years, that is, for the duration of the present licence period.

CNSC staff will be submitting shortly to the Commission a CMD on the progress of decommissioning activities undertaken by AECL during the first two years covered by this licence.

Many of the activities carried out under Phase 1 decommissioning are intended to put the facilities in a safe shutdown state.

In addition, while carrying out decommissioning activities during Phase 1, AECL will be gathering the information necessary for the planning, preparation and assessment of subsequent decommissioning phases.

AECL will then be required to submit detailed decommissioning plans for decommissioning Phases II and III.

It should be noted that some parts
of the Whiteshell Laboratories are intended to remain in operation throughout most of the decommissioning period, notable the active liquid waste treatment centre, the waste management area and the decontamination centre. These facilities will be among the last to be decommissioned at Whiteshell.

Staff therefore concludes that, first of all, the financial guarantee arrangement submitted by AECL meets the criteria for an acceptable financial guarantee for all phases of decommissioning as long as AECL remains an agent of Her Majesty in Right of Canada.

Secondly, staff concludes that AECL has met Licence Condition 11.1 of its current Nuclear Research and Test Establishment Decommissioning Licence which states:

"The licensee shall provide no later than December 31st, 2003 a financial guarantee in a form and of a value acceptable to the Commission or a person authorized by the Commission."

(As read)
Staff therefore recommends that the Commission accept the proposed financial guarantee arrangement submitted by AECL for the decommissioning of Whiteshell Laboratories.

Should AECL's status change such that it is no longer an agent of Her Majesty in Right of Canada, the financial guarantee arrangement for decommissioning should be revisited.

To sum up this presentation, I have given an overview of the facility, followed by an outline of key aspects relevant to a financial guarantee and a description of the financial guarantee arrangement submitted by AECL for decommissioning the Whiteshell Laboratories. My presentation ended with the conclusions and recommendations of CNSC staff with respect to the proposed financial guarantee arrangement submitted by AECL.

This concludes my presentation. I will now turn over the floor to Mr. Howden.

MR. HOWDEN: Thank you.

Madam Chair, that concludes our presentation. We will be available for questions after the other presentation.
THE CHAIRPERSON: Thank you very much.

Because of travel constraints, we are going to change our normal order and we are going to go directly to the oral presentation by Manitoba Conservation. These are outlined in CMD documents 04-H22.2 and 04-H22.2A and we have the Director of the Environmental Approvals Branch with us.

Sir, the floor is yours.

04-H22.2 / 04-H22.2A

Oral presentation by Manitoba Conservation

MR. STRACHAN: Thank you, Madam Chair, commissioners. I thank you for altering your schedule to accommodate my schedule.

My name is Larry Strachan. I am the Director of the Environmental Approvals Branch for Manitoba Conservation. In that capacity, I administer the environmental assessment and licensing process under the Manitoba Environment Act.

I am appearing on behalf of Mr. Dave Watton who has appeared before you previously on this file.

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Manitoba has four overall concerns that remain on the Decommissioning Plan: the timeline for the plan; we see it as storage rather than decommissioning; the financial guarantee; and the local Manitoba Public Hearing.

In our view, the 60-year Decommissioning Plan and the 200-year Monitoring Plan is unacceptable as we view the proposal as long-term storage rather than decommissioning.

We have and will continue to argue for a shorter proposal that results in the treatment and disposal of the waste and removal of all the high-level waste to secure storage.

I welcome the comments I believe I heard from AECL just a moment ago that they are looking at accelerating Phase 2 and 3 of this Decommissioning Plan.

The financial guarantee proposed is unacceptable to Manitoba and I will comment in more detail on that in a moment.

I acknowledge your comments at the opening, Madam Chair, on the Manitoba Public Hearing, so I won't dwell on that in any extent.

Our position on the financial guarantee requirement is that it should be in full
compliance with CNSC policy and guides. It should include the estimates of the cost of implementing the full Decommissioning Plan; there should be a description of the financial guarantee, and in our view, it should be an economic model of some kind; it should have no burden on future generations; and it should contain a policy commitment and assurance over the duration of the project.

We note, as others have in this hearing today, that the Regulatory Guide 206 calls for in part:

"...provision of credible estimates of implementing decommissioning plans; estimates of costs, including management or disposal of all waste and unit costs for each phase of the decommissioning plan; a funding measure that adequate resources will be available to fund decommissioning activities; the financial guarantee to be at arm's-length from the
licensee." (As read)

I also note that the Nuclear Fuels Waste Act requires a trust fund to be established for this matter.

Manitoba currently has not seen any information submitted that would address these Guide requirements or the legislative requirements of the new Nuclear Fuels Waste Act.

Regulatory Guide 206 also outlines express commitment from the government as an example of a financial guarantee and this appears to be the mechanism used by AECL and accepted by staff to this Commission.

Manitoba cannot accept the December 11th, 2003 Dhaliwal letter as an express commitment from a government in the absence of the basic information required for the guarantee. We find it to be somewhat incredulous that such a letter would be filed without information respecting the amount of liability that might accrue to governments and, more importantly, to present and future taxpayers.

We will also be interested, Madam Chair, on whether the current minister and current government support this commitment that has been
filed.

Also, in our view, the express commitment places the onus on future generations to fund the decommissioning. We see this as contrary to your policy, Madam Chair, and in contradiction to the 1995 directive from the Auditor General and contrary to the Nuclear Fuels Waste Act.

Manitoba would also be interested, based on this guarantee, as to how this Commission could access adequate funds if AECL is unable to fulfil its obligations.

We note that the private sector is required to post significant financial insurance. I was here briefly yesterday and I noted that the Key Lake operation has posted a bond of some sort in the order of $45 million. We wonder why the public and the private sector are treated differently in this matter.

Our concerns on the financial guarantee. In our view, the January 23rd, 2003 Record of Proceeding Errata weakened the concept and policy of the guarantee that was going to be required. We haven't seen any explanation of the reasons for the errata.
There is no overall proposal description by AECL, there is no full cost estimates for the total plan and we are quite concerned that the plan and the guarantee will have a burden on future generations.

In conclusion, Madam Chairman -- and I expect you have perhaps seen the slide because it is taken from one of Dave Watton's previous presentations, but I would just like to reiterate that this young Manitoba girl would be 65 years old by the time Phase 3 of the proposal of AECL is complete. Will she, her children and her grandchildren face the burden of the AECL plan?

We would request that you not close your eyes to the size, the complexity, the risk and the cost of the proposed plan.

We would request that you do not close your eyes to the utmost importance of the proper management, treatment, disposal and secure storage of the waste in the shortest time frame possible.

We would request that you do open your eyes to the substantial funding that will be required for the proper management, treatment,
disposal and storage of the waste.

We request that you do open your eyes and require AECL to provide an economic model that will secure the necessary funding now for the proposal and that will not be an unnecessary burden on future generations.

We would also request that you open your eyes and recognize the importance and necessity of a local Manitoba Public Hearing.

Thank you, Madam Chair.

THE CHAIRPERSON: Thank you very much.

We will then move to the next submission, which is an oral presentation by the Local Government District of Pinawa, outlined in CMD documents 04-H22.3 and 04-H22.3A, and I believe Mr. Skinner, the Deputy Mayor, is with us today.

Sir, the floor is yours.

04-H22.3 / 04-H22.3A
Oral presentation by Local Government District of Pinawa

MR. SKINNER: Good afternoon,
For the record, I am Blair Skinner, the Deputy Mayor of Pinawa, and I would like to thank the President and the Commissioners for hearing us this afternoon.

This presentation and the written documents that you received were actually prepared by Dr. Len Simpson, who is the Mayor of Pinawa. I am here on his behalf today as he couldn't attend.

Both Len and I are former employees of AECL at the Whiteshell Laboratory site and, together, have about 40 years of experience with that organization.

I think we appreciate nuclear issues and the risks involved, if not the details. In general, we remain supportive of the nuclear industry as it has been an obvious benefit to our community.

In fact, we are attempting to generate a dialogue around the possible building of an advanced CANDU reactor at the Whiteshell site. It is how supportive of the nuclear industry we are.

Nevertheless, we do object to the decommissioning plan, which is a separate issue.

You have already addressed the
issue of the location of the hearing.

So I, again, won't dwell on that, except to say that I have listened to approximately five hours of discussion today on the meaning of a written word.

So the advantage of an oral presentation is that there is an opportunity to clarify. So I just want to make that additional point.

So moving on to the issue of a financial guarantee.

We feel that the financial guarantee should be an assurance that today's generation will assume and pay for the liabilities incurred today.

Today's people are the people that have enjoyed the benefits of nuclear R & D and they are the ones who should bear the burden of the decommissioning activities.

There has been reference to a letter from Minister Dhaliwal that the decommissioning is going to be guaranteed by the federal government some time in the future, but I would ask the question, then, is this letter binding on all future governments?
Furthermore, does this letter and this guarantee satisfy the position of the Auditor General, who has continually critical of AECL and the federal government for not having established the liability?

Also, we just heard a presentation from the CNSC indicating that if the status of AECL changed that the whole issue of the financial guarantee should be revisited. On that point, it suggests to me that there is some doubt.

So all of these issues really need to be addressed.

AECL's own vision statement actually indicates that they will not provide a nuclear legacy for future generations. It is on the slide that was presented at the CNA meetings last fall.

Now, we also heard earlier today that Phase I decommissioning which is currently being worked on is being funded at a level of about 50 million dollars and the overall price tag for the decommissioning of the Whiteshell site is more like 500 million.

So that means 90 per cent of the cost of decommissioning is being deferred to
future generations.

The idea that a present government can pass these huge costs onto a government to be elected decades in the future is unacceptable. It is also, we believe, unprecedented.

The political and geographical makeup of Canada could be drastically changed in 60 to 100 years. We are not responsible for our grandparents' debts, nor can we burden our grandchildren with ours.

The whole purpose of financial guarantees is to ensure that funds are put aside now to be available for the full decommissioning to green field when the process takes place.

This ensures that it is the generation who benefits from the nuclear operations at the time is the one that pays for the decommissioning whenever it takes place.

AECL's schedule and lack of a growing fund ensures that future decommissioning will be paid for by future generations through their taxation, assuming that a future government actually honours a commitment made by government members who have long since departed.

I think I would also add that
there is no guarantee here that a future government, 60 years from now, may not choose to defer it another 60 years. There is no guarantees whatsoever that a future government will adhere to that timeline.

The solution, we believe, is to start the full decommissioning now, and I too am pleased to hear AECL's presentation that they are considering picking up the pace.

AECL's own document suggests that it could be completed in 20 to 25 years, and it is noteworthy that timely decommissioning is now becoming the rule in most OECD countries.

Both France and Japan have indicated that they will decommission their power plants within 15 to 20 years of the time of shutdown.

The economic benefits of a continuous process are crucial to the well-being of our region. It means that AECL will be able to attract competent staff who see decommissioning as a career opportunity and who will become permanent residents of our communities.

The importance of local communities is recognized by Europeans and their
industries and continue to do everything they can to support the communities that once supported them.

For instance, the UK Atomic Energy Authority and the new government organization that is taking over the decommissioning responsibility forecast over 2,000 local jobs for decades to come while decommissioning the Dounreay Labs in Northern Scotland.

The issue of deferring decommissioning because of radiation concerns does not make sense.

The most dangerous components of a CANDU reactor are the fuel and the fuel channels.

The fuel can be and is easily removed and stored indefinitely in well designed canisters. Fuel channels are routinely removed and replaced from operating reactors a few weeks after shutdown.

Whiteshell is unique among nuclear sites in that AECL -- sorry. Whiteshell is unique among nuclear sites in that AECL intends to abandon it altogether, with the exception of a minimum monitoring crew. There will be no competent staff locally to react to an emergency.
The industry must move immediately to construct a disposal facility for low level decommissioning waste so that full decommissioning can move forward.

The CNSC should have insisted that the construction of a disposal facility was part of Phase I.

The only industry issue is whether AECL (the polluter) should pay for it or their ministry, NRCanada. Both sides take advantage of this lack of decision on responsibility to delay the project.

The conclusion of the November 2002 hearing that the scope of Phase I is the same whatever decommissioning period is chosen was flawed, because it ignored the fact that a disposal facility was needed to decommission promptly in Phases II and III.

It is unfortunate that among the OECD countries with nuclear programs, we are the only country without such a facility or one under construction.

We expect the regulator to declare that, if we are to continue to have an active nuclear industry, then the industry must
immediately take steps to provide the necessary facilities for decommissioning.

The full decommissioning now of the Whiteshell Laboratory site would be an ideal project to show the full cycle of nuclear activities can be safely handled and improving AECL's image at home and abroad.

It would provide an appropriate exit strategy for AECL and create long term employment opportunities for staff in decommissioning.

It would also provide a necessary learning experience for the more formidable tasks back East.

In conclusion, we are recommending that the Commission rejects as a guarantee AECL's reliance on Minister Dhaliwal's statement.

We would like to ensure full decommissioning is funded by present generation by directing AECL to decommissioning continuously and fully now.

On that point, I noted while that it is being considered by AECL to speed up Phase II and III, they don't provide a timeline on when that review will be completed, and I would be
interested in knowing what that timeline is.

We also feel that AECL and NRCan should be directed to start at once to provide a low level waste disposal facility.

Finally, we would like to create an improved dialogue with Manitobans in Manitoba. You are Canada's regulator, not Ottawa's or Ontario's.

Thank you very much for your time.

THE CHAIRPERSON: Thank you very much.

So we are going to open the floor for questions to all of the four presentations.

I would just like to note that as this hearing and the one on the Chalk River Laboratories site contains some common elements -- some of the presentations have referred to that -- and to prevent unnecessary repetition, the Commission will consider any relevant information placed on the record in either hearing in rendering its decision.

So there may be some issues where we don't explore it here, but we have explored before, and we will consider that when we render the decisions as well.
I would also like to just provide a word of framing, I suppose, for the Commission members. We are not here today to review the decision that we made in the issue of the decommissioning licence. That is not the purpose today.

The plans are for a status report, as was mentioned on the decommissioning Phase I in the future.

However AECL has mentioned some specific progress items. So I think that should be considered as opened in terms of areas for questioning with regards to that.

Certainly the questions that have been raised by the intervenors certainly are important to us, but I just wanted to frame a little bit so that we understand why we are here today and follow that.

With that framing, would someone like to kick off the questioning?

Dr. Barnes.

MEMBER BARNES: Maybe I could frame my initial questions.

I was intrigued. When I was confused, in the last one, I was told that it was
an integral part to have a financial guarantee statement and then the PDP document. So I was curious that I didn't have a PDP document for this one.

Then in reading and, thanks to the secretary, I now have a detailed decommissioning plan which goes back to 2002.

When I looked for the PDP, which I would have thought was prior to that, it sort of referred as a subset of the detailed decommissioning plan.

So if it is true, in this case, we all look in the financial guarantees with this as a as prior context. Is that correct? That it is the detail of the decommissioning plan?

THE CHAIRPERSON: Is that a question for AECL?

MEMBER BARNES: No. It is a question for staff, really, I think.

MR. FERCH: For the record, my name is Richard Ferch.

Yes. The context we have is that we have a detailed decommissioning plan for Whiteshell.

However, I should also add that in
its decision in 2002 the Commission accepted Phase I, but reserved judgement on the longer term phases of that decommissioning plan. Reserved judgement until licensing for Phase II.

MEMBER BARNES: Okay. The substance of this DDP has essentially been approved. Correct?

MR. FERCH: For Phase I, yes. That is correct.

MEMBER BARNES: Yes. Phase I. And in the context of, I think, one of the questions of the intervenors, as I gather the cost estimate of Phase I is 50 million dollars.

Do we have any detailed breakdown of the budget for that in any documents to this point?

MR. FERCH: Richard Ferch speaking.

No, we don't.

MEMBER BARNES: I think when we asked about that at the last question about receiving detailed financial breakdowns it was that that would come at a later stage when there was a detailed decommissioning plan.
So we already have a detailed decommissioning plan, which was in advance of the financial guarantee. So we are talking about a financial guarantee with an estimate of 50 million dollars.

When would we expect to have a detailed financial breakdown then for Phase I?

THE CHAIRPERSON: Perhaps AECL could answer that question.

MEMBER BARNES: Yes.

MR. KUPFERSCHMIDT: It is Bill Kupferschmidt, General Manager, Decommissioning and Waste Management.

There is certainly a breakdown of the costs associated with the first phase, Phase I decommissioning, for the Whiteshell site, in the detailed decommissioning plan.

So there is certainly a further breakdown of those costs. In volume 1.

THE CHAIRPERSON: Would the staff like to comment?

MR. FUNDAREK: For the record, my name is Peter Fundarek and I am a Project Officer for the Wastes and Geosciences Division.

CNSC staff have looked at the
information on cost estimates provided in the
program overview, volume 1, of the Whiteshell
detailed decommissioning plan.

For Phase I, CNSC staff have considered that those cost estimates are
sufficient for the work that is to be carried out
during Phase I.

The more detailed information on
cost estimates, we are expecting to receive when
submissions are tabled for Phases II and III.

MEMBER BARNES: Do we have a rough
idea of those cost estimates for II and III
relative to I?

MR. FUNDAREK: For the record, my
name is Peter Fundarek.

At this time, we do not because
those would be dependent upon the timing and
sequencing of the decommissioning that is going to
be carried out in Phases II and III, for which the
Commission has not yet accepted the timeline that
was originally proposed by AECL.

MEMBER BARNES: Just on a separate
issue, I think towards the end of the staff
presentation you indicated -- and it was raised by
one of the intervenors -- that should AECL become
insolvent at some stage, you would revisit this agreement, if you like. I think that would be an automatic action that you would take.

But in case of AECL becoming insolvent, what would again -- I think you discussed this last time -- but what, in reality, would be the actions that you could take?

THE CHAIRPERSON: Perhaps a staff could start by clarifying exactly what you did say, which I am not sure --

Dr. Barnes used the words "insolvent". I think it was "its status changed".

MR. FERCH: Yes.

For the record, this is Richard Ferch.

Thank you, Madam President.

What the staff did say was that if the status as an agent of the Crown were to change it should be revisited.

That status, being established through legislation, could only be changed by Parliament amending, revoking or replacing that legislation with some other legislation.

If that were to happen, the legislative process would of course give the CNSC
notice of what was happening and we would go back
to the licensee and require a different guarantee
from them.

THE CHAIRPERSON: I think what is
predisposing, for example, and I don't think that
this is -- you know, the AECL may wish to comment
on this -- but it would more of a privatization or
some change of status.

You may wish to ask the second
question, but I just want to clarify what was in
the staff submission. You may wish to, Dr.
Barnes, ask the question about insolvency, which
is a separate question.

MEMBER BARNES: I get the drift.

--- Laughter

THE CHAIRPERSON: Mr. Graham.

MEMBER GRAHAM: Thank you.

With regard to the financial
guarantees, I believe Phase I is estimated to cost
50 million dollars, is that correct, to AECL?

MR. KUPFERSCHMIDT: Bill
Kupferschmidt, Decommissioning and Waste
Management.

Yes. That is correct.

MEMBER GRAHAM: Phase I is to be
completed by what date? Just to clarify in my mind.


MEMBER GRAHAM: A little past the duration of the licence though, I believe, is it?

MR. KUPFERSCHMIDT: Yes. It is --

MEMBER GRAHAM: Roughly that.

Okay.

The 50 million dollars that is required for Phase I of decommissioning, does that -- it is guaranteed, I realize, by the Crown -- but is that funding coming as separate funding from the Department of Finance or is it just part of your budget?

MR. KUPFERSCHMIDT: Bill Kupferschmidt, Decommissioning and Waste Management.

This is part of the overall funding stream that we have for decommissioning and waste management for all of our activities that we have within AECL.

MEMBER GRAHAM: However, is the Department of Finance -- I guess that is the agency where the money comes from federally --
does the Department of Finance know that there is a commitment for 50 million dollars for decommissioning over the next four years and that is required to be part of their funding to AECL over that same period of time as part of their budget?

I guess what I am wondering is -- we have heard a lot in the last day with regard to Mr. Dhaliwal's letter.

Whether it is a minister that is here now or was in the past, I think the relevance is that the Crown has to come good for the dollars, and that is, the agency delivering that is the Department of Finance.

Is the Department of Finance aware of the 50-million-dollar commitment that is required for Phase I?

DR. FEHRENBACK: For the record, it is Paul Fehrenbach.

In answering that, I would like to refer to the explanation I gave earlier with respect to the implementation of how the government provides funding to AECL.

They do it on the basis of plans we submit through our corporate planning process.
which cover a five-year timeframe.

Yes. Within that corporate plan that has been approved recently by the Minister in Parliament that the requirement for funding decommissioning at Whiteshell over that period is included, and it has been signed off and approved.

MEMBER GRAHAM: So really what I am asking is 50 million dollars is specific to decommissioning Whiteshell, and the Department of Finance has that in your five-year plan and they know that that is for decommissioning?

DR. FEHRENBACH: Let me invite Wayne TerMarsch, our Director of Finance, to see if he can provide any further assurances on what specific officials in Treasury Board know.

MEMBER GRAHAM: Just before you do that, I guess, really, what I am trying to get at is, that 50 million dollars is only a small amount of what is going to be required over a longer period of time.

Because there is a commitment and the Crown is responsible for the decommissioning of Whiteshell, is the Department of Finance aware of the full ramifications?

I know there may not be a figure.
We saw half a billion dollars, but it may be more
or may be less.

But are they aware of, the initial payment that they have built into your budget over a five-year plan is not the final and that the Crown has to budget, I guess, over the next period of time?

Whether it is 10 years, 15 or 20 years or whatever period of time, they are going to have to have that money built in.

My concern is that in good times it is probably not a difficult thing, but does it get put back in priority in a time when budgets are tight and the economy is probably in the cellar compared to what it is today?

So is Finance aware that they are going to have to come up, over a period of time, with 500 million or a figure to decommission Whiteshell?

DR. FEHRENBACH: Before I turn it over to Wayne TerMarsch, let me make a few remarks.

First of all, it is not only our corporate plan that Finance and Treasury Board and our Minister look at. It is also our total

StenoTran
financial statements.

In those financial statements, as a result of some urging by the Auditor General some years ago, the full cost estimate of AECL liabilities are contained.

As you heard from Mr. Van Adel during the Chalk River site licence hearing, that is approximately a number like three billion dollars, currently.

So, yes. Treasury Board is aware of that number. Finance is aware of that number.

I would invite Wayne TerMarsch to provide any further elaboration.

MEMBER GRAHAM: I don't think that is necessary. I guess what I was trying to get at is -- and I don't want to take a lot time this afternoon because I know there is other people who want to ask questions.

But I just want to make sure that Finance is aware and that is built into your financial statement that your total commitment for decommissioning and so on of all your sites and so on is three billion or whatever it is, and that is on your financial statements.

DR. FEHRENBACK: Okay. Thank you.
THE CHAIRPERSON: If I could, while we are sort on this subject area, Mr. Skinner asked two questions that are in this area and I think there was also another question that --

I think his questions was, would this liability be binding on future governments and was it binding on this Minister and this Government, and that a comment about AECL's recognition of the OAG Report.

I think you have actually answered the last one, but I just want to make sure --

I like to make sure those questions are answered. So I just want to give AECL an opportunity from their view point. Your sense is that it is --

Is it binding on the current government?

DR. FEHRENBACK: My understanding is, it is binding on the Crown, and that goes beyond the vagaries of our political changes.

THE CHAIRPERSON: Any further comment which you would like to make with regards to the OAG Report or you have made that comment?

DR. FEHRENBACK: Not at this time.
Thank you.

THE CHAIRPERSON: Further questions?

Mr. Taylor.

MEMBER TAYLOR: Thank you. I just have a question to clarify, in my mind, the difference between this case and the one we were discussing this morning. This morning we were very concerned that we have a PDP that is comprehensive, that gives all this information, so that you can an overall grasp of what is required and see that the financial guarantee matches that.

Now we don't have that situation, as far as I can see. We know about the short term, Phase I, but yet we haven't gone on to the others.

Is this difference explained by the fact that Whiteshell is entirely in a decommissioning phase whereas Chalk River is operating and decommissioning at the same time and thereby rather more complicated?

I ask the question to staff.

MR. LOJK: For the record, Bob Lojk.
I think there is two issues here. One of them is, as you said, the situation at Chalk River is where you have an operation that will keep on going for a very long time and Whiteshell is an operation where they expect to turn it almost into a green field with everything being changed until you just leave the long term storage.

The important thing to note too is that the problems at Whiteshell are well known. Every single component at the site, we have fairly good assurance that AECL knows what is out there and we know what is out there.

So the original estimates that was part of the package, while we may not have approved a long term plan or the timing of the subsequent phases, we have an idea as to the cost and we all have an idea of what is enveloped.

So it is not that we are going to get something coming up that we know nothing about. So it is a fairly well-known fact.

So, as staff, we are confident of what is out there. We are confident of the actions that are being taken. We have a fairly good idea of what, in orders of magnitude, it is
going to require.

That is not the case at the other licence.

MEMBER TAYLOR: Thank you very much.

THE CHAIRPERSON: Dr. Dosman.

MEMBER DOSMAN: Madam Chair, I would just like to ask AECL, do the residents in Ottawa and the officials in the Department, the proper Department in the Government of Manitoba, have a schedule of activities and expenditures that AECL plans to undertake between now and the end of the licence period?

MR. KUPFERSCHMIDT: Bill Kupferschmidt, General Manager of Decommissioning and Waste Management.

I believe that information is publicly available with regard to the level of funding that is in the decommissioning, that would be spent on decommissioning over the next six years.

In fact, that was the subject of a slide. It was used in our presentation in November 2002.

So the overall general level of
funding that we have directed towards decommissioning at the Whiteshell site is a matter of public record.

MEMBER DOSMAN: Then, it strikes me -- if you look at the record of decision, not only the proposal, but the record of decision -- that really, it states that the Commission requires that the financial guarantee be provided, and I guess all day we have been discussing the issue, does the letter from Mr. Dhaliwal constitute a financial guarantee or do the residents of Manitoba deserve a more detailed plan for decommissioning along with amounts that would be spent.

So I guess that is the fundamental question. I mean, what do you think AECL? Do the residents of Manitoba and of Canada deserve more detail and assurance?

MR. KUPFERSCHMIDT: Thank you, Commissioner.

I guess Minister Dhaliwal and the Government believe that they have provided the assurance, without putting a cap on it, as Mr. Ferch said earlier, that the necessary expenditures will be undertaken to provide the
decommissioning of that site.

We have provided a plan for doing that for six years with an estimate of the financial implications on a year-by-year basis and a number of people involved and who will be doing what. That information is there.

Beyond that, I am not quite sure what additional detail will provide more assurance.

MEMBER DOSMAN: So does AECL then have the position that AECL does not have an obligation to create a detailed plan and does not need to give the residents of Manitoba more assurance as to the details of the plan over time?

THE CHAIRPERSON: I will remind the Commissioner that we do have something called the detailed decommissioning plan that the staff have discussed, accepted and that the Commission has declared in terms of a licensing for Phase I.

So to say that there is nothing available would be incorrect. Could you re-word your question and build on that, rather than question that there is a detailed plan?

MEMBER DOSMAN: Yes.

The guidance. I am aware of the
details within the context of the current licence. I think what we are discussing -- what I am
discussing here -- is the future because it seems
to me there is some concerns and it seems to me
the residents of Manitoba are being told to trust
us because we have a letter from Mr. Dhaliwal.

I am just wondering whether there
will be more detail put on this plan and where the
request involved --

I mean I realize what we have done
up to this licensing period, but I am asking what
the attitude of AECL is for the future.

MR. KUPFERSCHMIDT: Bill
Kupferschmidt, General Manager of Decommissioning
and Waste Management.

I guess there are a couple of
things that I had at this particular point. Just
to go back, just to reiterate, we do have a
detailed decommissioning plan for Whiteshell that
covers off the entire aspect of the 60-year plan.

As we have heard from the
Commission, they have accepted the details of that
for the Phase I and they have reserved the right
to have further discussions about Phase II and
Phase III. But the details are already in that
I would also add that, as part of the decision to pursue with decommissioning of the Whiteshell site, there was a comprehensive study report put together, considerable public dialogue, and the plans for decommissioning of the site are documented in a rather extensive three-volume document that in fact explains in considerable detail the plans for decommissioning the Whiteshell Laboratories.

So that information is available.

I will also add however that we do have ongoing initiatives with regard to public consultation at Whiteshell, a public liaison committee involving the municipal officials, which was also referred to in Dr. Fehrenbach's presentation, to ensure that the municipal authorities in the area et cetera, have the information available to understand what AECL's decommissioning plans are for the Whiteshell site.

So, in conclusion, I would say that there is a rather extensive amount of information available about our plans for proceeding with decommissioning of the Whiteshell site over the next 60 years and possibility of
accelerating that over the next little while, at which point when we have that further analyzed we will make a point of making sure that we have communicated that information to the appropriate individuals, including the public.

Thank you.

MEMBER DOSMAN: So I guess it all gets down to, what do we make of this letter and how much assurance and comfort for the future.

THE CHAIRPERSON: That is right. That is what we will be considering.

I would just like to -- just a question for Manitoba Conservation, for Mr. Strachan.

To follow-up from Dr. Dosman's question, you had mentioned in your document a list of concerns. One of those was that you had stated that you didn't feel there was an overall proposal and description by AECL.

I would just like to check to make sure that you have had an opportunity to see the detailed decommissioning plan, volume 1.

Have you had an opportunity to see that?

MR. STRACHAN: Yes, I have, Madam
Chair.

I believe I was referring to an overall description of the financial assurance guarantee plan, rather than the decommissioning plan.

THE CHAIRPERSON: Fine.

Our understanding is that there has been some firm commitment in terms of Phase I financing and some projections on the total phases, but not nailed down until Phase I is nailed down, which is the decision of the Commission in terms of licensing.

Does that give you any sort of reassurance with that or do you still feel that you would like to see a more firm cost estimate than that?

MR. STRACHAN: Larry Strachan, for the record.

Madam Chair, it does give us some levels of comfort that there will be further dialogue for Phase II and III of the decommissioning plan.

However, having said that, with our interpretation of the record of decision that resulted in approval for Phase I, that the
financial guarantee was to address the complete
decommissioning plan, not just Phase I of the
decommissioning plan.

THE CHAIRPERSON: Would the staff
like to comment on that and also, while you have
the floor, to comment on Manitoba's concern with
regards to the policy or the errata.

The errata was of course the
responsibility of the Commission, not the
responsibility of the staff. As errors are --
errata is a nice word for error.

But perhaps the staff could just
confirm that the errata is correct in terms of the
policy.

So two questions to staff in terms
of the overall cost estimates and whether that
should have been contained as well in the approval
of the plan, and two, the comment on the errata.

MR. LAMARRE: Greg Lamarre, for
the record.

With your permission, we will
address from this position the first issue, the
issue of the errata.

Madam Chairperson, was correct in
stating that, in the errata document of
January 23, 2003, a previous inaccuracy was corrected.

The earlier record of proceedings dated December 2002 had incorrectly quoted staff as saying that the guarantee could consist of a fund and a commitment.

As can be verified by the transcripts, the staff statement during the hearing was that the guarantee could consist of a fund or a government commitment, and this is in line with CNSC regulatory guide G206 entitled Financial Guarantees for Decommissioning of Licensed Activities, published in 2000, in which it is stated that an express commitment from a government, either provincial or federal, was among the acceptable forms of a financial guarantee.

So staff's position is that the errata of December 23, 2003 is an accurate representation of the transcript of that day.

THE CHAIRPERSON: So, Mr. Strachan, I guess the explanation is, it was a true error in the reasons for decision in terms of looking back at the transcript of what the staff said.
The Commission has considered that the document 2002, our regulatory guide, is the guide for that, and that it more accurately represents it now. It wasn't anything more than that in terms of errata.

MR. STRACHAN: Larry Strachan.

Madam Chairman, thank you for that clarification.

THE CHAIRPERSON: I guess the issue of burden on future generations, I believe you sat through the discussion this morning on timing and issues that we are struggling with in terms of other areas as well.

I think it is clear that the Commission in its reasons for a decision on the decommissioning plan for Whiteshell I believe made it clear.

I hope it is clear that we are looking to AECL for a consistent review. They talked this morning about their review of the plan.

I think the Commission would prefer that things would move faster than not, but there are some issues to do with radiological protection as well. We want to make sure that it
is done in a correct manner and that we know what is going on.

So the Commission is interested in -- I don't think it is neutral in terms of wishing to see that the decommissioning happens as quickly as possible in terms of the area.

So, by asking for these reports every two years, we are, I think, giving notice that we want to see that progress is made and that those will be presented in a form that will be --

They will be CMDs. They will be available in the public. You will have a chance by watching our site to see when the notice of the meetings come up. You know, when the item is coming up. And also the CMD documents.

So it will be -- certainly, you can be assured, I think, that the Commission will be paying attention as this process goes forward and that we think decommissioning is pretty important and we will be watching that too. So, I think --

Is there anything else the --

Dr. Barnes.

MEMBER BARNES: I just wanted one quick, small question to AECL.
On page 6 of your presentation, image 6, you refer to examples of decommissioning. One of those was the neutron generator and the Vandergraph accelerator. You also mentioned the scanning electron microscope as well.

Just as a matter of interest, what happens to those? You scrap them or you use them elsewhere or you donate them a Manitoba post-secondary research organization or --

DR. FEHRENBACK: Thank you.

Paul Fehrenbach, for the record.

I would like to direct that question to Grant Koroll.

MR. KOROLL: The neutron generator was sent to Chalk River Laboratories for re-use. The Vandergraph accelerator was sold to a university. What was the other facility?

MEMBER BARNES: I think you mentioned the SEM, the scanning electron microscope.

MR. KOROLL: The scanning electron microscope was built into the shielded facilities and was used for post-radiation examinations and was contaminated and is low level active waste right now. It may be useable in another
contaminated application.

MEMBER BARNES: So the vast revenues you got out of the sale go back into decommissioning, do they?

MR. KOROLL: Absolutely.

THE CHAIRPERSON: Dr. McDill.

MEMBER McDILL: Thank you. This is a question for Mr. Skinner, the Deputy Mayor.

In Dr. Simpson's written submission, he refers to the removal of the fuel and the indefinite storage and well designed canisters. Is that referring to dry storage containers, in your judgment?

MR. SKINNER: I can't profess to be as knowledgeable as the Mayor on this, but I know that that is currently the case at the Whiteshell sites. So it is a known technology that is in place and it is one of the things we feel secure about.

MEMBER McDILL: Perhaps I could ask AECL to clarify.

The design life of a dry storage container is on the order of 50 years with a likelihood of success to 100. Is that not the case?
DR. KUPFERSCHMIDT: Yes. That's correct.

MEMBER McDILL: I know there is a cementation facility in Whiteshell, but there is no dry storage container facility. I am correct with that?

DR. KUPFERSCHMIDT: What we do have are canisters above ground, canisters for storage of some of the fuel that we have on site.

A significant portion of the other fuel is actually in underground standpipes.

Part of the plan of course is to remediate the waste management areas to place that fuel in above ground storage before it is finally dispositioned in whatever the ultimate disposition is in Canada for used fuel.

MEMBER McDILL: Does that address the Mayor's concern in that paragraph?

MR. SKINNER: For the record this is Blair Skinner.

The Mayor's concern is not the form of storage. The Mayor's point was that radioactive components can be handled and have been handled safely and so that shouldn't be a deterrent to immediate decommissioning.
MEMBER McDILL: Thank you.

THE CHAIRPERSON: Any further questions from the members?

Thank you very much. I particularly thank our intervenors from Manitoba for your patience. It has been a longer day than I think you thought it was going to be, so I hope you make your airplane.

With respect to this matter, I propose that the Commission confer with regards to the information we have considered today and then determine if further information is needed or if the Commission is ready to proceed with a decision. We will advise accordingly.