



Oral Presentation

Exposé oral

**Written submission from
Christiaan Beyers**

**Mémoire de
Christiaan Beyers**

In the Matter of the

À l'égard de

**BWXT Nuclear Energy Canada Inc.,
Toronto and Peterborough Facilities**

**BWXT Nuclear Energy Canada Inc.,
installations de Toronto et Peterborough**

Application for the renewal of the licence for
Toronto and Peterborough facilities

Demande de renouvellement du permis pour les
installations de Toronto et Peterborough

Commission Public Hearing

Audience publique de la Commission

March 2 to 6, 2020

Du 2 au 6 mars 2020

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27 January 2020

Senior Tribunal Officer, Secretariat
Canadian Nuclear Safety Commission
280 Slater Street, P.O. Box 1046, Station B
Ottawa, Ontario K1P 5S9

To the Canadian Nuclear Safety Commission:

I am writing to provide my written intervention regarding BWXT's application for a license to make uranium dioxide pellets in Peterborough. I hereby also request to do an oral presentation at the hearing in Peterborough.

I share the concern and alarm of many other residents about the effects of any prospective pelleting operations on the environment in Peterborough and the wider Otonabee region watershed, and on the health of residents in the area. I live within 800 metres of the plant, so my concern is first for my eleven-year-old son, who spends much of his time outdoors. Several of my friends and neighbours living in the neighbourhood have said that if pelleting were to occur, they would move from the area (my family would also consider doing so). Others who are not able to move would continue to live there with uncertainty and anxiety.

No doubt many other interventions will express similar concerns in ways that are deeply heartfelt, and will directly address problematic aspects of BWXT's application. For this reason, I would like to focus my intervention on the role of the CNSC as regulator. I am deeply concerned with the CNSC's evident lack of neutrality in this matter. Naturally, I will also deal with BWXT's application and its conduct in the course of the application process, but in this intervention I am primarily interested in what this implies about the CNSC itself. I also want to make clear that here I am not opposing the continuation of BWXT's existing license to make nuclear fuel bundles and to repair radioactive equipment at its plant in Peterborough; however, I *am* opposing in the strongest possible terms the expansion of this license to include the production of uranium dioxide pellets at this plant.

My main points are as follows:

1. Transparency of the Applicants Intentions:

BWXT claims that it is merely applying for the license to have the '*flexibility*' to produce pellets at its facility in Peterborough, should it do so in the future. This indirect approach undermines any confidence that it is acting in good faith. Moreover, it is unacceptable that the CNSC is willing to proceed with the application on this basis.

I can only conceive of two possible explanations for BWXT taking this approach, both of which are deeply problematic. First, the implicit assumption would seem to be that bringing pelleting operations to Peterborough is not a major decision with far-reaching consequences for the town and its residents. Seeking an expanded license in order to have the option of pelleting

would seem to imply that this is merely an internal matter for the BWXT about the scope of its own operations. It would follow that the CNSC's role is only to assess whether BWXT – as supported by the CNSC's oversight and monitoring functions – might be adequately prepared to take on this project as a speculative possibility. The CNSC Staff Commission Member Document (CMD) corroborates this argument, as it largely limits itself to assessing the capacity of BWXT and the competence of its staff to take on pelleting. The CNSC's responsibility thus does not appear to be organizing a process of bringing independent expertise to bear upon the impact of pelleting to health, safety and the environment in the Peterborough region. This frankly demonstrates a disregard for the large number of residents for whom the matter of existential importance.

A second explanation for BWXT's equivocal stance could be that it was attempting to mute possible negative public reaction to the announcement of its intentions to pursue pelleting here in Peterborough. Indeed, there has been very little knowledge of BWXT's expanded license application until recently, when active residents found out about it and began spreading the news. BWXT's claim to be undecided about pelleting could have served to lead people that might be opposed to application to believe that even if it were to be approved, they would have other opportunities to make their objections heard and influence the outcome. If the CNSC authorizes the license, it of course will be very difficult to stop plans for pelleting from materializing, but couching the application in ambivalent terms might serve BWXT's ends by giving rise to a perception that this is not the case. By enabling and actively supporting BWXT's application, the CNSC would appear to be an accomplice in this cynical strategy. Both of these explanations reflect a deeply problematic orientation toward the public by BWXT and the CNSC, the former explanation being contemptuous of public concern regarding the gravity of the situation, and the latter amounting to prevarication to be able to pass the license with minimal public scrutiny. BWXT owes it to the residents of Peterborough to be clear and transparent about its intentions. Most importantly, the CNSC needs to respond to the reasonable concerns of people living in proximity, and treat the matter with the seriousness that residents feel it deserves. It needs open the application process to substantive and wide-reaching public consultation. Under no circumstances should the CNSC provide cover for BWXT's ulterior motives.

2. Independence of the Regulator

The CNSC's CMD clearly and directly endorses BWXT's application, well in advance of having received feedback from concerned residents in Peterborough (or for that matter anyone who may have concerns about the application). Instead of beginning by asking whether pelleting should or should not happen in Peterborough, the CMD takes its role to be to assess "whether BWXT is qualified and capable of performing the activities to be authorized by the Commission" (p. 5), and it is clear that the answer was always going to be affirmative. That the CMD actively advocates for pelleting is evident in the very language that the CNSC uses, as when it appears to directly assume BWXT's charge by stating outright: "BWXT has made *and will continue to make* adequate provision for the protection of the environment, the health and safety of persons, the maintenance of national security and measures required to implement international obligations

to which Canada has agreed” (p. 10, emphasis added). Far from being a mere semantic issue, this reflects the general tenor of the CMD.

The CNSC’s CMD further relies heavily on arguments and evidence presented in the BWXT’s License Application and the BWXT CMD. When the CNSC states that its “staff conclude *based on its review of the submitted application and supporting documents* that the radiological and non-radiological risks associated with BWXT’s operations at the Toronto and Peterborough facilities are very low” (p. 13, emphasis added), this begs the question of the nature of its assessment. Does the methodology outlined in the CMD, which is largely derivative of the applicant’s own submissions (as I further discuss below), merit the CNSC’s substantial conclusion?

The CNSC’s CMD makes evident that as far as the CNSC is concerned, the whole matter of pelleting in Peterborough has already been decided. This stance is premature, and untenable for a public regulator. It reinforces the perception among the public as well as a number of experts in the field that the CNSC has in fact been ‘captured’ by industry. It contributes greatly to a sense of suspicion that the licensing process is designed to facilitate the expansion of nuclear industry operations without regard to citizens, and leads residents to wonder where they should turn to make their concerns heard.

3. Burden of Proof Upon the Regulator

In presenting its support for BWXT, the CNSC presumes that a low burden of proof falls upon itself in deciding whether to allow the license for pelleting in Peterborough. BWXT is staged as a responsible actor because it “took into consideration any changes to hazards that would be associated with the conduct of pelleting operations at the Peterborough facility” (p. 6). Moreover, BWXT’s claims about its own past record in matters ranging from safety to management are taken at face value. It is of course entirely unsurprising that BWXT would represent its own record in such favourable terms and seek to minimize the risks of its planned expansion of operations in Peterborough. But is the CNSC really to be satisfied by this? The emphasis in the CNSC’s CMD is on viability of BWXT’s plans for pelleting. It treats subjects such as: BWXT’s qualifications and capability to undertake pelleting operations in terms of management and resources; its compliance with relevant regulations; its ostensibly favourable record of staying below the limits in its Peterborough and Toronto plants (in line with excessively high national limits); and so on. The CNSC admits that if pelleting operations go ahead in Peterborough, uranium releases would rise manifold. With the CNSC’s own assessments largely limited to reviews of BWXT’s documents and a some interviews with its personnel, one is left with the impression that there is a good deal of the findings trace back to BWXT’s own assertions about its operations. In representing the interests of the public, the job of the CNSC is surely to subject BWXT’s claims to more rigorous examination.

One indication of low standards of proof seems to apply in the so-called Safety and Control Areas (SCAs). Using BWXT’s own internal assessments, in tandem with the CNSC’s compliance verification activities and occasional inspections, the CNSC finds BWXT’s performance to have been “satisfactory” on all of these SCAs. However, given the gravity of the issues captured by

these categories, particularly in the context of vulnerable populations in schools and residential neighbourhoods in immediate proximity to the BWXT plant, should the standard for judging performance not be set at “fully satisfactory”?

Indeed, the assessment of the potential risks and impacts of pelleting needs to take account of a wide range of factors relating to the specific location and context of Peterborough. The most obvious issue is the location of Prince of Wales primary school right across the street. Surely more stringent limits on emissions are needed when hundreds of children (whose rapidly developing bodies are highly vulnerable to the adverse impacts of toxic substances) are schooled within a stone’s throw of the plant? Typical allusions to the small percentage of the total population to be affected are not acceptable because the consequences for those who do breathe in or ingest uranium particles or other toxins are likely to be grave, if not fatal. Given the induction period for illness to take hold, any impact will not be immediately detectable. To reiterate, given the vulnerability of the population and the seriousness of such concerns, the bar for acceptable industrial performance and emissions should be set much higher than they evidently have been.

4. Communication and Public Consultation

With the CNSC apparently having reached a foregone conclusion on the licensing process (if its CMD is any indication), public consultation would seem to be merely a matter of fulfilling procedural requirements. The CNSC’s CMD document conveys a sense that any opposition to the application is unreasonable, and that input by lay members of the public will have limited standing next to experts of BWXT and CNSC – who now have had their say and all but settled the matter. Nonetheless, the onus for making the case for opposing the application is placed on residents’ shoulders. Those who take up this challenge face a dramatically uneven playing field, because whereas BWXT and CNSC personnel are paid to work full-time on ensuring the smooth passage of the license, residents have to oppose it on their own time and at their own cost. With the license application process already well underway, it behoves the officials of the CNSC to consider these asymmetries and read the interventions submitted in the strongest possible light.

Moreover, a much more far-reaching process of public consultation is needed in order to educate the public about the potential risks and impacts of pelleting in Peterborough. There has been a marked lack of genuine consultation thus far, and as I have already argued, the CNSC’s CMD gives the strong impression that it considers public participation as a perfunctory aspect of the licensing process. Until recently, very few people knew of BWXT’s intentions to undertake pelleting operations in Peterborough. I have not received any information at our homes from BWXT or the CNSC about the planned pelleting operations, and neither have my neighbours. If it were not for an active group of concerned citizens, the license application might well have ‘slipped through’, as appears to have been the intention. Now that information about the application is spreading in the city, it is clear that there is widespread opposition to BWXT plans to pursue pelleting here. Will CNSC approve this license in the absence of social license to do so?

Conclusion

Currently in Peterborough, public trust in the CNSC is low. There is a sense of indignation that the CNSC, which is supposed to safeguard the health, safety, and interests of citizens, is evidently more concerned with looking after the interests of the nuclear industry. This is a community that is haunted by a toxic past, much of which is directly connected to the very property on which the BWXT plant stands. The BWXT application for an expanded license reflects a lack of respect for that past, and for what people here have suffered. The addition of pelleting operations to BWXT's current license should be denied. At minimum, the CNSC should authorize a full and independent environmental review. This would place the CNSC in the company of regulatory agencies in other countries with a sound reputation of safeguarding the public interest.

Yours sincerely,

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