



Oral presentation

Exposé oral

Written submission from the Municipality of Port Hope

Mémoire de la Municipalité de Port Hope

In the Matter of the

À l'égard de

Canadian Nuclear Laboratories

Laboratoires Nucléaires Canadiens

Application to renew its waste nuclear substance licence for the Port Hope Project

Demande concernant le renouvellement du permis de déchets de substances nucléaires pour le projet de Port Hope

Commission Public Hearing

Audience publique de la Commission

November 22, 2022

22 novembre 2022



TOWN HALL
56 Queen Street
Port Hope, ON L1A 3Z9

t: 905.885.4544
f: 905.885.7698

mayor@porthope.ca
www.porthope.ca

October 12, 2022

Canadian Nuclear Safety Commission
280 Slater Street
P.O. Box 1046, Station B
Ottawa, ON K1P 5S9

VIA EMAIL: cns.interventions.ccsn@canada.ca

Dear CNSC Members:

Re: Intervention on Canadian Nuclear Laboratories Limited's (CNL) Application to Renew, Port Hope Long-Term Low-Level Radioactive Waste Management Project (the "Port Hope Project")

Please accept this written letter / intervention submission from the Municipality of Port Hope (the "Municipality") which identifies some key items pertaining to the status of the Port Hope Project that the Municipality believes need to be considered and addressed by the Commission and CNSC Staff in relation to the renewal and future implementation of License WNSL-W1-2310.02/2022 (the "License").

The Port Hope Project is one of two projects under the Port Hope Area Initiative (PHAI) as agreed to by the signing of the 2001 Legal Agreement between the Municipality of Port Hope (formerly the Town of Port Hope and Township of Hope), Municipality of Clarington, and the Government of Canada. The Port Hope Project is in response to the need to address Low-Level Radioactive Waste (LLRW) present in each community through removal and storage in a long-term management facility. Efforts to relocate the LLRW to a facility outside the community were not successful and, in response, each community agreed to host a facility for the LLRW located within its boundaries. This approach allows for the safe, long-term storage of LLRW within the community thereby protecting the long-term health and environment of each community.

The Port Hope Project consists of a number of activities being conducted over three (3) phases:

- Construction of a long-term radioactive waste management facility (LTWWMF) south of Highway 401 between Baulch Road and Brand Road in the Municipality.
- Remediation of the existing Welcome Waste Management Facility.
- Remediation of low-level radioactive substances from various sites within the Municipality of Port Hope and transfer to the new LTWWMF.

- Remediation of Industrial Waste Sites, as specified in the Legal Agreement and,
- Maintenance and monitoring of the LTWMF for hundreds of years.

The current license for the Port Hope Project expires December 31, 2022, and therefore the Commission has scheduled a one-day public hearing on November 22, 2022. The deadline for submission of written interventions is October 14, 2022. The hearing is primarily to address items specific to the Commission's mandate and, more specifically, those matters required by the License and provisions of their regulations.

In anticipation of the upcoming Hearing, the Municipality has prepared this intervention submission and has identified a number of items in the following sections for consideration and/or action by the Commission and CNSC staff as part of CNL's License renewal and consolidation applications.

1. Importance of Clean-up to the Community

The full and complete clean-up of historic LLRW in the Municipality has been, and continues to be, a major objective and concern of the Municipality and its residents. The fact that Canada has committed the financial support necessary for the cleanup was a major milestone in this regard and brings comfort to the community that the removal of legacy waste will in fact be completed.

To achieve the long-standing goal of removing the LLRW within the community and addressing any associated health and safety concerns, LLRW is being removed and relocated to a long-term storage facility constructed in Port Hope and managed by Canada. The Municipality has observed extensive remediation activities that have been undertaken over the years and based on our experiences to date, we are confident that Port Hope is on a path to finally cleaning up its historic contaminated waste in the community.

The completion of the remedial work and the safe storage and management of the waste materials in accordance with the Legal Agreement will go a long way to help improve the quality of life and sense of place for residents in the community and remove the negative stigma associated with having LLRW embedded within the community.

2. Legal Agreement

The Municipality recognizes that the Commission's mandate does not derive from the Legal Agreement between the Municipality and Canada, however we believe the objectives outlined in the Legal Agreement are the cornerstone of the Port Hope Project and the community's willingness to continue to provide positive support of CNL's activities.

Thus, the Municipality is of the opinion that the consideration of the License renewal by the Commission, including any potential changes to the currently approved processes and licensing basis, should be consistent with the intent of the Legal Agreement objectives for the Port Hope Project to provide for a complete clean-up of LLRW within the community.

As noted in previous interventions, the Municipality routinely works closely with CNL and Atomic Energy Canada Limited (AECL) to ensure that remediation activities are consistent with the objectives of the Legal Agreement and various subsequent commitments that underpin the Port Hope Project. Accordingly, it will be important moving forward to ensure that the Legal Agreement is reviewed by the Parties on a regular basis to ensure that its objectives and intent are adhered to.

3. Regulatory Role

It is acknowledged that the Commission is the primary regulator with respect to LLRW associated with the Port Hope Project, and that other regulators including Health Canada, Ontario Ministry of the Environment, Conservation and Parks (MOECP), and Ontario Public Health are involved in specific areas within their jurisdiction (ie. industrial waste, clean-up criteria). Although the Municipality utilizes a peer review team of experts when needed, we are reliant on the technical expertise and oversight of these regulators to ensure that the applicable regulations and procedures are being adhered to and that the community's long-term health and safety are protected. Ensuring effective co-ordination amongst the regulators and the Licensee is of critical importance to the success of the Port Hope Project.

The Municipality has taken the approach whereby its role in the Port Hope Project is limited to matters under its direct control, namely public road allowances and landholdings and any structures situated thereon. As noted above we rely on the Regulatory Agencies to perform their responsibilities. The Municipality does not become involved in private property discussions unless specifically requested by the property owner. This has permitted the Municipality to focus resources on its own assets in the most efficient and cost-effective manner.

4. Overall Timing of the Port Hope Project

Over 20 years have passed since the Legal Agreement was signed by the Parties and, while a great deal of remedial work has been advanced on the Port Hope Project, there is still much work to be done to achieve full clean up throughout the community.

The Municipality is very appreciative of the prioritization and advancement of remediation activities associated with the five (5) industrial sites and is seeing progress occur on the remediation of a number of small-scale sites throughout the community. The Municipality is encouraged by these activities and commends CNL for advancing work in these areas in a timely manner.

With respect to small-scale sites, it has been determined that the number of sites requiring remediation has greatly exceeded original estimates (by almost 900 properties) and that the overall volume of waste material to be removed is expected to increase by over 300%. This is extremely concerning to the Municipality.

The Municipality acknowledges that the scale and magnitude of remedial work required for hundreds of small-scale sites are substantial, and are far too overwhelming for the Municipality to be directly involved in. Without question, the logistics required to conduct verification, remediation and restoration on numerous properties are quite complex and time consuming. This protracted process, however, is causing significant impacts in the form of disruption to the community and its residents.

Although CNL has implemented adaptive management practices to improve efficiency while maintaining protection of workers, the public and the environment, the Municipality strongly believes that the pace of remedial work on small-scale sites by CNL must be intensified and that additional resources need to be deployed to expedite the process. Hence, the Municipality is keenly interested in ensuring that the remediation program for the Port Hope Project, particularly small-scale sites, remains a high priority for CNL and is completed *as soon as possible* in order to achieve the objectives of creating a safe, high-quality environment for its residents, minimizing disruption to the community, and alleviating negative stigma.

In addition to targeting additional resources to help expedite the remediation process and reduce the overall impact to the community, it is the Municipality's position that other measures should be investigated and resolved as quickly as possible, such as changes to the clean-up criteria and protocols pertaining to arsenic. This issue is further explained in Section 5 below.

5. Arsenic Clean-up Criteria & Protocol

The cleanup criteria for the Port Hope Project are an essential component of the success in achieving a complete cleanup of the LLRW. Of particular interest to the Municipality is the current criteria pertaining to arsenic. The current clean-up criteria for arsenic in the License is 18 ppm which is the provincial standard. The average level of naturally occurring arsenic in native soil in the Municipality of Port Hope is approximately 18 ppm (and can range up to 23 ppm). Where there is LLRW and other co-mingled industrial wastes from other sources, higher amounts of arsenic can be found in the soil.

CNL has recently been working with regulators to determine an alternative arsenic value that is protective of human health and the environment and supports the objectives of the Port Hope Project. It has been proposed that the arsenic level be increased above the current provincial standard of 18 ppm to a level that is supported by the regulators in terms of protection to human health and the environment.

The rationale for the proposed change to the arsenic clean-up criteria is to reduce the potential negative impact to the community and the natural environment, particularly the removal of a *significant* number of trees and prolonged disruption arising from the removal of an extensive volume of soil that may not otherwise be required. It is estimated that over 50,000 trees may need to be removed to meet the current arsenic criteria. Many residents in the community have expressed strong concerns and opposition to large-scale tree removal in the community as part of both the Port Hope Project and land development activities.

Specifically, the benefits of the proposed change to the arsenic level include:

- i. Maintain protection of human health and safety.
- ii. Less environmental impact, specifically as it pertains to tree removals (>60% reduction in trees to be removed).
- iii. Reduction in the number of properties requiring remediation (from ~1200 properties to ~800 properties).
- iv. Reduced timeline and disruption to individual landowners requiring remediation (from months to weeks).
- v. Reduction in overall project schedule and disruptive impacts to the community as a whole and,
- vi. Reduction in project costs.

The Municipality has previously written to the Commission to convey its concerns regarding the clean-up criteria and the significant potential impacts to the community if the criteria is not amended. The Municipality is cognizant of the need to strike a balance between protecting both the natural environment and human health and is supportive of the Commission's regulatory processes for stakeholder consultation and scientific analysis to achieve this balance.

The Municipality is aware CNL has requested that their application to amend the clean-up criteria, as defined within the License, be withdrawn for the purposes of this hearing. The Municipality is extremely disappointed this item could not be considered at this hearing. Should the clean-up criteria change not form part of this License review, the Municipality requests that the Commission give high priority to consider these changes and render a decision expeditiously. To be clear, the Municipality does not have a position on what the appropriate level of arsenic should be and relies on the Regulators to determine it. It is the Municipality's position that the Commission should factor in both the protection of human health and safety and the potential impacts to the community and the environment as noted above if the clean-up criteria for arsenic is not changed.

An additional point of contention with the Municipality is that arsenic is not a radiological waste material and therefore is regulated by Provincial standards, however it is currently being managed under Federal radiological protocols in accordance with the License. The Municipality understands that these radiological protocols are substantially more stringent, time consuming and costly than Provincial standards and, thus, the Municipality strongly recommends that the Commission consider alternatives which would permit non-radiologicals to be processed using appropriate Provincial regulations and protocols where circumstances warrant.

6. Special Circumstances

The Municipality understands that in some situations the remedial work required under the current License may be impractical or not reasonably achievable and that alternate cleanup criteria or approaches may be required. Such constraints that may qualify for an exemption to the standard process include environmental, social/heritage, access, and landowner-specific issues or concerns.

In these cases, the application of specific protocols called “Special Circumstances” may be necessary and includes consultation with the Municipality. The original agreement and understanding of the Municipality for Special Circumstances were that they were to only be used in a few rare and unique situations where there are no practical solutions to the clean-up of LLRW in select locations.

It has become apparent to the Municipality that Special Circumstances are being applied on many sites across the community, more so than were originally anticipated or agreed to. A number of these are private property owner driven. The Legal Agreement stipulates that AECL is the final decision-making authority when Special Circumstances are applied. This is of concern to the Municipality. To ensure objectivity when considering Special Circumstances, the Municipality urges the Commission to encourage a continued dialogue on this topic.

7. Project Collaboration and Co-operation

The Municipality continues to be supportive of the objectives of the Port Hope Project to improve the long-term health and safety of the community and overcome the long-standing negative stigma created by this legacy waste. In the past 24 months, the Municipality has witnessed a renewed sense of commitment, collaboration, and co-operation with CNL and the AECL with regard to the ongoing implementation of the Port Hope Project. A project of this magnitude does present challenges for staff at AECL, CNL, MPH and various contractors. All parties must remain committed to working through these challenges to achieve our shared goal. The Municipality commends all parties on their renewed efforts to regularly educate, inform and consult with each other and residents on PHAI initiatives.

The Municipality looks forward to continuing its positive working relationship with the CNSC, AECL, and CNL well into the future.

8. Safety Track Record

The Municipality strongly believes in a safe workplace. CNL has established itself as a leader in workplace safety and has adopted a “safety-first” philosophy. Where known minor incidents have occurred in the community, CNL has developed plans to ensure these events are properly managed and that risks to people as well as the environment are minimized. CNL has also committed to keeping the Municipality informed of incidents throughout the duration of the Port Hope Project. The Municipality commends CNL on its workplace safety procedures and track record.

CNL has demonstrated to the Municipality their ability and capacity to remediate and safely store low-level radioactive and industrial waste within our community. CNL has also fostered an excellent working relationship with the Municipality, and we look forward to continuing this spirit of collaboration and co-operation as work on the Port Hope Project continues.

The Municipality is of the position that CNL is qualified to carry out the activities of the Port Hope Project and ensure the protection of the environment and the health and safety of the public in accordance with the terms of the License, and is supportive of CNL’s applications to the Commission for:

- a. A license renewal of the Port Hope Project Waste Nuclear Substance License WNSL-W1-2310.02/2022 (Port Hope WNSL).
- b. The consolidation of the Port Hope WNSL and the Port Granby Project Waste Nuclear Substance License WNSL-W1-2311.02/2021 (Port Granby WNSL) into one license and extend the license period for a period of 10 years and,
- c. The consolidation of Pine Street Extension Temporary Storage Site License WNSL-W1-182.1/2022 and the Port Hope Radioactive Waste Management Facility License WNSL-W1-344-1.8/ind. with the Port Hope and Port Granby WNSL.

The Municipality agrees with CNL’s request that the applicable License(s) be consolidated and extended to 2032.

Notwithstanding the above, the Municipality has several specific concerns and recommendations as identified within this intervention submission, including:

- i. Prolonged project schedule timelines (small-scale sites) and ongoing disruption to the community, and the need for CNL to dedicate additional resources to expedite the clean-up
- ii. Clean-up criteria relating to arsenic and the significant environmental and disruptive impacts on the community if changes to the criteria are not implemented.

- iii. Frequent application of Special Circumstances and the need for continued dialogue pertaining to these cases.
- iv. Ensuring that the Commission considers the primary objectives of the Legal Agreement during License renewal deliberations and,
- v. Ensuring effective co-ordination amongst the various regulators and the Licensee.

The Municipality thanks the Commission and CNSC staff for their oversight of the License and CNL's activities relating to the Port Hope Project, and for the opportunity to provide a written intervention submission for consideration at the hearing. We look forward to the Commission's response to our concerns and recommendations noted herein.

The Municipality wishes to reserve the right to submit a supplemental intervention as deemed necessary, pending an opportunity to receive and review other interventions submitted to the Commission on or before the October 14th deadline.

Respectfully submitted,



Bob Sanderson
Mayor

- c.c. F. Demerker, President AECL
- D. Smith, CAO Municipality of Port Hope