



**Canadian Environmental
Assessment Agency**

ATIP Office
22nd Floor
160 Elgin Street
Ottawa ON K1A 0H3
Fax (613) 948-1354

**Agence canadienne
d'évaluation environnementale**

Bureau de l'AIPRP
22e étage
160, rue Elgin
Ottawa ON K1A 0H3
Télécopieur (613) 948-1354

April 5, 2006

Your File Votre référence

Our File Notre référence
A-2005-00007 / pk

Mr. Shawn Patrick Stensil
Energy Campaigner
Greenpeace
250 Dundas Street West
Suite 605
Toronto, Ontario
M5T 2Z5

Dear Mr. Stensil:

We have completed processing your request under the *Access to Information Act* (the Act) for information pertaining to All documents regarding the potential environmental assessment of the construction of new nuclear reactors in Canada, including Darlington Nuclear Station. Enclosed please find copies of the requested records.

Please note that some portions of the records have been severed, pursuant to section 25 of the Act. The sections severed qualify for exemption under section/paragraph 19(1), 21(1)(a), 21(1)(b), 21(1)(c), 21(1)(d), 23.

You will note that many of the documents included in this package relate to discussions with Atomic Energy of Canada Limited (AECL) with respect to their forthcoming obligations as a result of amendments made to the *Canadian Environmental Assessment Act* during the five-year review of the Act. Those amendments expanded the definition of "federal authority" to include federal parent Crown Corporations, and are effective June 2006. The amendments also provided the ability to make regulations varying the environmental assessment process for these organizations, if necessary.

The Canadian Environmental Assessment Agency has been engaged in consultations with AECL as well as with other Crown Corporations for almost three years. These discussions were used to advise Crown Corporations of their forthcoming obligations, determine how they would be affected by the legislative amendments, and determine if regulations varying the environmental assessment process would be required by any of these organizations.

These discussions were not about whether or not an environmental assessment would

be needed for the construction of new nuclear reactors in Canada, or what that process would be. New nuclear reactors will require an environmental assessment, and the Canadian Nuclear Safety Commission, as the licensing authority, will remain responsible for those environmental assessments.

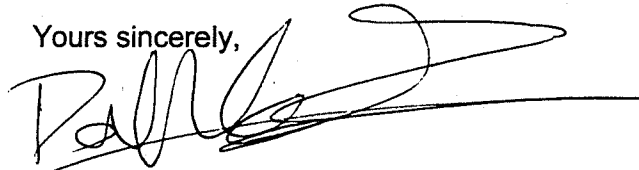
If, for any reason, you are not satisfied with the handling of your request, the Act grants you the right to make a formal complaint to the Information Commissioner within one year of your request being received by this office.

Notice of complaints should be addressed to:

Office of the Information Commissioner
112 Kent St., 3rd floor
Ottawa, Ontario
K1A 1H3

Should you wish to discuss this matter further, I can be reached at (613) 957-0493 or patrick.kennedy@ceaa-acee.gc.ca.

Yours sincerely,



Ann Amyot
Access to Information
and Privacy Coordinator

Encl.

Knox, Louise [CEAA]

From: Knox, Louise [CEAA]
Sent: November 8, 2005 12:16 PM
To: Burgess, Steve [CEAA]
Cc: Smith, John [CEAA]; Robinson, David J. [CEAA]; Young, Bruce [CEAA]; Cathy Hainsworth; DARLA CAMERON; Eric Advokaat; Jeremy Schultz; Jim Chan; Mary Thompson; Paul Schafer
Subject: Meeting with AECL

Hello all,
Just want to summarize my meeting with Michael G. Taylor, V-P Corporate Affairs with AECL and Peter J. Allsop, Manager, Plant Performance and Processes with AECL in Mississauga.

I'll send you a copy of the "deck" but the main message was that AECL believes Ontario may, by the end of this month, announce its decision on the mix of energy generation options it prefers, and that "new nuclear" will be among these. AECL seems to want to pursue an option where OPG, as proponent, could hire AECL to construct and obtain approvals for a new nuclear facility which OPG would then operate. The new reactor would likely be proposed to be at the Darlington site, or possibly the Bruce site. AECL is trying to understand what would be involved in obtaining the EA and approvals.

Luckily, I had invited Phil Brennan from MOE who could answer to some extent their questions about whether or not a newly proposed nuclear generation facility would be subject to the EA requirements of the province (answer: no) and whether transmission lines would be subject to same (answer: yes) and the extent to which coordination is possible (answer: full extent, where both processes apply). There were questions about scope of project (I suggested they speak to potential RAs about this) about level of detail (same response) about factors which could make the EA go smoothly (I suggested they provide all the information they're asked for, quickly, and treat interested/affected members of the public with respect; I also indicated use of slightly enriched uranium in a new reactor would likely attract attention--this based on the report of the advisory committee to the Nuclear Waste Management Office).

They assume they would be into a comp study, so let me use this to confirm with Dave that they would be captured under Part VI item 19(d) if their capacity were more than 25MW (thermal), which it would be.

They talked about potential for panel--so I would like to use this to ask Bruce whether a CNSC/CEAA joint panel would be an option. Also, I had a call from Heather Jarrett this week asking about a CNSC panel as a substitution for a CEAA panel--I referred the call to Bruce and would be interested in knowing the outcome of this discussion Bruce, when you have time.

The questions about how AECL as a crown corporation would fulfill its obligations under CEAA, and what these might be, never came up. I suppose this is because they see themselves in this scenario acting under contract to the proponent which would be the prime mover. However, I think it

Louise Knox
Director, Ontario Region
Directrice, Région de l'Ontario
416-952-1575 | facsimile/télécopieur 416-952-1573
louise.knox@ceaa-acee.gc.ca
Canadian Environmental Assessment Agency

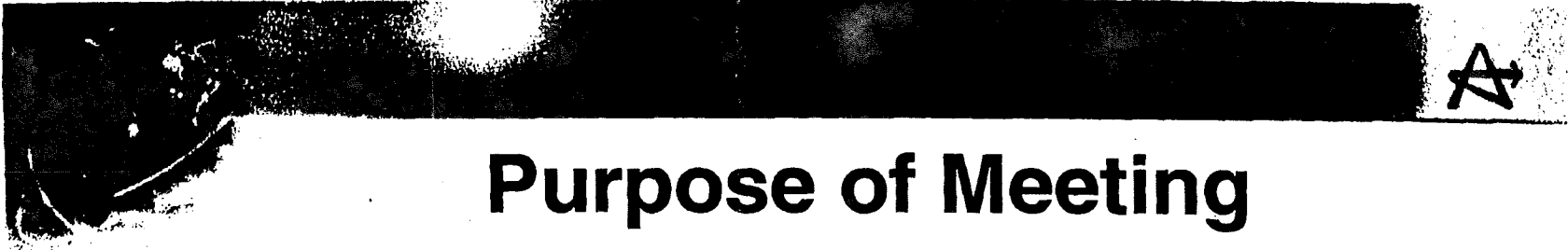
s.23

55 St. Clair Ave E. Suite 907 Toronto, ON M4T 1M2
Agence canadienne d'évaluation environnementale
55 avenue St. Clair Est pièce 907 Toronto ON M4T 1M2

**AECL Meeting with Louise Knox,
Ontario Regional Director, CEAA**

November 8, 2005





Purpose of Meeting

- To brief CEAA on status of Ontario's electricity supply and potential role for new CANDU reactors
- To share AECL's views of issues related to deploying new CANDU reactors
- To seek your views on EA process for new CANDU builds



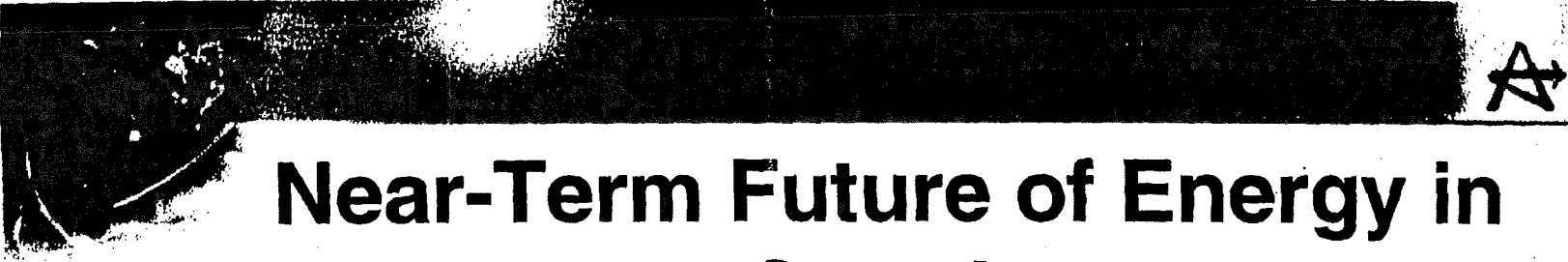
Review of Recent Energy History in Ontario

- **August 2003:**
 - **Blackout**
- **OPG Review Committee**
 - **Confirmed that the management of Pickering led to problems**
 - **CANDU technology and design were exonerated**
- **Ontario Premier announces closing of coal plants in Ontario by 2007 (now revised to 2009)**
- **AECL analysis shows Ontario stakeholders that a base load gap opens in 2013.**
 - **New nuclear build: construction = 5 years, nominally 3 years for EA. Analysis shows that time is of the essence**



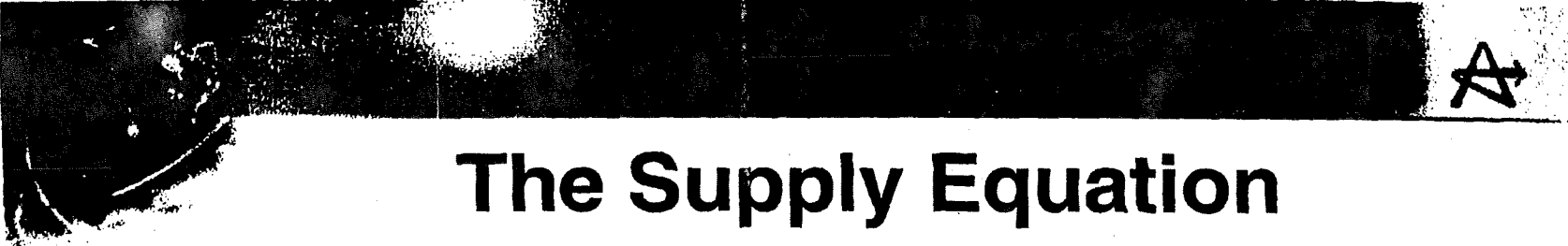
Review of Recent Energy History in Ontario (cont'd)

- **Ontario Power Authority**
 - Minister of Energy specifically asked OPA to look into new nuclear builds
- **Summer 2005:**
 - Voltage reductions
 - Requests to reduce consumption
 - Some large voluntary electricity reduction from industry
 - Warnings of rolling potential blackouts
- **Premier's speech at OEA, Sept. 14, 2005**
 - "We are prepared to go ahead with economical, safe, new nuclear if that is recommended by the OPA."



Near-Term Future of Energy in Ontario

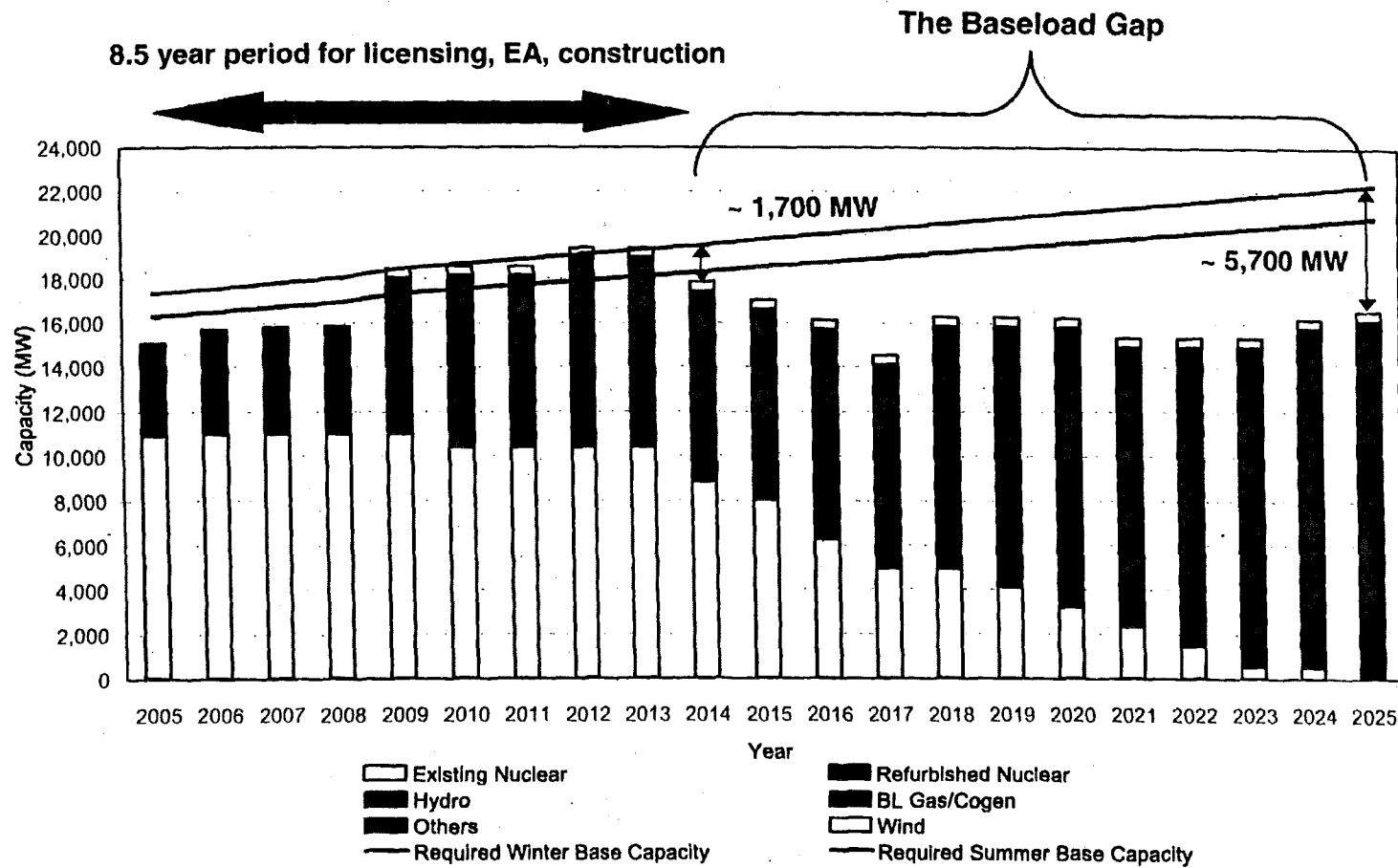
- **Existing supply sources will decrease**
 - Coal being phased out (Clean coal expensive, CO2 still issue)
 - Aging generators (fossil and nuclear)
 - Potential for hydro imports, but questions regarding ability to get much power from existing transmission lines
- **Energy demand in Ontario will increase**
 - Conservatively projected at ~1% annually
- **Challenges in achieving generation**
 - RFPs for renewables and gas plants are not delivering level of power originally expected
 - Commercial, transmission & community-support issues



The Supply Equation

- **There are three kinds of electricity generation sources:**
 - ***Baseload plants*** supply continuous electricity
 - Respond to weekly/monthly variations in demand
 - Ontario: Nuclear, some hydro, CCGT, biomass
 - Solar & wind are special cases, but sometimes grouped as base
 - ***Peak plants*** top off supply when demand is very high
 - Respond to momentary/hourly variations in demand
 - Ontario: Coal, some hydro, some gas
 - ***Intermediate plants*** add supply to fill gap between base & peak
 - Respond to daily/weekly variations in demand
 - Ontario: Hydro dams, gas turbines
- **A balanced system requires adequate sources of all three types**
 - **Baseload is a major factor in the supply issue**

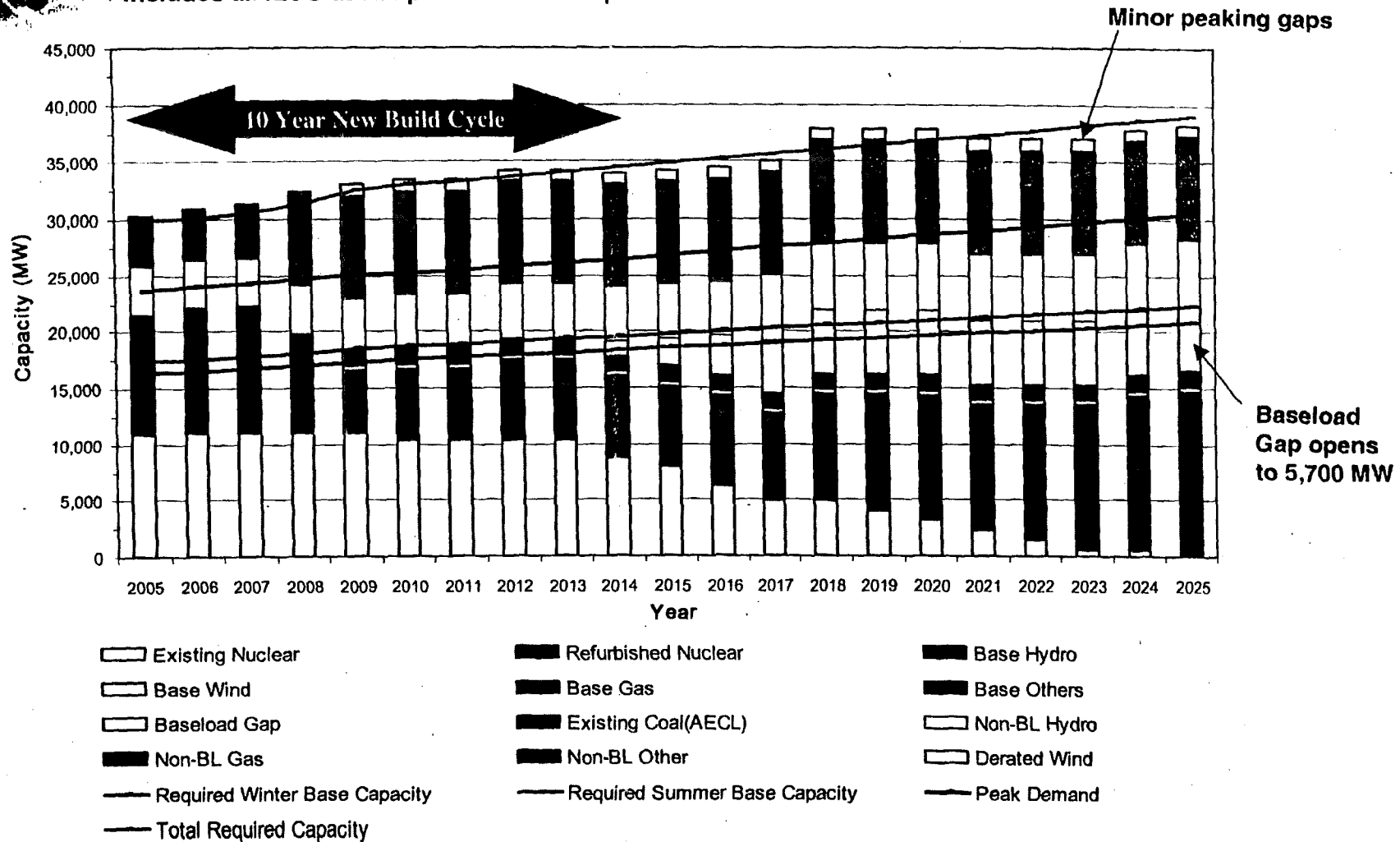
Ontario Baseload Gap Analysis





Generation Gap: Ontario needs decisive action

* Includes all IESO assumption for Coal Replacement + more



PROTECTED - COMMERCIAL



Options for Filling Baseload Gap

- **Each electricity source has its own merits**
 - **Hydro**
 - **Feasible sites fully exploited**
 - Analysis includes 1,400MW run-of-river in Ontario, plus contribution to base from Conawapa, plus Niagara Tunnel
 - **Combined Cycle Gas Turbine**
 - **CCGT economics highly dependent on natural gas prices**
 - natural gas supply not clear & competes with peaking options
 - **Clean Coal**
 - **Commercially / politically available?**
 - **Options still emit CO₂ and produce toxic waste**
 - **Biomass**
 - **Fuel availability and transportation?**
 - The gap size is massive
- **Nuclear**



Addressing the Energy Crisis Now

- **Must choose a base load solution to minimize the cost and have low environmentally impacts**
 - **To reduce cost, can leverage existing transmission capabilities and existing infrastructure (e.g. sites, grid, large generation centers)**
 - **Minimize process delays**
 - **Most base load options require significant lead times (e.g. hydro, nuclear)**
- **Ontario must therefore begin an Environmental Assessment now to keep nuclear option open**



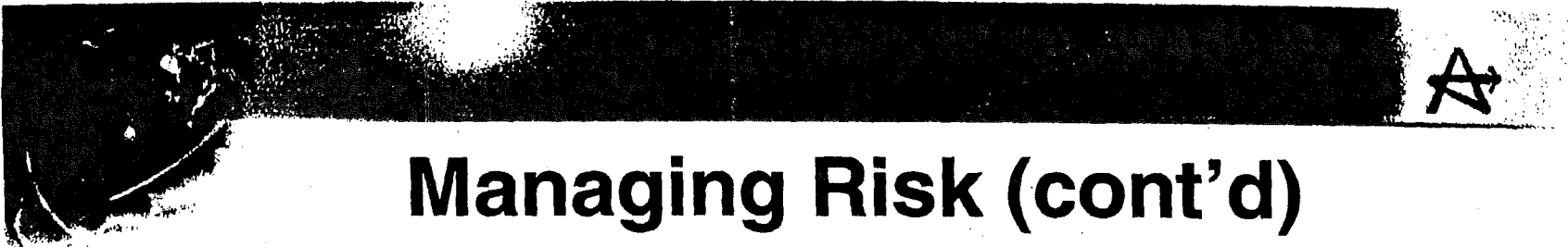
The CANDU Option

- **Designed for base load with intermediate potential**
 - Intermediate potential largely unexploited in Ontario
- **Consistent with existing infrastructure**
 - Maximizes use of existing sites and grid nodes
- **Supplies stability to accommodate delays in peaking and source-driven supplies**
 - Not competing with gas or renewables – all have their place
- **Cost effective**
 - CERI study shows nuclear is a lower-cost option than CCGT based on projected gas prices



Managing Risk

- **AECL's analysis shows that an EA for new nuclear builds can conclude in 3 years, and have a 5 year construction period**
 - **Mitigating factors:**
 - **G2, Lepreau experience**
 - **Supportive communities around nuclear plants**
 - **CANDU 6 technology is well known**
 - **Environmental site information is well known (e.g. Darlington site has ITER info)**
 - **Waste issues are being handled by NWMO and Federal Government**
 - **Energy crisis may speed political will to streamline processes**
 - **Challenges:**
 - **Federal / provincial coordination**



Managing Risk (cont'd)

- **AECL understands commercial risk**
- **Recent track record demonstrates AECL's ability to manage commercial and project risks in delivering reactors**
- **Need to better understand procedural and approvals risks for conducting an Environmental Assessment for nuclear in Ontario**



Challenges in EA Process

- **Practitioners in the field tell AECL that EA can take 2 to 5 years or more for nuclear**
 - We believe 3 years is reasonable
- **There are a variety of perspectives in approaching an EA for a new nuclear build**
 - AECL recognizes that nuclear power carries obligations for transparency that may exceed those of other technologies
- **We recognize there may be procedural features that add time for a CNSC EA**
 - CNSC / CEAA interaction
- **AECL is seeking your advice on this to keep the nuclear option open**
 - E.g. What are the key choices we can make to have an effective and open evaluation?



Questions

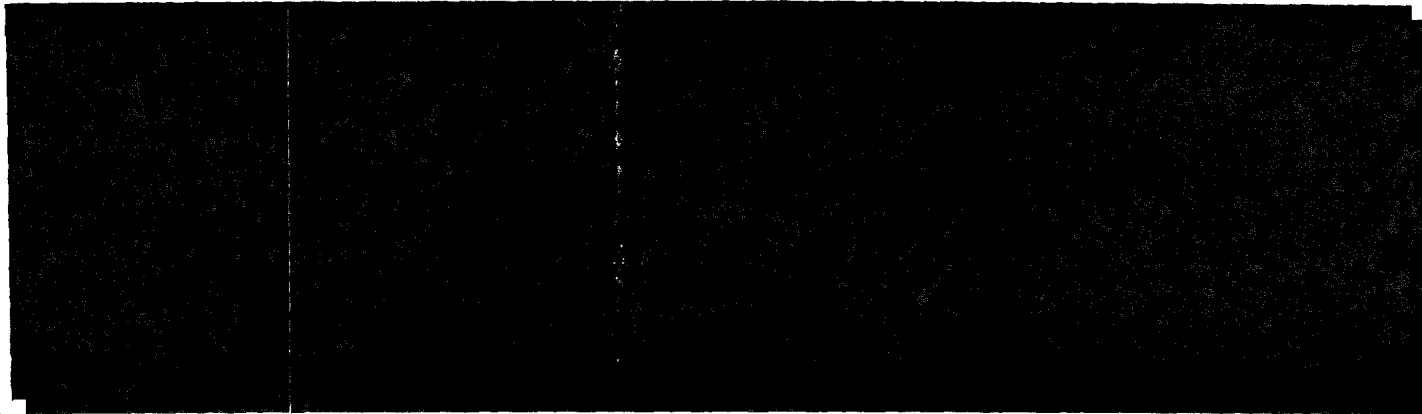
- **Did you participate in the Bruce Power units 1 and 2 refurbishment EA?**
- **What is your experience with fed/prov coordination?**
- **Does it matter if the project is on a site like Darlington, where transmission lines are there, or if it is on a site like Bruce where transmission lines are likely required?**
- **Can we get your advice on how to achieve a 3 year EA?**



Background Information



Nuclear is Back on Ontario's Agenda



Toronto – August 2003

“We are prepared to go ahead with economical, safe, new nuclear if that is recommended by the Ontario Power Authority.” Premier Dalton McGuinty, Sept 2005

“Ontario needs more nuclear power plants and will soon have to decide how many and where new reactors should be built - - that decision is coming quickly”

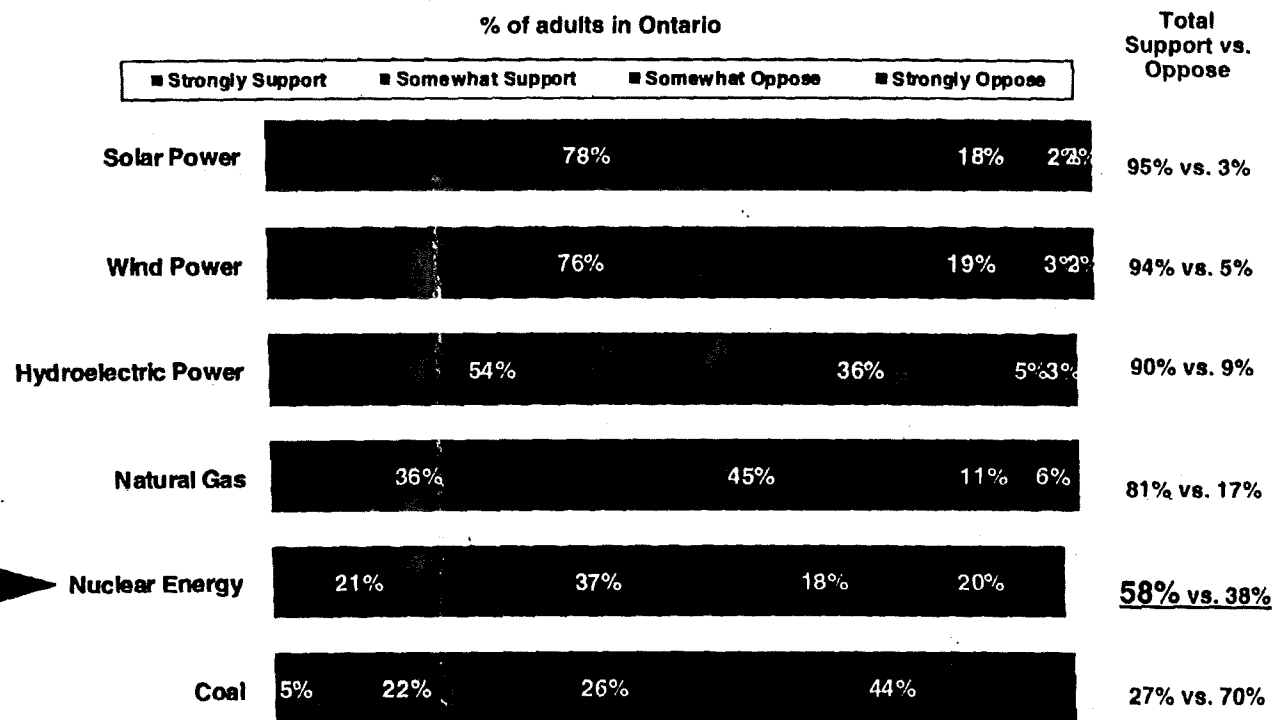
Minister of Energy Dwight Duncan, Aug. 20, 2005

PROTECTED - COMMERCIAL



Ipsos

Six In Ten (58%) Residents Of Ontario Currently Support Nuclear Energy...



...and you think of several ways to produce electricity. Please tell me whether you strongly support, somewhat support, somewhat oppose, or strongly oppose each way of producing electricity.



41

Canadian Nuclear Association
Association nucléaire canadienne



Ipsos

Ontarians Supporting Refurbished Nuclear Plants (70%) And Building New Ones (60%) Are At Their Highest Levels Since May 04...

% of adults in Ontario

■ Strongly support ■ Somewhat support ■ Somewhat oppose ■ Strongly oppose

Upgrading and refurbishing existing nuclear power plants

	Strongly support	Somewhat support	Somewhat oppose	Strongly oppose	Total Support vs. Oppose
Aug. '05	30%	40%	14%	14%	70% vs. 28%
May '05	27%	35%	16%	21%	61% vs. 37%
Feb. '05	28%	40%	18%	14%	68% vs. 32%
May '04	27%	40%	18%	14%	67% vs. 32%

Building new nuclear power plants

	Strongly support	Somewhat support	Somewhat oppose	Strongly oppose	Total Support vs. Oppose
Aug. '05	21%	32%	19%	27%	60% vs. 28%
May '05	12%	34%	18%	35%	46% vs. 53%
Feb. '05	19%	31%	24%	26%	50% vs. 49%
May '04	18%	32%	26%	23%	50% vs. 49%

Generating plants in Canada with various fuel sources will have to be replaced over the next 40 years. In Ontario 80% of the plants will have to be replaced. In order to help meet this need, would you strongly support, somewhat support, somewhat oppose or strongly oppose building new nuclear plants? And how about... Base: N=800



Canadian Nuclear Association
Association nucléaire canadienne



Support from Environmentalists

“ Nuclear energy is the only non-greenhouse-gas-emitting power source that can effectively replace fossil fuels and satisfy global demand.

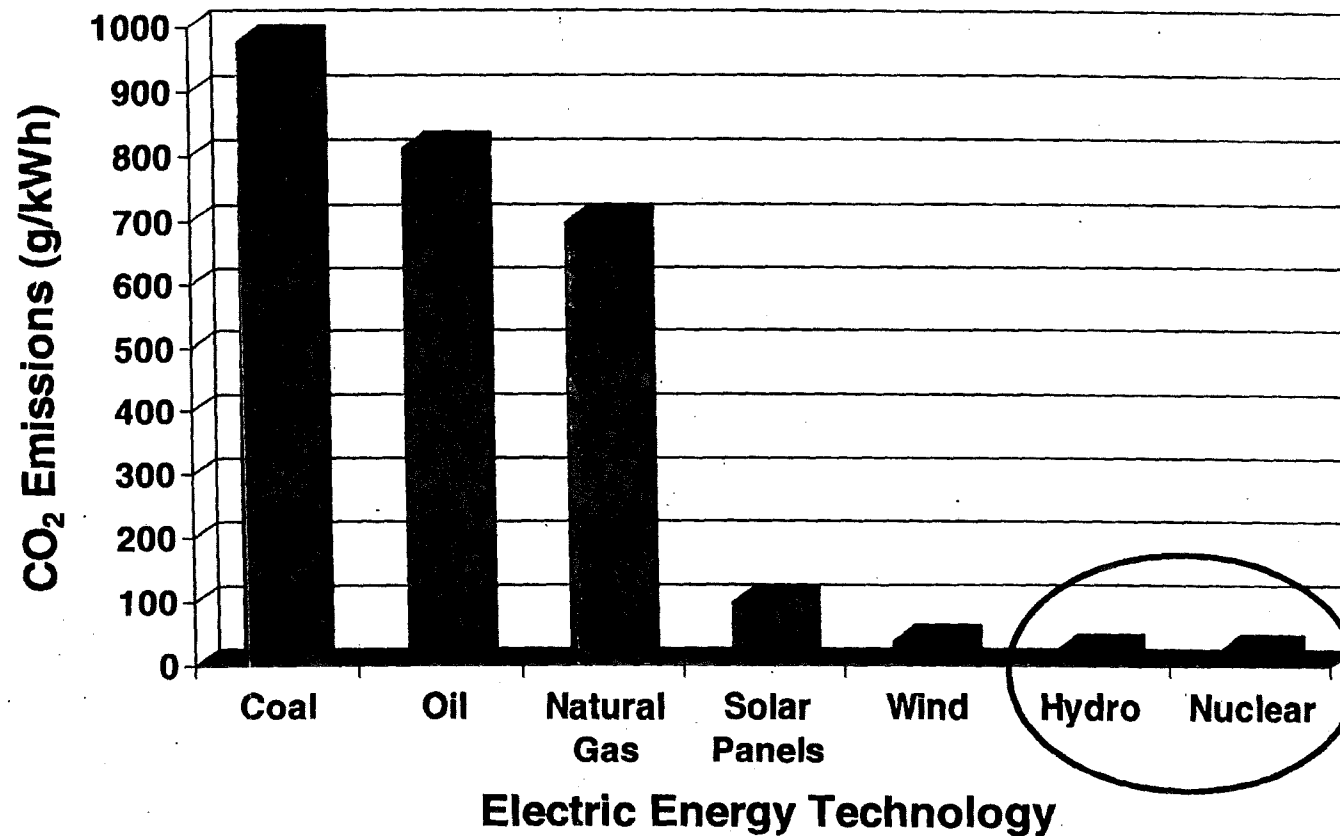
There is now a great deal of scientific evidence showing nuclear power to be an environmentally sound and safe choice”

Dr. Patrick Moore: Chairman and Chief Scientist of Greenspirit Strategies Ltd. and Co-Founder of Greenpeace

“ I hope that it is not too late for the world to emulate France and make nuclear power our principal source of energy. There is at present no other safe, practical and economic substitute for the dangerous practice of burning carbon fuels.”

Dr. James Lovelock: CBE, FRS

CANDU: Key to Kyoto



Source: IAEA Spadero et al. 2000

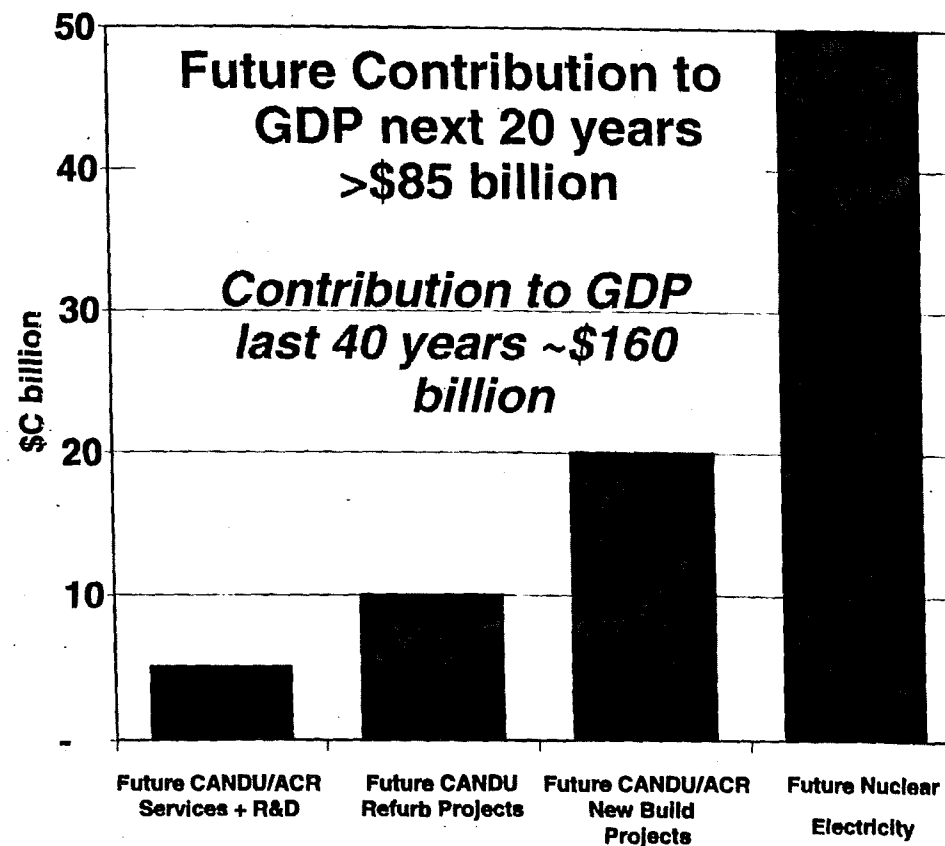
CANDU: Benefits to Canada

CANDU is Canadian:

- ✓ 30,000 jobs
- ✓ 150 companies
- ✓ \$5 billion / yr. industry

Essential to meeting Kyoto commitments:

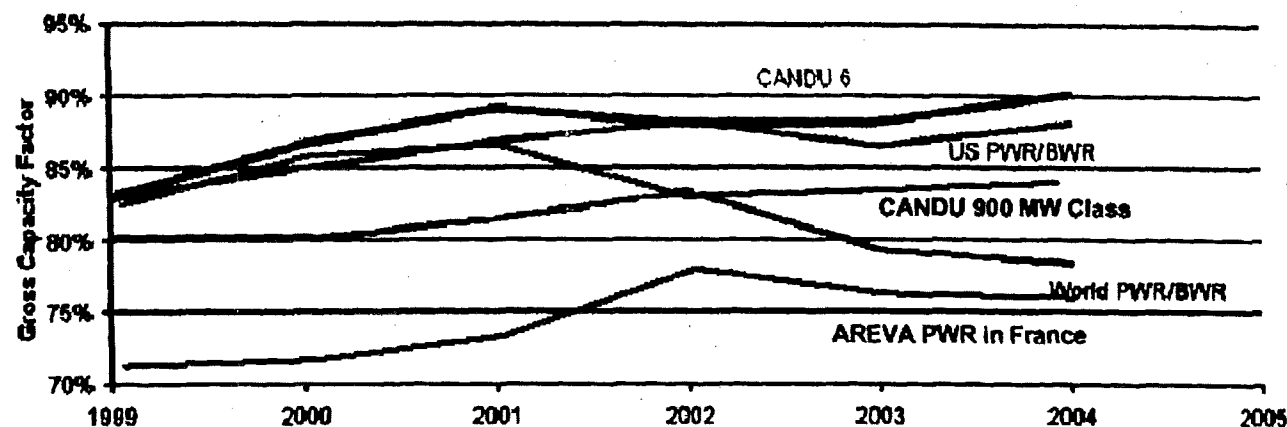
- ✓ Clean air benefit up to 100 MT GHG/ yr.
- ✓ One ACR station will avoid 14 MT GHG/ yr.





CANDU 6 outperforms LWR

CANDU 6...4 continents - 5 countries - 6 utilities



CANDU Performance vs. U.S., French and World PWR/BWRs*

* COGnizant June 2005, French data from NEI end of year rolling 12 month data (June 2005)

The graph is for comparison of trends only



Excellent CANDU 6 Performance (to end of Dec 2004)

- Operating experience of all CANDU 6 plants is world class

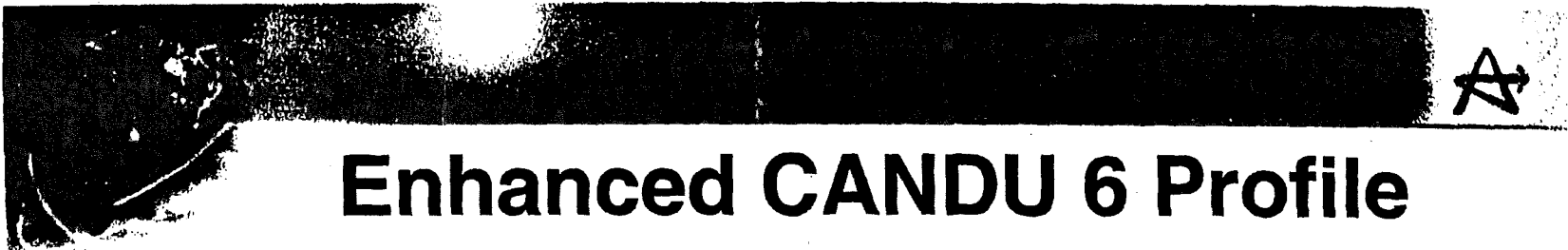
- CANDU 6 achieved average capacity factor of 90.2% in 2004

- Entire CANDU 6 fleet averaged 87.5% Lifetime CF—higher than the world BWR and PWR fleet

- Top 3 CANDU 6 units achieved 97% Capacity Factor for 2003

Pt. Lepreau, New Brunswick	1 February 1983	83%
Gentilly 2, Quebec	1 October 1983	79%
Wolsong 1, S. Korea	22 April 1983	86%
Embalse, Argentina	20 January 1984	85%
Cernavoda 1, Romania	2 December 1996	87%
Wolsong 2, S. Korea	1 July 1997	93%
Wolsong 3, S. Korea	1 July 1998	94%
Wolsong 4, S. Korea	1 October 1999	96%
Qinshan 1, China	31 December 2002	84%
Qinshan 2, China	20 July 2003	88%

Source: COG (Dec 2004)



Enhanced CANDU 6 Profile

- **CANDU 6: AECL's Workhorse Reactor**
 - Proven, excellent performance since 1983
 - Consistent in locations around the world
 - Up-to-date design
 - Has been continuously updated to meet evolving market and regulatory demands. Most recent project: Cernavoda 2; initiated 2002, in service 2007
- **Enhanced CANDU 6: Based on AECL's technology advancements ACR development and on feedback from projects and operations, a suite of valued-added enhancements is ready to incorporate in the next CANDU 6 project**
 - Advanced control software and hardware
 - Improved turbine cycle efficiency and power output
 - Hardened containment and safety systems
 - Material and system improvements for longer life and easier maintenance



Advanced CANDU Reactor (ACR-1000)

The next step in CANDU Evolution

- ✓ Combines proven features from CANDU 6 design with technology innovation
- ✓ Capital Cost reduction
- ✓ Optimization and waste reduction
- ✓ Superior economics = competitive with coal and gas (CERI studies)
- ✓ 42 month construction schedule; project-ready by 2010 for 2015 in-service
- ✓ First-Of-A-Kind risk minimal due to proven CANDU 6 platform as base
- ✓ Canada (CNSC) pre-licensing
- ✓ Need an efficient EA process in Canada to meet in-service targets for ACR
- ✓ Low cost baseload options





AECL Has Waste Solutions Now

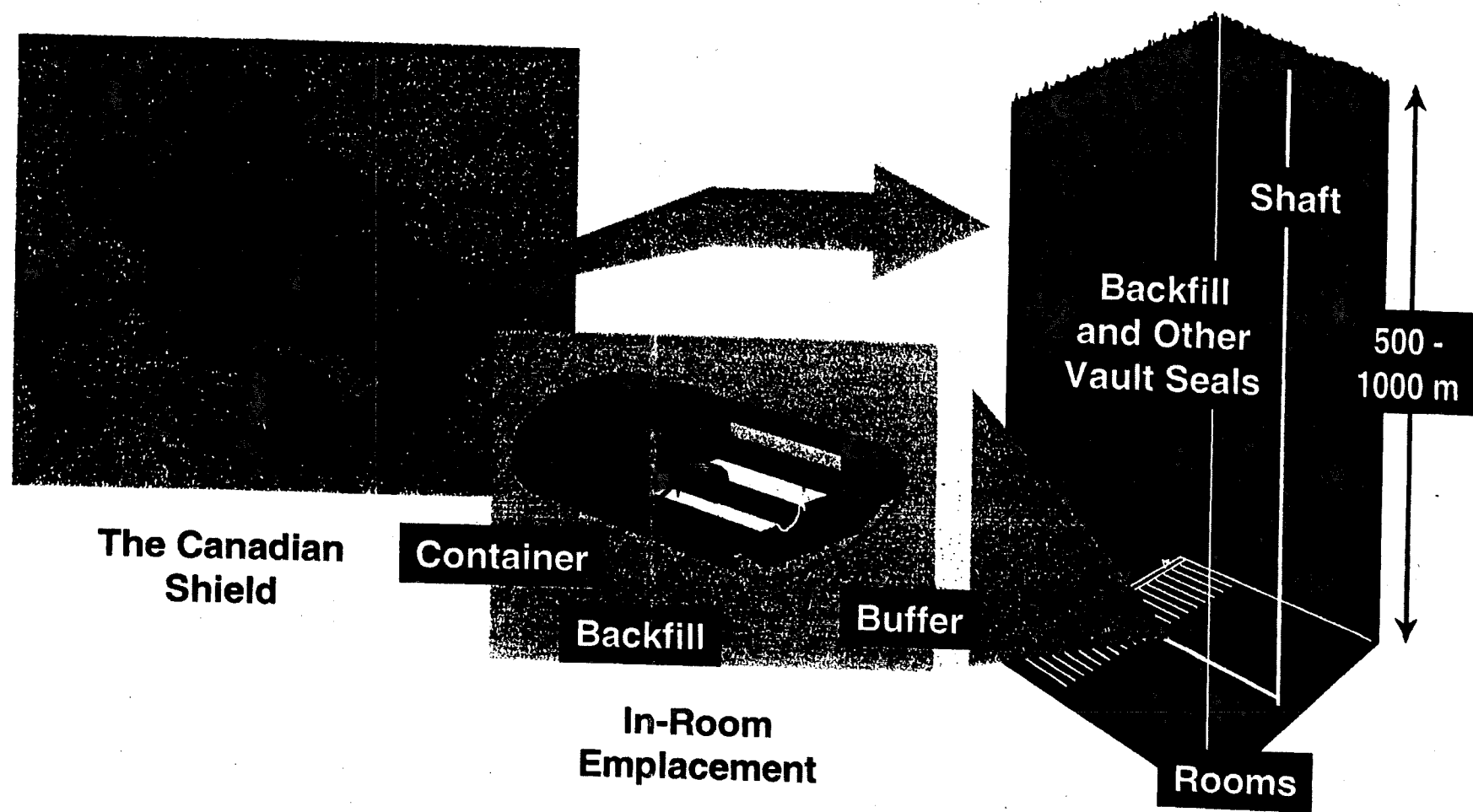
Waste Management Solutions Today

- **Dry fuel storage technology - MACSTOR®**
 - In use in Canada, Korea, Romania
 - Good for 100 years before replacing
- **Waste disposal concept developed**
 - URL (Underground Research Laboratory) constructed in Canadian Shield
 - 20-year, \$900M study of deep disposal concept
 - Reviewed by a federal environmental review panel
 - NWMO in dialogue with Canadian public on options for waste management

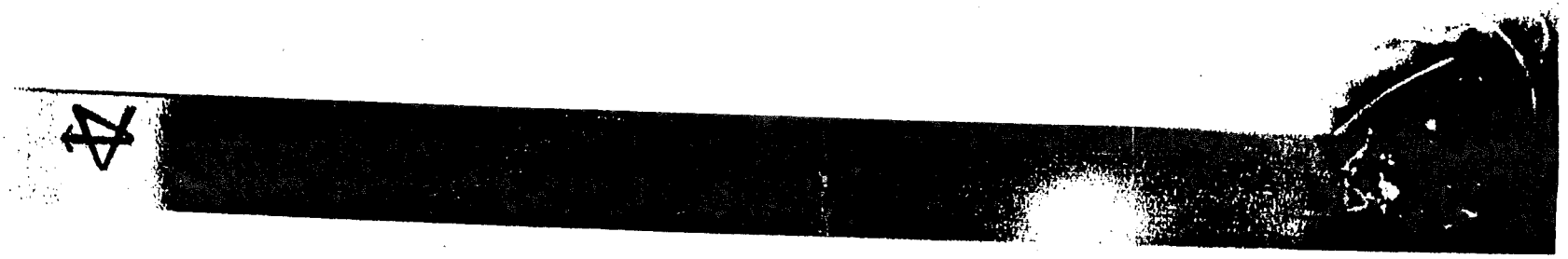




Permanent Disposal of Used Nuclear Fuel



PROTECTED - COMMERCIAL



Knox,Louise [CEAA]

From: Knox,Louise [CEAA]
Sent: October 31, 2005 10:13 AM
To: 'Brennan, Phil (ENE)'
Subject: RE: My meeting with AECL

Thanks Phil.

Louise Knox

Director, Ontario Region
Directrice, Région de l'Ontario
416-952-1575 | facsimile/télécopieur 416-952-1573
louise.knox@ceaa-acee.gc.ca
Canadian Environmental Assessment Agency
55 St. Clair Ave E. Suite 907 Toronto, ON M4T 1M2
Agence canadienne d'évaluation environnementale
55 avenue St. Clair Est pièce 907 Toronto ON M4T 1M2

-----Original Message-----

From: Brennan, Phil (ENE) [mailto:Phil.Brennan@ene.gov.on.ca]
Sent: October 31, 2005 9:10 AM
To: Knox,Louise [CEAA]
Cc: O'Mara, James (ENE)
Subject: RE: My meeting with AECL

I will discuss this with Jim and get back to you.

In the meantime, I have booked the time as it may indeed be a good idea to be there.

Thanks.

Phil Brennan
Acting Manager EA Project Coordination
Environmental Assessment and Approvals Branch
Operations Division
Ontario Ministry of the Environment
Phone: 416-314-7967
Fax: 416-314-8346

-----Original Message-----

From: Knox,Louise [CEAA] [mailto:Louise.Knox@ceaa-acee.gc.ca]
Sent: October 31, 2005 8:50 AM
To: Brennan, Phil (ENE)
Cc: O'Mara, James (ENE)
Subject: My meeting with AECL

19/12/2005

Hello Phil,

I am expecting to meet with AECL senior management on November 8th so that they can brief me on their views about "new nuclear". I gather from Jim that you folks have already had a similar briefing, so there is not likely to be anything new, but I have a gut feeling it might be good to have you there. Do you think it would be worthwhile? The meeting goes from 10:00 till noon.

Louise Knox

Director, Ontario Region

Directrice, Région de l'Ontario

416-952-1575 | facsimile/télécopieur 416-952-1573

louise.knox@ceaa-acee.gc.ca

Canadian Environmental Assessment Agency

55 St. Clair Ave E. Suite 907 Toronto, ON M4T 1M2

Agence canadienne d'évaluation environnementale

55 avenue St. Clair Est pièce 907 Toronto ON M4T 1M2

19/12/2005

2005/12/19 11:11:39

Knox,Louise [CEAA]

From: Knox,Louise [CEAA]
Sent: October 25, 2005 4:43 PM
To: 'Laurier, Danielle'
Cc: Thompson,Mary Claire [CEAA]
Subject: RE: Meeting with AECL

I would be pleased to meet with your staff on November 3 in the afternoon, or the morning of November 4, or the morning of November 8. If there is anything you would like me to read in preparation for the meeting I would be pleased to do that as well. Perhaps you would work with Mary Claire Thompson (in cc above) to finalize the plans.

Louise Knox

Director, Ontario Region

Directrice, Région de l'Ontario

416-952-1575 | facsimile/télécopieur 416-952-1573

louise.knox@ceaa-acee.gc.ca

Canadian Environmental Assessment Agency

55 St. Clair Ave E. Suite 907 Toronto, ON M4T 1M2

Agence canadienne d'évaluation environnementale

55 avenue St. Clair Est pièce 907 Toronto ON M4T 1M2

-----Original Message-----

From: Laurier, Danielle [<mailto:laurierd@aecl.ca>]
Sent: October 25, 2005 10:04 AM
To: Knox,Louise [CEAA]
Subject: Meeting with AECL

Ms. Knox,

AECL representatives would very much like to meet with you to discuss the Environmental Assessment process for new build nuclear in Ontario. Attending from AECL will be Michael Taylor, VP, Corporate Affairs of Atomic Energy of Canada Limited, and Dennis Galange, Vice-President, Ontario.

Would you please advise if it would be possible to arrange a 1-hour meeting at your offices in Toronto early next month. Perhaps you can suggest a few dates that would be suitable.

Danielle Laurier

Manager, External Relations

Corporate Affairs

Atomic Energy of Canada Limited - AECL



112 Kent Street, Ottawa, Ontario K1A 0S4

19/12/2005



(613) 782-2021



(613) 782-2017



email: laurierd@aecl.ca

CONFIDENTIAL AND PRIVILEGED INFORMATION NOTICE

This e-mail, and any attachments, may contain information that is confidential, subject to copyright, or exempt from disclosure. Any unauthorized review, disclosure, retransmission, dissemination or other use of or reliance on this information may be unlawful and is strictly prohibited.

AVIS D'INFORMATION CONFIDENTIELLE ET PRIVILÉGIÉE

Le présent courriel, et toute pièce jointe, peut contenir de l'information qui est confidentielle, régie par les droits d'auteur, ou interdite de divulgation. Tout examen, divulgation, retransmission, diffusion ou autres utilisations non autorisées de l'information ou dépendance non autorisée envers celle-ci peut être illégale et est strictement interdite.

19/12/2005

Knox,Louise [CEAA]

From: Knox,Louise [CEAA]
Sent: November 9, 2005 11:10 AM
To: 'Brennan, Phil (ENE)'
Subject: RE: Confidential: AECL meeting with CEAA/MOE

Hi Phil,

May I share the word attachment to this memo with a colleague in Natural Resources Canada who is preparing a briefing note on the potential for new nuclear to be built in Ontario?

Louise Knox

Director, Ontario Region
Directrice, Région de l'Ontario
416-952-1575 | facsimile/télécopieur 416-952-1573
louise.knox@ceaa-acee.gc.ca
Canadian Environmental Assessment Agency
55 St. Clair Ave E. Suite 907 Toronto, ON M4T 1M2
Agence canadienne d'évaluation environnementale
55 avenue St. Clair Est pièce 907 Toronto ON M4T 1M2

-----Original Message-----

From: Brennan, Phil (ENE) [mailto:Phil.Brennan@ene.gov.on.ca]
Sent: November 8, 2005 3:52 PM
To: taylorm@aecl.ca; allsopp@aecl.ca; Knox,Louise [CEAA]
Cc: O'Mara, James (ENE); Bell, Dave (ENE)
Subject: Confidential: AECL meeting with CEAA/MOE

Further to our meeting today, please find attached our Electricity Regulation (116) and its associated guidance document. I have also had a chance to review some of the specifics with regard to your inquiries today and have attached a word document that contains the highlights.

If you have any further questions, let me know.

Every best wish.

Phil Brennan
Acting Manager EA Project Coordination
Environmental Assessment and Approvals Branch
Operations Division
Ontario Ministry of the Environment
Phone: 416-314-7967
Fax: 416-314-8346

19/12/2005

AECL – Ontario Environmental Assessment Requirements

- Generally, Environmental Assessment Act (EAA) requirements for electricity generation and transmission projects are set out under Ontario Regulation 116/01.
 - Transmission projects may be required to complete an individual EA or Class Environmental process.
 - Transmission projects **not associated** with a proposed generation facility are required to follow the process under Hydro One's *Class Environmental Assessment for Minor Transmission Facilities*. These include:
 - Replacement, modification or upgrading existing lines operating at 115 kV and greater than 2 km in length, or
 - New line projects operating at > 115 kV and < 500 kV and > 2km and less than 50km.
 - Transmission lines operating at ≥ 500 kV and ≥ 2 km require an individual EA.
 - The thresholds outlined in the Regulation and Guide will be reviewed to ensure consistency.
 - Hydro One is currently updating their Class EA to reflect market trends.
 - Transmission facilities **associated** with certain proposed generation facilities and are 115 kV or greater are reviewed through the Environmental Screening Process. This would not apply to nuclear facilities.
 - Class EA process does not require assessment of "alternatives to". These alternatives are identified and assessed at the earlier Integrated Plan stage.
 - Both the Hydro One Class EA and Environmental Screening Process have mandatory public and agency consultation.
-

Knox,Louise [CEAA]

From: Knox,Louise [CEAA]
Sent: November 10, 2005 4:16 PM
To: Young,Bruce [CEAA]
Subject: RE: AECL meeting follow-up

Thanks Bruce. I'm keenly interested, as you may have guessed. Have a good long-week-end and we'll talk next week!

Louise Knox
Director, Ontario Region
416-952-1575
louise.knox@ceaa-acee.gc.ca
Canadian Environmental Assessment Agency
55 St. Clair Ave. E. Suite 907 Toronto ON M4T 1M2

-----Original Message-----

From: Young,Bruce [CEAA]
Sent: November 10, 2005 4:05 PM
To: Knox,Louise [CEAA]; Burgess,Steve [CEAA]
Cc: Robinson,David J. [CEAA]; Leboeuf,Yves [CEAA]; Sylvester,Peter [CEAA]; Streiner,Scott [CEAA]
Subject: Re: AECL meeting follow-up

Louise, I spoke with Sharon as well, filled her in on options and indicated that we are anxious to meet with CNSC asap. On that front, I was speaking with Jim Clarke at CNSC last Wednesday and we have agreed to find a time for Agency and CNSC VPs to meet and discuss potential panel level reviews for new nuclear generation in Ontario as well as a potential mine expansion in Saskatchewan. I am sure that both joint panels as well as substitution will be raised. I will keep you informed on how this develops.

Bruce.

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

-----Original Message-----

From: Knox,Louise [CEAA] <Louise.Knox@ceaa-acee.gc.ca>
To: Burgess,Steve [CEAA] <Steve.Burgess@ceaa-acee.gc.ca>
CC: Robinson,David J. [CEAA] <DavidJ.Robinson@ceaa-acee.gc.ca>; Young,Bruce [CEAA] <Bruce.Young@ceaa-acee.gc.ca>; Leboeuf,Yves [CEAA] <Yves.Leboeuf@ceaa-acee.gc.ca>; Sylvester,Peter [CEAA] <Peter.Sylvester@ceaa-acee.gc.ca>
Sent: Thu Nov 10 08:54:53 2005
Subject: AECL meeting follow-up

Hello all,

Just want to let you know that Sharon Baillie-Malo of NRCan called me yesterday because she was preparing a briefing note for her senior management on the possibility of a new nuclear generation facility in Ontario, and she wanted to understand what the options might be on the EA front. I noticed in the AECL deck (which you should have by now) that they identify the CEAA-CNSC interaction as an issue. Just want to flag that the CNSC may not be the only RA, also to agree with Bruce and encourage early dialogue on whether a panel is preferable to a comp study and if so, what steps could be taken to get as much up-front planning done as possible, in a timely fashion.

If we are going to be engaged in either a panel or a comp study of a new nuclear facility in Ontario, as well as an EA of deep geologic disposal of low and medium-level nuclear waste at the Bruce site (which people will suspect is eventually intended also for high-level waste) while the Nuclear Waste Management Office continues its process to select a site for long-term disposal of high-level nuclear waste, we are going to be busy.

Louise Knox
Director, Ontario Region
416-952-1575
louise.knox@ceaa-acee.gc.ca
Canadian Environmental Assessment Agency
55 St. Clair Ave. E. Suite 907 Toronto ON M4T 1M2

Knox,Louise [CEAA]

From: Knox,Louise [CEAA]
Sent: November 25, 2005 11:37 AM
To: Cameron,Darla [CEAA]
Subject: RE: Just when you have time...

And how...

Louise Knox

Director, Ontario Region
Directrice, Région de l'Ontario
416-952-1575 | facsimile/télécopieur 416-952-1573
louise.knox@ceaa-acee.gc.ca
Canadian Environmental Assessment Agency
55 St. Clair Ave E. Suite 907 Toronto, ON M4T 1M2
Agence canadienne d'évaluation environnementale
55 avenue St. Clair Est pièce 907 Toronto ON M4T 1M2

The concern here is the choice of site coming before the EA instead of after, and the effect of this on the usefulness of the EA. UK

-----Original Message-----

From: Cameron,Darla [CEAA]
Sent: November 25, 2005 11:31 AM
To: Knox,Louise [CEAA]
Subject: Just when you have time...

Hi Louise -- I mentioned to Cathy my feeling of sadness/frustration about EA attitude/practice in the article below and she thought you, like she, would be sympathetic -- I've highlighted the portion in green so you can just scroll down.

2005.11.24

CATEGORY: Business
BYLINE: STEVE ERWIN
PUBLICATION: cpw
<< OLE Object: Picture (Metafile) >>

Ontario considering two new reactors for Darlington nuclear plant: sources

<< OLE Object: Picture (Metafile) >>

TORONTO (CP) _ The Ontario government is leaning towards a multi-billion-dollar expansion of its Darlington nuclear generating facility as part of an ongoing effort to expand the province's energy supply, sources say.

The province is investigating the potential construction of two 700-megawatt Candu 6 reactors _ which, combined, would be able to generate enough power for one million homes _ at the site in Clarington, some 80 kilometres east of Toronto, sources told The Canadian Press.

It would mark the first new nuclear construction in Ontario since controversial cost overruns at Darlington _ the original cost of the plant nearly tripled to some \$14 billion during construction in the 1980s _ soured governments on such projects.

Plenty of work needs to be done before the province will announce it's going ahead with the expansion, including negotiating construction and supplier contracts that guarantee the province doesn't face similar cost increases, sources said.

Ontario's Ministry of Energy is also waiting for a report due in early December from the Ontario Power Authority that's expected to lay out future supply needs and recommend further expansion of Ontario's nuclear power base.

But sources insist the province is eyeing a Darlington expansion that could be started quickly and efficiently, noting that there's infrastructure already in place to accommodate more units at the site and confidence the project would be welcomed by the local community.

"The fastest, most cost-efficient way to add new nuclear generating capacity would be a pair of Candu 6's at Darlington," said one source familiar with the talks, who spoke on condition of anonymity.

Energy Minister Donna Cansfield said the government has "absolutely not" made any decisions on a Darlington expansion.

But earlier this week, Clarington Mayor John Mutton met Tuesday with top bureaucrats at Ontario's Energy Ministry to discuss just such a project.

Mutton confirmed the meeting, but refused to talk about what was discussed _ except to say he provided assurances that Clarington is ready and willing to accept an expansion of the Darlington plant.

Clarington's council passed a resolution earlier this month pledging its support for an expansion.

Mutton also accompanied Premier Dalton McGuinty on his recent trip to China, where the two examined Candu 6 reactors now in place in that rapidly emerging economy. Mutton said the premier was "receptive" to Clarington's interest in an expansion, which the mayor said would create "tens of thousands of person-hours of employment" for his city.

[REDACTED]

[DC:
and so the point of EA informing key provincial decisions on the energy mix, or particular sites, would be?!...]

Earlier this year, McGuinty said Ontario would be willing to look at expanding its nuclear capacity, citing a need to refurbish, rebuild, or replace 25,000 megawatts of supply over the next 15 years.

This fall, the province approved a deal allowing Bruce Power (TSX:TRP TSX:CCO) to refurbish four units at its nuclear generating station off the shores of Lake Huron.

It's unclear how much it would cost to build two new Candu reactors at Darlington. Estimates suggest each would run at least \$1.5 billion, while others say the cost could be much higher.

Darlington would be relatively easy to expand; it was initially designed to accommodate a second set of nuclear units, but the idea was scrapped due to cost concerns. The facility's transmission lines are also designed to carry twice the plant's current capacity.

"Darlington is a site with room and infrastructure to accommodate additions," said Murray Elston, president of the Canadian Nuclear Association, which is lobbying the province for more nuclear

rebuilds.

Darlington and Bruce ``are in communities that are not only supportive, but are also heading into a third-generation of people working at the sites .n.n. understanding what exactly it takes to operate them safely."

Knox,Louise [CEAA]

From: Knox,Louise [CEAA]
Sent: November 28, 2005 10:21 AM
To: 'Julio Lagos'
Subject: RE: licensing of new nuclear power reactors in Canada

CNSC contact as a starting point:

Heather Jarrett

Environmental Assessment Specialist

Canadian Nuclear Safety Commission

P.O. Box 1046, Station B

280 Slater Street

Ottawa ON K1P 5S9

Tel: (613) 992-7231

Fax: (613) 995-5086

Jarretth@cnsccsn.gc.ca

Louise Knox

Director, Ontario Region

Directrice, Région de l'Ontario

416-952-1575 | facsimile/télécopieur 416-952-1573

louise.knox@ceaa-acee.gc.ca

Canadian Environmental Assessment Agency

55 St. Clair Ave E. Suite 907 Toronto, ON M4T 1M2

Agence canadienne d'évaluation environnementale

55 avenue St. Clair Est pièce 907 Toronto ON M4T 1M2

-----Original Message-----

From: Julio Lagos [<mailto:jlago@highparkgroup.com>]
Sent: November 25, 2005 4:25 PM
To: Knox,Louise [CEAA]
Cc: Burgess,Steve [CEAA]; Young,Bruce [CEAA]
Subject: RE: licensing of new nuclear power reactors in Canada

19/12/2005

Thanks Louise, this helps a lot.

Who would you recommend I speak with at CNSC?

Julio

-----Original Message-----

From: Knox,Louise [CEAA] [mailto:Louise.Knox@ceaa-acee.gc.ca]

Sent: Friday, November 25, 2005 9:04 AM

To: Julio Lagos

Cc: Burgess,Steve [CEAA]; Young,Bruce [CEAA]

Subject: RE: licensing of new nuclear power reactors in Canada

Julio, I'll be glad to discuss this with you. Under CEAA the Canadian Nuclear Safety Commission (CNSC), which is the entity issuing the license, also has responsibility for the environmental assessment. Likely a new nuclear facility would require a comprehensive study, which gives the Minister of the Environment involvement, and gives the Agency a role that goes beyond the coordination role we play for screenings. Even more likely, the CNSC would ask the Minister of the Environment to refer such a project to a review panel, which could be a joint panel (CEAA-CNSC) or could be simply a CEAA panel. I think the best assumption is that there would be a panel for a new nuclear project.

A panel review can take as little as 13 months and as long as several years. I think the estimates you have had to date very likely reflect a process in which much of the siting, planning, and conceptual design, if not detailed design, would be done in tandem with the panel process, so it's hard to say whether it's the planning itself or the EA which takes the time. In addition, judging on past experience, one can expect that any new nuclear facility would evoke questions of energy policy (the broader question as to whether further investments should be made in this technology) and would evoke very strong reactions from those who are troubled by the long duration of toxicity of waste. Even if there is a separate process (and there may well be) for the disposal of used fuel, and even if the disposal question is not within the scope of the assessment (which in itself is controversial and not guaranteed to be acceptable to a panel) one can expect a high level of public interest and strong opinions. I'm sure I'm not telling you anything you don't know. Interesting, though, that people would say that the main issue is the public hearings. I would say the main issue is the long life of the radioactivity in the waste, and that the need for hearings is a function of the degree to which this is troubling to Canadians.

The CNSC may be in a position to provide you with more insight into the timing question. Let me know if you need the name of a contact there.

Louise Knox

Director, Ontario Region

Directrice, Région de l'Ontario

416-952-1575 | facsimile/télécopieur 416-952-1573

louise.knox@ceaa-acee.gc.ca

Canadian Environmental Assessment Agency

55 St. Clair Ave E. Suite 907 Toronto, ON M4T 1M2

Agence canadienne d'évaluation environnementale

55 avenue St. Clair Est pièce 907 Toronto ON M4T 1M2

19/12/2005

-----Original Message-----

From: Julio Lagos [mailto:jlago@highparkgroup.com]

Sent: November 24, 2005 5:27 PM

To: Knox, Louise [CEAA]

Subject: licensing of new nuclear power reactors in Canada

Louise,

I am looking into the licensing of new nuclear reactors under the Nuclear Safety and Control Act and wanted to ask you about the environmental assessment process.

In understand that the licensing process under the NSCA has three stages: license to prepare the site, license to construct and license to operate the facility. The licensing application (s.24.2 of NSCA) then triggers an environmental assessment under CEAA.

From your experience and knowledge of the federal EA process, how long does the CEAA process for a nuclear reactor generally take? I have been told ten or more years from the filing of the application to the in-service-date of the plant, with the main issue being public hearings under the EA process.

I'd appreciate any thoughts you might have. I can be reached at 416-535-8742 if you prefer to discuss.

Thanks
Julio

19/12/2005

Knox, Louise [CEAA]

From: Knox, Louise [CEAA]
Sent: December 8, 2005 9:34 AM
To: Harris, Gordon [CEAA]; Young, Bruce [CEAA]; Schafer, Paul [CEAA]
Cc: Dhaussy, Elise [CEAA]; Burgess, Steve [CEAA]
Subject: RE: New Nuclear

Hi Gordon,

We could contribute the following:

Q: Will there be an environmental assessment of a new nuclear facility in Ontario?
A: No project description has been submitted to the Agency at this time. If there is to be a new nuclear facility in Ontario, there will be an environmental assessment under CEAA. It is too early to provide details on precisely how or when that would occur.

If pressed as to whether a panel review would be required:

A: Projects are referred to a review panel by the Minister of the Environment on the basis of high public concern, uncertainty, and potential for significant effects. It is too early to ask the Minister to make such a decision, given that we do not have a description of a proposed project as yet.

Louise Knox
Director, Ontario Region
Directrice, Région de l'Ontario
416-952-1575 | facsimile/télécopieur 416-952-1573 louise.knox@ceaa-acee.gc.ca Canadian
Environmental Assessment Agency
55 St. Clair Ave E. Suite 907 Toronto, ON M4T 1M2
Agence canadienne d'évaluation environnementale
55 avenue St. Clair Est pièce 907 Toronto ON M4T 1M2

-----Original Message-----

From: Harris, Gordon [CEAA]
Sent: December 8, 2005 9:25 AM
To: Young, Bruce [CEAA]; Knox, Louise [CEAA]; Schafer, Paul [CEAA]
Cc: Dhaussy, Elise [CEAA]
Subject: New Nuclear

I'm it, i.e. your friendly communications advisor. If you can provide me with further details, I can take a stab at media lines. I would expect that at this stage, the government would first be reviewing the province's announcement to determine federal responsibilities. We could then follow up with some general statements about the federal EA process and when and how the feds would get involved.

-----Original Message-----

From: Dhaussy, Elise [CEAA]
Sent: 8 décembre 2005 08:47
To: Harris, Gordon [CEAA]
Subject: Fw: New Nuclear

Gordon, pcan you please look after this? Thanks

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

-----Original Message-----

From: Young, Bruce [CEAA] <Bruce.Young@ceaa-acee.gc.ca>
To: Knox, Louise [CEAA] <Louise.Knox@ceaa-acee.gc.ca>; Burgess, Steve [CEAA] <Steve.Burgess@ceaa-acee.gc.ca>
CC: Hainsworth, Cathy [CEAA] <Cathy.Hainsworth@ceaa-acee.gc.ca>; Cameron, Darla [CEAA] <Darla.Cameron@ceaa.gc.ca>; Advokaat, Eric [CEAA] <Eric.Advokaat@ceaa.gc.ca>; Schultz, Jeremy [CEAA] <Jeremy.Schultz@ceaa-acee.gc.ca>; Chan, Jim [CEAA] <Jim.Chan@ceaa-acee.gc.ca>; Thompson, Mary Claire [CEAA] <Mary.Thompson@ceaa-acee.gc.ca>; Schafer, Paul [CEAA] <Paul.Schafer@ceaa-acee.gc.ca>; Gaudet, Charlene [CEAA] <Charlene.Gaudet@ceaa-acee.gc.ca>; Dhaussy, Elise [CEAA] <Elise.Dhaussy@ceaa-acee.gc.ca>
Sent: Wed Dec 07 17:13:22 2005
Subject: RE: New Nuclear

Thanks Louise, I agree about starting some media lines plus a little backgrounder. Could someone in your office take the first cut at something and then forward it me. I have cc'd Charlene who will hopefully have someone from Communications assigned to this.

Bruce.

-----Original Message-----

From: Knox, Louise [CEAA]
Sent: December 7, 2005 10:23 AM
To: Burgess, Steve [CEAA]; Young, Bruce [CEAA]
Cc: Hainsworth, Cathy [CEAA]; Cameron, Darla [CEAA]; Advokaat, Eric [CEAA]; Schultz, Jeremy [CEAA]; Chan, Jim [CEAA]; Thompson, Mary Claire [CEAA]; Schafer, Paul [CEAA]
Subject: New Nuclear

Hello both,

I expect there will be an announcement on December 9th about whether the province of Ontario plans to build a new nuclear facility or an expansion of an existing facility, or neither of these. I will be away and Paul will be acting for me, so I just want to give you a "heads up" that there may be media calls to be answered.

I'd like to confirm that, and suggest preparation of media lines.

s.21(1)(a)

s.21(1)(c)

Louise Knox
Director, Ontario Region
Directrice, Région de l'Ontario
416-952-1575 | facsimile/télécopieur 416-952-1573
louise.knox@ceaa-acee.gc.ca
Canadian Environmental Assessment Agency
55 St. Clair Ave E. Suite 907 Toronto, ON M4T 1M2
Agence canadienne d'évaluation environnementale
55 avenue St. Clair Est pièce 907 Toronto ON M4T 1M2

Knox, Louise [CEAA]

From: Knox, Louise [CEAA]
Sent: December 8, 2005 10:13 AM
To: Advokaat, Eric [CEAA]
Subject: RE: TWRC meeting January

AECL went to see them. But they may not be the proponent of a new nuclear facility so it's a thought...

Louise Knox

Director, Ontario Region
Directrice, Région de l'Ontario
416-952-1575 | facsimile/télécopieur 416-952-1573
louise.knox@ceaa-acee.gc.ca
Canadian Environmental Assessment Agency
55 St. Clair Ave E. Suite 907 Toronto, ON M4T 1M2
Agence canadienne d'évaluation environnementale
55 avenue St. Clair Est pièce 907 Toronto ON M4T 1M2

-----Original Message-----

From: Advokaat, Eric [CEAA]
Sent: December 8, 2005 10:06 AM
To: Knox, Louise [CEAA]
Subject: RE: TWRC meeting January

They've met with the nuclear folks I imagine, re: re-starts and new facilities?

-----Original Message-----

From: Knox, Louise [CEAA]
Sent: December 8, 2005 9:55 AM
To: Advokaat, Eric [CEAA]
Subject: TWRC meeting January

Hi Eric,

Just letting you know I called Steve Willis to tell him we'd be inviting Peter McDougall. Steve called back, "No surprise, no concern". I then called Peter to invite him and spoke with his assistant. He may call back to get more details about the meeting while I am away, so I left your name and number so you could fill him in.

Jean-Claude and Scott will be free for lunch after the meeting and have asked me if there are others they might usefully meet at that time. Any thoughts? Not necessarily related to the waterfront?

Louise Knox

Director, Ontario Region
Directrice, Région de l'Ontario
416-952-1575 | facsimile/télécopieur 416-952-1573
louise.knox@ceaa-acee.gc.ca
Canadian Environmental Assessment Agency
55 St. Clair Ave E. Suite 907 Toronto, ON M4T 1M2
Agence canadienne d'évaluation environnementale
55 avenue St. Clair Est pièce 907 Toronto ON M4T 1M2

Knox,Louise [CEAA]

From: Knox,Louise [CEAA]
Sent: December 8, 2005 3:31 PM
To: Harris,Gordon [CEAA]
Cc: Schafer,Paul [CEAA]
Subject: RE: Nuclear Facility New in Ontario Dec 8 05 E

Looks good Gordon. I propose one minor change but don't have strong feelings about it. Glad we are ready. In light of this, I don't think we need to discuss this on the phone but if you would like further background, feel free to call.

Louise Knox

Director, Ontario Region
Directrice, Région de l'Ontario
416-952-1575 | facsimile/télécopieur 416-952-1573
louise.knox@ceaa-acee.gc.ca
Canadian Environmental Assessment Agency
55 St. Clair Ave E. Suite 907 Toronto, ON M4T 1M2
Agence canadienne d'évaluation environnementale
55 avenue St. Clair Est pièce 907 Toronto ON M4T 1M2

-----Original Message-----

From: Harris,Gordon [CEAA]
Sent: December 8, 2005 11:26 AM
To: Knox,Louise [CEAA]
Cc: Schafer,Paul [CEAA]
Subject: Nuclear Facility New in Ontario Dec 8 05 E

I added some background from a Toronto Star article from Dec 3, 05.

19/12/2005

Analysis of AECL "Scenarios"

These nine scenarios were presented by AECL on January 23, 2004 as "a selection of abstracted circumstances that could inadvertently or at least be forcefully argued to trigger an environmental assessment under CEAA. My comments appear below each item, as well as any clarifications on each scenario obtained at my December 13 meeting with Greg Sayer of AECL.

1. AECL proposes a project to another entity to provide goods and/or services.

Clarification: AECL is concerned that in proposing (in their view, "marketing") a good or service, it could be argued that they are the proponent.

Analysis: Greg Sayer was asked if a "good" could ever include a project as defined by CEAA. He thought that it might, and is attempting to confirm this. If the "good" in question was a project under CEAA, and AECL was the proponent, AECL would be expected to conduct an environmental assessment (unless it was captured by ss. 8(3)).

In our view, the proponent is that person who applies for the licence from either the domestic or international regulator.

2. AECL successfully bids on a project and provides goods and/or services.

Clarification: AECL is concerned that in bidding on or providing a good or service, it could be argued that they are the proponent (assuming that "good" includes a project under CEAA—see below).

Analysis: Again, this hinges on whether the "good" qualifies as a project under the Act.

3. AECL makes a proposal to provide its services to an entity and agrees to take deferred payments with respect to the project.

Clarification: AECL believes it could be argued that deferred payments or "hold backs" mean that AECL is providing financial assistance to the owner.

Analysis: Notice the absence of "goods" here. "Services" would likely not qualify as projects under the Act, and therefore the fact that AECL is accepting deferred payments is irrelevant—no EA would be required.

4. AECL agrees to provide goods and services to an entity and agrees to take compensation in the form of actual or contingent equity in, or provide performance guarantees, incentives, refunds to the project if pre-established performance targets are missed, or otherwise.

Clarification: AECL does not presently enter into equity relationships with an owner, as it is prohibited from doing so under the *Financial Administration Act*. However, AECL is concerned that in the event that it is permitted to do so, and does, such a relationship might be argued to trigger 5(1)(b) of the *Canadian Environmental Assessment Act*.

Performance guarantees could mean that AECL promises that a facility will produce x megawatts of power. If this is not achieved, AECL would be provided time to remedy to situation. If it is unable to do so, the contract would require them to make one-time payments of so much per megawatt that the facility was unable to produce. AECL is concerned that such payments could be argued to trigger 5(1)(b) of the *Canadian Environmental Assessment Act*.

Analysis: Given that this scenario is currently prohibited by law, it is not necessary to address it in the current regulatory exercise.

5. AECL approaches an entity with a proposal respecting an existing or future plant that may ultimately be owned or operated by another entity.

Clarification: Unclear what this scenario described. AECL noted it is not concerned about this scenario, and asked that it be dropped from the list...

6. AECL provides services to an entity and takes compensation only if there is a return on the investment.

Clarification: AECL does not presently enter into this type of contract. It appears to resemble a performance guarantee—e.g., if AECL promises that a facility will produce a certain capacity (A), and the facility meets this promise, the price will be x. However, if the facility produces less or more than A, x will vary accordingly, as per:

capacity A	price X
capacity A-	price X-
capacity A+	price X+

Again, AECL is concerned that if it ever does enter into such a contract, such a relationship might be argued to trigger 5(1)(b) of the *Canadian Environmental Assessment Act*.

Analysis: Given that this scenario is currently prohibited by law, it is not necessary to address it in the current regulatory exercise.

7. AECL proposes to provide services to an entity and agrees to provide credit to further the completion of the project.

Clarification: AECL does not presently enter into this type of contract, as it is prohibited from doing so under the *Financial Administration Act*. However, AECL is concerned that in the event that it is permitted to do so, and does, such a relationship might be argued to trigger 5(1)(b) of the *Canadian Environmental Assessment Act*.

Such a contract differs from a deferred payment in that in this case AECL would actually be arranging financing or loaning money to the owner. AECL believes that they may someday be providing this service to customers.

AECL confirmed that this scenario might include "goods," and that "goods" might include a project under the *Canadian Environmental Assessment Act*. AECL agreed to look into this further, to confirm if "goods" in the past has ever included a CEAA project.

Analysis: Given that this scenario is currently prohibited by law, it is not necessary to address it in the current regulatory exercise.

8. AECL provides goods and services on a turnkey basis and retains title until completion or otherwise.

Clarification: AECL is concerned that in providing a turnkey good or service, it could be argued that they are the proponent (assuming that "good" includes a project under CEAA).

Analysis:

9. AECL arranges financing or offers assistance in arranging financing or possibly guarantees.

Clarification: AECL is concerned that in the event that it (e.g.) arranges a financing deal between EDC and proponent, such a relationship might be argued to trigger 5(1)(b) of the *Canadian Environmental Assessment Act*.

Analysis: Arranging financial assistance or arranging guarantees (rather than providing either) would not trigger 5(1)(b) of the Act.

Analysis Of Most Recent AECL Concerns

This most recent summation of AECL's concerns is drawn from my meeting with Greg Sayer on December 13, 2004. My comments appear below each item.

Concern #1:

A project (in the broadest sense), within or outside of Canada, should not be subject, or be argued to be subject, to an EA under CEAA solely based on AECL's participation as a bidder / provider of goods or services.

Agreed, if:

- "project" does not include a project as defined by the *Canadian Environmental Assessment Act*; or
- "Solely based on AECL's participation as a bidder/provider" means AECL is not the proponent of the project; or
- "goods" does not include a project as defined under the Act.

"Argued to be subject"—if AECL is referring to parties other than the Government of Canada, obviously we can lend no assurance that arguments will not be made.

Concern #2:

A project (in the broadest sense), within or outside of Canada, should not be subject or argued to be subject to an EA where such a project would not be subject to an EA under CEAA if another provider of goods or services were the bidder or contractor (foreign projects, and projects in Canada where no other trigger (e.g. CNSC license).

Agreed, if:

- "project" does not include a project as defined by the *Canadian Environmental Assessment Act*; or
- AECL is not the proponent of the project; or
- "goods" does not include a project as defined under the Act.

"Argued to be subject"—if AECL is referring to parties other than the Government of Canada, obviously we can lend no assurance that arguments will not be made.

If the "good" or "project" qualifies as a "project" under the Act, and is not excluded, and AECL is the proponent, then AECL is expected to conduct an environmental assessment of that project, regardless of whether a competitor would have similar obligations.

Concern #3

A project (in the broadest sense), within or outside of Canada, should not be subject or argued to be subject to an EA where (in Canada) it would be subject to

an EA under CEAA at a more appropriate stage by a more appropriate RA (i.e. CNSC following license application).

Agreed, assuming:

- *"project" means a project as defined by the Canadian Environmental Assessment Act.*

"Argued to be subject"—if AECL is referring to parties other than the Government of Canada, obviously we can lend no assurance that arguments will not be made.

In the event that AECL is the proponent of a project under CEAA, s. 8(3) ensures that CNSC would assume responsibility for the EA. If AECL is not the proponent, it would have no EA obligations under the Act.

Concern #4

Uncertain definitions of "project," "proponent," "financial assistance" leave AECL open to legal challenge that AECL's bidding for or contracting for a project could trigger an EA when AECL makes a bid or signs a contract, or even earlier (e.g. in situations where AECL performs feasibility studies, makes unsolicited proposals for a utility's or government's consideration). N.B. AECL does not believe it would be triggering as a "proponent", or providing "financial assistance", but because of legal uncertainty over these terms, it is open to being challenged

AECL is subjected to no more legal uncertainty than any other department or agency.

Concern #5

"timing issue" - s. 8(3) of CEAA – in AECL's view not an answer, or a complete answer, because typically CNSC not RA at time a bid made or contract entered into – 8(3) not effective at time an owner solicits proposals, receives unsolicited proposals, or signs contracts.

Concern #6

s.21(1)(b)

s.21(1)(c)

"Argued to be required"—if AECL is referring to parties other than the Government of Canada, obviously we can lend no assurance that arguments will not be made.

Concern #7

s.21(1)(b)

s.21(1)(c)

"legal challenge"—if AECL is referring to parties other than the Government of Canada, obviously we can lend no assurance that challenges will not arise.

Concern #8

s.21(1)(b)

s.21(1)(c)

General

AECL accepts application of CEAA to projects where it is clearly the proponent (i.e projects at its own facilities).

AECL/NRCan/CEAA Meeting
Friday, January 21, 2004
CEAA Offices

Agenda

5. Next steps

s.21(1)(b)

Tsui, Kathy [CEAA]

Subject: Updated: Meeting with AECL regarding Crown corporations initiative
Location: 22s26

Start: Fri 21/01/2005 1:30 PM
End: Fri 21/01/2005 4:00 PM
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Required Attendees: Mack, James [CEAA]; Gendron, Irene [CEAA]; Turmel, Natalie [CEAA]; Balint, Tom [CEAA];
Sherhols, Peter [CEAA]; Smith, John [CEAA]



January 21st
meeting: applicat...

Tsui, Kathy [CEAA]

From: Mack, James [CEAA]
Sent: January 13, 2005 1:21 PM
To: Hawryluk, Allan: AECL; Guindon, Sylvana: NRCAN
Cc: Sherhols, Peter [CEAA]; Sayer, Gregory: AECL; Smith, John [CEAA]; Turmel, Natalie [CEAA]; Balint, Tom [CEAA]; Sayer, Gregory: AECL; McPherson, Lori: AECL; Gendron, Irene [CEAA]
Subject: January 21st meeting: application of CEA Act to AECL
Importance: High

This is to confirm our new meeting time for Friday, January 21 from 1:30 to 4:00 p.m. at the Agency's offices (Place Bell, 160 Elgin Street, 22nd floor - someone will meet you at reception). Please send me the names of all attendees in advance so that I can notify reception.

The need for this working meeting between the Agency, AECL and NRCAN was identified at the broader November 15 meeting at NRCAN's offices, which was also attended by PCO. It was agreed then that three items required further discussion: the "timing" of environmental assessments in relation to ss. 8(3) of the Act; key definitions under the Act; and the *Projects Outside Canada Regulations*.

The proposed agenda for next week's meeting therefore is as follows:

- 1) Introduction
- 2) Discussion of section 8(3) of the CEA Act in relation to the timing of CNSC permits (Agency)

5) Next steps

s.21(1)(b)

Please contact me if you have any questions or suggestions about the agenda.

James Mack

Legislative and Regulatory Affairs | Affaires législatives et réglementaires
613-957-0603 | facsimile / télécopieur (613) 957-0897
james.mack@ceaa-acee.gc.ca
Canadian Environmental Assessment Agency
160 Elgin Street, 22nd floor, Ottawa ON K1A 0H3
Agence canadienne d'évaluation environnementale
160, rue Elgin, 22^e étage, Ottawa (Ontario) K1A 0H3
Government of Canada | Gouvernement du Canada

Tsui, Kathy [CEAA]

From: Sayer, Gregory [sayerg@aecl.ca]
Sent: January 20, 2005 3:08 PM
To: Sayer, Gregory; Balint, Tom [CEAA]
Subject: RE: Meeting follow up

Hi Tom. I spoke with Bruce today. Why don't we address these points at the meeting tomorrow. See you then. gs

Greg Sayer
Legal Counsel
Atomic Energy of Canada Limited
(905) 823-9060 ext 2715 (voice)
(905) 823-6986 (fax)
(416) 708-3917 (cell)
sayerg@aecl.ca

NOTICE - Privileged and Confidential Information

This communication is intended for the person or entity it is addressed to and contains information that is confidential, privileged, or exempt from disclosure under applicable laws. No waiver of privilege or confidentiality, or consent to disclosure, is intended by virtue of communication via the Internet. Review, disclosure, dissemination, reliance upon, or other use of this information by persons or entities other than the intended recipient is strictly prohibited. If you have received this communication in error please contact the sender by return e-mail, or phone AECL's Legal Services Department at 905-823-9040, and immediately destroy all copies of this e-mail.

-----Original Message-----

From: Sayer, Gregory
Sent: January 19, 2005 4:21 PM
To: 'Balint, Tom [CEAA]'
Subject: RE: Meeting follow up

Tom, I'll try to provide answers on these tomorrow, I wanted to review the first two items with Bruce Ambeault, but he has been very occupied and out of office on commercial negotiations.

I think the agenda is fine.

Greg Sayer
Legal Counsel
Atomic Energy of Canada Limited
(905) 823-9060 ext 2715 (voice)
(905) 823-6986 (fax)
(416) 708-3917 (cell)
sayerg@aecl.ca

20/12/2005

NOTICE - Privileged and Confidential Information

This communication is intended for the person or entity it is addressed to and contains information that is confidential, privileged, or exempt from disclosure under applicable laws. No waiver of privilege or confidentiality, or consent to disclosure, is intended by virtue of communication via the Internet. Review, disclosure, dissemination, reliance upon, or other use of this information by persons or entities other than the intended recipient is strictly prohibited. If you have received this communication in error please contact the sender by return e-mail, or phone AECL's Legal Services Department at 905-823-9040, and immediately destroy all copies of this e-mail.

-----Original Message-----

From: Balint, Tom [CEAA] [mailto:Tom.Balint@ceaa-acee.gc.ca]

Sent: December 30, 2004 9:31 AM

To: Sayer, Gregory

Subject: Meeting follow up

Greg:

Following up from our meeting on December 13, and in preparation for the broader January 12 meeting, it would be helpful to receive the following from you:

1. More concrete examples of AECL's "timeline" concern (i.e., AECL's concern that one might argue AECL should be conducting an EA under the *Canadian Environmental Assessment Act* before a licensing application is made to the CNSC).
2. Could you please confirm if AECL presently enters into deferred payment contracts (as described in AECL scenario #3).
3. Could you please confirm if "goods" (as described in various of your scenarios) has ever included or would ever include a "project" as defined under the *Canadian Environmental Assessment Act*.

Please don't hesitate to contact me if these requests are unclear. The first and third were items we identified at our meeting, and the second is a question that has arisen since then.

20/12/2005

**Atomic Energy of Canada Limited
Summary of Working Meeting**

Meeting location:	Agency offices, Ottawa
Meeting date:	January 21, 2005, 1:30 p.m.
Present from Crown:	Gregory Sayer, Legal Counsel Alan Hawryluk, General Counsel David Tregunno, Director of External Relations Ahab Abdel-Aziz, Private Counsel Sylvana Guindon, NRCan
Present from CEAA:	Peter Sherhols James Mack Tom Balint Irene Gendron Natalie Turmel

Main message:

Discussion:

1. Introduction

s.21(1)(b)

Peter Sherhols summarized the November 15, 2004 meeting between AECL, NRCan, PCO and the Agency.

s.21(1)(c)

Ts ui, Kathy [CEAA]

From: Vockeroth, Adrian [CEAA]
Sent: January 24, 2005 10:57 AM
To: Balint, Tom [CEAA]
Subject: Ghali decision



Doc2.doc

← text of Ghali v. Canada (Minister of Transport).

Ghali v. Canada (Minister of Transport)

Between

Mr. François Ghali, Ms. Caroline Sauvé, Ms. Nathalie Duhamel,
Mr. Luc Pharand, Mr. Lucien Pigeon, Ms. Pamela Morros, Mr.
Louis J. Ottoni, Citoyens pour une qualité de vie/Citizens for
a Quality of Life and C.É.S.A.M.M., applicants, and
Honourable David Anderson, in his capacity as Minister of
Transport and Honourable Sergio Marchi, in his capacity as
Minister of the Environment, respondents, and
Aéroports de Montréal, intervenor

Court File No. T-1153-96

Federal Court of Canada - Trial Division
Montreal, Quebec
Noël J.

Heard: October 21 - 24, 1996

Judgment: October 24, 1996

(20 pp.)

Pollution control — Environmental assessments or impact studies — Determination of whether study required, judicial review.

This was an application for an order in the nature of mandamus requiring the respondent Minister of Transport to conduct an environmental assessment as a result of transferring flights from Mirabel Airport to Dorval Airport. In 1986, the government decided to integrate Dorval and Mirabel within a centralized management structure. Under a transfer agreement signed on July 31, 1992, the federal government agreed to cease managing, operating and maintaining the Montreal international airport. The intervenor, ADM agreed to lease the airport and to manage, operate and maintain it for 60 years. On February 20, 1996, the intervenor publicly announced its proposal to liberalize, as of April 1997, the allocation of scheduled international flights with a view to letting the airline companies elect whether to direct

international flights to Dorval or Mirabel. The practical effect of this project was to transfer all regularly scheduled international flights from Mirabel to Dorval. The Minister of Environment decided not to submit the ADM project to an environmental assessment on the basis that no significant adverse environmental effects were found as a result of transferring the flights. *based on whether assessment?*

HELD: Application dismissed. Under section 5 of the Canadian Environmental Assessment Act, an environmental assessment of a project was required where a federal authority was the proponent of the project and did any act or thing that committed the federal authority to carrying out the project. This section did not apply to the case at bar as the federal authority was not the proponent of the relevant project. Therefore, the environmental review process that the applicants were attempting to set in motion could not take place.

Statutes, Regulations and Rules Cited:

Canadian Environmental Assessment Act, S.C. 1992, c. 37, ss. 2(1), 5(1)(a), 5(1)(b), 5(1)(c), 7(1), 7(2), 11(1), 11(2), 13, 14, 18, 20, 29, 37.
Federal Court Act, s. 18.1.

Counsel:

Sylvain Lussier, Jean F. Keable and Karine Brassard, for the applicants.
Yves Leboeuf and David Lucas, for the defendants.
Raynold Langlois and Michel Bellemare, for the intervenor.

¶ 1 **NOËL J.** (Reasons for Order):— This is an application for judicial review pursuant to section 18.1 of the Federal Court Act, by which the applicants are asking this Court to order the Honourable David Anderson, in his capacity as Minister of Transport, to proceed under sections 5, 11 and 14ff. of the Canadian Environmental Assessment Act [See Note 1 below] with an environmental assessment of the project by Aéroports de Montréal (hereinafter the "intervenor", or "ADM") of "liberalizing" the allocation of scheduled international flights. [See Note 2 below]

Note 1: S.C. 1992, c. 37, hereinafter the "CEAA" or the "Act".

Note 2: The practical effect of this project is to transfer all regularly scheduled international flights from Mirabel airport to Dorval, and to retain Mirabel as a specialized (vacation and all-freight) airport handling all chartered flights.

I. THE PARTIES

A. THE APPLICANTS

(i) Citizens for a quality of life

¶ 2 The applicant members of the not-for-profit corporation "Citizens for a quality of life" are all owners or occupants of properties situated in the municipalities of Pointe-Claire and Ville Saint-Laurent, the properties themselves being located within the air corridor used by planes taking off from and landing at Dorval airport.

¶ 3 "Citizens for a quality of life" is a not-for-profit corporation constituted under Part III of the Companies Act and composed of Canadian citizens who

- (a) inhabit the municipalities in which Dorval airport is located: Dorval, Pointe-Claire and Ville Saint-Laurent, in the province of Quebec; or
- (b) inhabit the municipalities that are not directly located on the edge of Dorval airport but who are nevertheless affected by the noise, pollution and risks of airplane crashes associated with proximity to Dorval airport.

(ii) C.É.S.A.M.M

¶ 4 The Coalition élargie pour le soutien de l'aéroport Montréal-Mirabel (hereinafter "C.É.S.A.M.M") is a not-for-profit corporation with the particular objective of defending and promoting environmental protection.

B. THE INTERVENOR

(i) ADM

¶ 5 ADM is the corporation responsible under the Airport Transfer (Miscellaneous Provisions) Act [See Note 3 below] for managing Montreal's international airports, which are located at Dorval and Mirabel.

Note 3: R.S.C. 1985, c. A-10.4. It should be noted that this Act is administered by the Minister of Transport.

¶ 6 Under the ADM's letters patents, which were issued on November 21, 1989 pursuant to Part II of the Canada Corporations Act, the objects of the ADM are, in particular:

[Translation]

- a. to act as a public agency providing quality airport services that respond to the specific needs of the community, while pursuing efficiency and economic and commercial development, for example through developing the potential of the facilities for which it may be responsible;
- b. ...
- c. to ensure the operation of the facilities for which it may be responsible in the best interest of the public, on a sufficiently viable financial basis to raise the necessary funds for the optimal development of air transport;
- d. to contribute to the economic development of the greater Montréal community while meeting the present and future needs of the national and international air transport systems and of the air transport and aeronautics industries;
- e. to act as a stakeholder with the competent authorities in relation to any issue pertaining to the management or development of the facilities that may be the responsibility of the corporation or to the interests or needs in this regard of the community that is serviced by such facilities.

¶ 7 The members of the ADM's board of directors are appointed from among the members of the Société de promotion des aéroports de Montréal ("SOPRAM").

¶ 8 SOPRAM is a not-for-profit corporation created pursuant to Part III of the Quebec Companies Act on December 22, 1987 under the name Conseil de l'aéroport international de Montréal. The Conseil's letters patent were amended on November 21, 1989, the day on which the ADM was constituted, to adopt the new name, SOPRAM, and new objectives, which are now, inter alia:

[Translation]

(a) To bring together the representative economic and political authorities of the greater Montréal community which are concerned with all issues affecting air transport in the region serviced by the airport facilities used by this community;

...

- (c) To promote the development and expansion of the airport facilities used by the greater Montréal community;
- (d) To promote the interests and needs of the public served by the airport facilities used by the greater Montréal community;
- (e) To appoint the members of Aéroports de Montréal, a not-for-profit corporation constituted under letters patent issued pursuant to Part II of the Canada Corporations Act.

C. THE RESPONDENTS

¶ 9 The Honourable David Anderson is the Minister of Transport and in this capacity is the individual

who is the subject of this proceeding.

¶ 10 The Honourable Sergio Marchi is the Minister of the Environment. In their originating motion, the applicants sought a writ of mandamus enjoining the Minister of the Environment to examine the possibility of referring the proposed liberalization of the allocation of scheduled international flights to an environmental assessment panel. However, the Minister of the Environment subsequently decided to examine the possibility of subjecting the ADM project to an environmental assessment panel; as a result of this decision, this second cause of action became moot. As we will see, the results of this study were announced several days prior to the commencement of the hearing.

II. BACKGROUND AND FACTS

¶ 11 In 1946 the Canadian government designated Dorval airport as the point of entry for international flights, thereby making it the hub for North Atlantic and North American air transport. Parallel to the ongoing operation of Dorval airport by the Department of Transport, the Canadian government decided to begin building and to open in 1975 Mirabel airport, the original role of which was to be the point of entry for all international, transborder and domestic long haul commercial flights serving the Montreal area; since its opening, Mirabel airport has been the point of entry for international flights.

¶ 12 In December 1986, after public debates over the appropriateness of maintaining Montréal as a two-airport city, in accordance with the allocations established in 1975, the federal government announced its decision to maintain both airports in their respective roles and to integrate Dorval and Mirabel within a centralized management structure.

¶ 13 As early as 1987, the federal government envisaged the possibility of transferring the property and operation of the federal airports to interested agencies or groups such as, inter alia, the provincial governments, municipalities, local authorities or the private sector, for the purposes of implementing a new concept of airport management focused on the commercial orientation of the airports, their potential contribution to economic development and their sensitivity to local concerns and interests.

¶ 14 Within the context of this new federal government policy, it was understood that the federal government would continue to be in charge of safety and security issues, air navigation services, air traffic control and airport certification, and that the client successor agencies would operate the airports transferred by the federal government in compliance with the terms and conditions of their operating certificates and the safety and security regulations prescribed for the type of activities and aircraft at the respective airports.

¶ 15 Following the adoption of this new federal government policy in 1987, 36 supplementary basic principles were added in June 1989 to govern the creation and operation of the local airport authorities (LAAs). For example, it was understood and specifically stated therein that the federal government would initiate transfer negotiations in relation to the long-term leasing of the airports and that the LAAs,

which were established to manage and operate a local airport system, were to be ostensibly financially independent companies whose boards would include representatives of the business community and community interests and be responsible for administering the companies according to a commercial orientation that would promote economic development while being sensitive to local concerns and interests.

¶ 16 On March 19, 1992 the Governor in Council issued an Order in Council authorizing the Minister of Transport to sign on behalf of Her Majesty in right of Canada a transfer agreement with the intervenor ADM transferring to the latter the management, operation and maintenance of the integrated system comprising the Dorval and Mirabel airports.

¶ 17 Under a transfer agreement signed on April 1, 1992 between Her Majesty in right of Canada and the intervenor, the federal Crown agreed to cease managing, operating and maintaining the Montreal international airport (Dorval and Mirabel) effective August 1, 1992. The intervenor agreed to lease the said airport and to take over its management, operation and maintenance. Through a ground lease signed on July 31, 1992, Her Majesty in right of Canada leased to the intervenor for a sixty (60) year period the integrated system of the Montreal international airport (Dorval and Mirabel).

¶ 18 On February 20, 1996 the intervenor publicly announced its proposal to "liberalize" as of April 1997 the allocation of scheduled international flights with a view to letting the airline companies elect, as of that date, whether to direct their scheduled international flights to Dorval or to Mirabel. Several days earlier, at a meeting of representatives of the intervenor and the Minister of Transport, the intervenor had informed the Minister of its intention to so liberalize the allocation of scheduled international flights.

¶ 19 This decision entails a change in the respective roles of the Dorval and Mirabel airports. In the first place, Dorval airport, as ADM states, will become a North American entry point for connections between the continent and Europe. Scheduled international flights may now leave from this airport and Mirabel will be the assigned destination and departure point for all freight and vacation charter flights.

¶ 20 Confronted with this proposal, and in the absence of an environmental assessment conducted in accordance with the Act, the applicants issued a formal notice to the Minister of Transport on May 2, 1996 calling on him to initiate the assessment process under the CEAA. Receiving no reply in the weeks that followed, they filed the present application on May 17, 1996.

¶ 21 Three days prior to the commencement of the hearing, on October 18, 1996, the Minister of the Environment released his decision not to submit the ADM project to an environmental assessment panel. At that time the Minister published a document entitled "[Translation] Environmental analysis of the proposed liberalization of scheduled international flight allocation between Dorval and Mirabel". The Minister's decision was explained as follows in a news release issued by the Canadian Environmental Assessment Agency:

No significant adverse environmental effects found

for transfer of flights from Mirabel to Dorval

Ottawa - October 18, 1996 - The federal Minister of the Environment, Sergio Marchi, after consulting with other government departments, made public the study prepared by his Department which concludes that the planned transfer of scheduled international flights from Mirabel to Dorval would not have significant adverse environmental effects. The analysis by Environment Canada is based on a projected increase of eleven takeoffs per day.

As a consequence of this study which was completed September 16, 1996, the Canadian Environmental Assessment Agency has recommended, after considering other aspects of the Canadian Environmental Assessment Act (the Act), that the Minister not refer this issue to a review by an environmental assessment panel. The Minister has accepted this recommendation.

The Minister took into account the concerns raised by many people who have asked him to refer to a panel review the decision of les Aéroports de Montréal (ADM) to allow the transfer of the scheduled international flights to Dorval.

Projects on most Canadian airports were originally subject to federal environmental assessment. However with the proclamation of the Canadian Environmental Assessment Act and the transfer of airports to local airport authorities, the Act no longer applies to many projects on these leased lands.

To address this situation, the Minister has asked his officials, in consultation with the airport authorities and Transport Canada, to propose measures that would ensure that the appropriate environmental assessment of projects proposed by the airport authorities on these lands would occur under the Act. [See Note 4 below]

Note 4: Affidavit of Youssef Sabeh filed on October 20, 1996. [The text here is the official English version released by the Agency. - Tr.]

III. ISSUES

¶ 22 The applicants are of the opinion that the Minister of Transport has a duty to ensure that an environmental assessment is performed before the ADM project is implemented. More specifically, they argue that:

[Translation]

(a) through the benefits he will derive from the fees imposed or levied by ADM in the context of its decision of February 20, 1996, the Minister of Transport becomes the proponent, in part, of the project within the meaning of section 5(1)(a) CEAA; he is also, in part, the proponent as owner subject to a suspensive condition of the improvements that ADM will make to Dorval airport and through the control he retains as Lessor over ADM's operations;

- (b) through his role in the payment of ADM's municipal taxes and the fact that ADM's rent is postponed, the Minister of Transport is financing, guaranteeing the financing or awarding some other financial assistance for the work performed by ADM in the context of its flight allocation liberalization project, within the meaning of section 5(1)(b) CEAA;
- (c) through the terms of the lease, the Minister of Transport is authorizing the transfer of federal lands in the context of his flight allocation liberalization project, within the meaning of section 5(1)(c) CEAA.

¶ 23 ADM and the Minister of Transport submit in reply that the Minister is exercising none of the powers described in paragraphs 5(1)(a), (b) or (c) of the CEAA in relation to the project in question. They argue accordingly that the Minister is not bound to conduct an environmental assessment of the project.

¶ 24 ADM submits that the applicants' proceeding is in any event out-of-date since the Minister of the Environment concluded on October 18, 1996, as a result of the study he made of the project, that it "will not result in any significant adverse environmental effects".

IV. RELEVANT STATUTORY PROVISIONS

¶ 25 The CEAA was assented to on June 23, 1992, but did not come into force on that date. Sections 61 to 70, 73, 75 and 78 to 80 came into force on December 22, 1994, while sections 1 to 60, 71, 72, 74, 76 and 77 came into force on January 19, 1995. On this latter date, the Environmental Assessment and Review Process Guidelines Order, which since 1984 had governed the federal environmental assessment process, was repealed. [See Note 5 below]

Note 5: See Order Fixing December 22, 1994 as the Date of the Coming into Force of Certain Sections of that Act, SI/95-3; Order Fixing January 19, 1995 as the Date of the Coming into Force of Certain Sections of the Act, SI/95-11; Environmental Assessment and Review Process Guidelines Order, SOR/84-467; Environmental Assessment and Review Process Guidelines Order - Repeal, SOR/95-72.

¶ 26 The CEAA provisions relevant to this case all came into force on January 19, 1995.

Preamble

WHEREAS environmental assessment provides an effective means of integrating environmental factors into planning and decision-making processes in a manner that promotes sustainable development;

WHEREAS the Government of Canada is committed to exercising leadership within Canada and internationally in anticipating and preventing the degradation of environmental quality and at the same time ensuring that economic development is compatible with the high value Canadians place on environmental quality;

AND WHEREAS the Government of Canada is committed to facilitating public participation in the environmental assessment of projects to be carried out by or with the approval or assistance of the Government of Canada and providing access to the information on which those environmental assessments are based;

2. (1) In this Act,

"federal authority" means

(a) a Minister of the Crown in right of Canada,

"responsible authority", in relation to a project, means a federal authority that is required pursuant to subsection 11(1) to ensure that an environmental assessment of the project is conducted;

"environmental assessment" means, in respect of a project, an assessment of the environmental effects of the project that is conducted in accordance with this Act and the regulations;

"screening" means an environmental assessment that is conducted pursuant to section 18 and that includes a consideration of the factors set out in subsection 16(1);

"comprehensive study list" means a list of all projects or classes of projects that have been prescribed pursuant to regulations made under paragraph 59(d);

"exclusion list" means a list of all projects or classes of projects that have been prescribed pursuant to regulations made under paragraph 59(c);

"project" means

- (a) in relation to a physical work, any proposed construction, operation, modification, decommissioning, abandonment or other undertaking in relation to that physical work, or
- (b) any proposed physical activity not relating to a physical work that is prescribed or is within a class of physical activities that is prescribed pursuant to regulations made under paragraph 59(b);

"proponent", in respect of a project, means the person, body, federal authority or government that proposes the project;

Projects requiring environmental assessment

5. (1) An environmental assessment of a project is required before a federal authority exercises one of the following powers or performs one of the following duties or functions in respect of a project, namely, where a federal authority
- (a) is the proponent of the project and does any act or thing that commits the federal authority to carrying out the project in whole or in part;
 - (b) makes or authorizes payments or provides a guarantee for a loan or any other form of financial assistance to the proponent for the purpose of enabling the project to be carried out in whole or in part, except where the financial assistance is in the form of any reduction, avoidance, deferral, removal, refund, remission or other form of relief from the payment of any tax, duty or impost imposed under any Act of Parliament, unless that financial assistance is provided for the purpose of enabling an individual project specifically named in the Act, regulation or order that provides the relief to be carried out;
 - (c) has the administration of federal lands and sells, leases or otherwise disposes of those lands or any interests in those lands, or transfers the administration and control of those lands or interests to Her Majesty in right of a province, for the purpose of enabling the project to be carried out in whole or in part; or
 - (d) under a provision prescribed pursuant to paragraph 59(f), issues a permit or licence, grants an approval or takes any other action for the purpose of enabling the project to be carried out in whole or in part.

Exclusions

7. (1) Notwithstanding section 5, an environmental assessment of a project is not required where
- (a) the project is described in an exclusion list;
 - (b) the project is to be carried out in response to a national emergency for which special temporary measures are being taken under the Emergencies Act; or
 - (c) the project is to be carried out in response to an emergency and carrying out the project forthwith is in the interest of preventing damage to property or the environment or is in the interest of public health or safety.
-

- (2) For greater certainty, an environmental assessment is not required where a federal authority exercises a power or performs a duty or function referred to in paragraph 5(1)(b) in relation to a project and the essential details of the project are not specified before or at the time the power is exercised or the duty or function is performed.

...

11. (1) Where an environmental assessment of a project is required, the federal authority referred to in section 5 in relation to the project shall ensure that the environmental assessment is conducted as early as is practicable in the planning stages of the project and before irrevocable decisions are made, and shall be referred to in this Act as the responsible authority in relation to the project.
- (2) A responsible authority shall not exercise any power or perform any duty or function referred to in section 5 in relation to a project unless it takes a course of action pursuant to paragraph 20(1)(a) or 37(1)(a).

...

13. Where a project is described in the comprehensive study list or is referred to a mediator or a review panel, notwithstanding any other Act of Parliament, no power, duty or function conferred by or under that Act or any regulation made thereunder shall be exercised or performed that would permit the project to be carried out in whole or in part unless an environmental assessment of the project has been completed and a course of action has been taken in relation to the project in accordance with paragraph 37(1)(a).
14. The environmental assessment process includes, where applicable,
- (a) a screening or comprehensive study and the preparation of a screening report or a comprehensive study report;
 - (b) a mediation or assessment by a review panel as provided in section 29 and the preparation of a report; and
 - (c) the design and implementation of a follow-up program.

...

18. (1) Where a project is not described in the comprehensive study list or the exclusion list, the responsible authority shall ensure that
- (a) a screening of the project is conducted; and
 - (b) a screening report is prepared.

- (3) Where the responsible authority is of the opinion that public participation in the screening of a project is appropriate in the circumstances, or where required by regulation, the responsible authority shall give the public notice and an opportunity to examine and comment on the screening report and on any record that has been filed in the public registry established in respect of the project pursuant to section 55 before taking a course of action under section 20.

...

20. (1) The responsible authority shall take one of the following courses of action in respect of a project after taking into consideration the screening report and any comments filed pursuant to subsection 18(3):
- (a) subject to subparagraph (c)(iii), where, taking into account the implementation of any mitigation measures that the responsible authority considers appropriate, the project is not likely to cause significant adverse environmental effects, the responsible authority may exercise any power or perform any duty or function that would permit the project to be carried out and shall ensure that any mitigation measures that the responsible authority considers appropriate are implemented;
 - (b) where, taking into account the implementation of any mitigation measures that the responsible authority considers appropriate, the project is likely to cause significant adverse environmental effects that cannot be justified in the circumstances, the responsible authority shall not exercise any power or perform any duty or function conferred on it by or under any Act of Parliament that would permit the project to be carried out in whole or in part; or
 - (c) where
 - (i) it is uncertain whether the project, taking into account the implementation of any mitigation measures that the responsible authority considers appropriate, is likely to cause significant adverse environmental effects,
 - (ii) the project, taking into account the implementation of any mitigation measures that the responsible authority considers appropriate, is likely to cause significant adverse environmental effects and paragraph (b) does not apply, or
 - (iii) public concerns warrant a reference to a mediator or a review panel,

the responsible authority shall refer the project to the Minister for a referral to a mediator or a review panel in accordance with section 29.

...

29. (1) Subject to subsection (2), where a project is to be referred to a mediator or a review panel, the Minister shall

(a) refer the environmental assessment relating to the project to

- (i) a mediator, or
- (ii) a review panel; or

(b) refer part of the environmental assessment relating to the project to a mediator and part of that assessment to a review panel.

...

37. (1) Subject to subsection (1.1), the responsible authority shall take one of the following courses of action in respect of a project after taking into consideration the report submitted by a mediator or a review panel or, in the case of a project referred back to the responsible authority pursuant to paragraph 23(a), the comprehensive study report:

(a) where, taking into account the implementation of any mitigation measures that the responsible authority considers appropriate,

- (i) the project is not likely to cause significant adverse environmental effects, or
- (ii) the project is likely to cause significant adverse environmental effects that can be justified in the circumstances,

the responsible authority may exercise any power or perform any duty or function that would permit the project to be carried out in whole or in part and shall ensure that those mitigation measures are implemented; or

(b) where, taking into account the implementation of any mitigation measures that the responsible authority considers appropriate, the project is likely to cause significant adverse environmental effects that cannot be justified in the circumstances, the responsible authority shall not exercise any power or perform any duty or function conferred on it by or under any Act of Parliament that would permit the project to be carried out in whole or in part.

V. ANALYSIS AND DECISION

¶ 27 The only issue to be determined is whether the Minister of Transport is required to conduct an environmental assessment pursuant to paragraphs (a), (b) or (c) of subsection 5(1) of the CEAA. Insofar as the Minister has such an obligation, there will be a further issue as to the impact on that obligation of

the very recent decision of the Minister of the Environment.

¶ 28 As a preliminary point, the applicants submit that the environmental assessments in relation to the expansions of the Vancouver and Pearson (Toronto) airports were conducted under the Order in Council that was replaced by the CEAA. [See Note 6 below] They add that it is hard to believe that the CEAA, in light of its preamble, is of lesser scope and more limited effect than the Order in Council.

Note 6: Environmental Assessment and Review Process Guidelines Order, SOR/84-467, read together with section 74 of the CEAA.

1. PARAGRAPH 5(1)(a)

5. (1) An environmental assessment of a project is required before a federal authority exercises one of the following powers or performs one of the following duties or functions in respect of a project, namely, where a federal authority

(a) is the proponent of the project and does any act or thing that commits the federal authority to carrying out the project in whole or in part;

¶ 29 The applicants submit that the Minister of Transport is the proponent of the project in at least three capacities:

1. as a person who is sufficiently entitled under the lease and the agreement concerning the aeronautics services and facilities to prevent or authorize the project. In the circumstances, the applicants submit, the Minister's silence amounts to authorization;
2. as the owner subject to suspensive conditions of the improvements made by ADM in the context of carrying out the project; and
3. in terms of his economic interest and in particular in regard to the percentage of the fees imposed on passengers by ADM and the parking revenues he will receive as the lessor.

¶ 30 In regard to the first point, the applicants rely on a vast number of clauses in the lease and the Agreement concerning the aeronautics services and facilities which, they say, are indicative of a right of control. They add that since the Minister, through his silence, has approved the project, he is its proponent.

¶ 31 In regard to the second point, the applicants note that the Minister of Transport is the owner, subject to a suspensive condition, of all the improvements that may be made to the leased premises. [See Note 7 below] Although this right will be realized only at the termination of the lease, the applicants point out that under the relevant provisions of the Civil Code of Québec [See Note 8 below] the Minister

of Transport will, as of that time, be deemed to have been the owner since July 31, 1992 of any facility that has been built by ADM. In this context, the applicants wonder how it can be claimed that the owner of property is not the proponent thereof while such property is being built. [See Note 9 below]

Note 7: See paragraph 3.08.01 of the lease.

Note 8: Articles 1506 and 1507.

Note 9: Applicants' Factum, paragraph 118.

¶ 32 In regard to the third point, the applicants note that the Minister of Transport will participate in the economic benefits associated with the ADM project in two respects, [See Note 10 below] and that he is thereby the proponent thereof.

Note 10: Under paragraph 4.03.02 of the lease, the Minister of Transport is entitled to a percentage of the revenue derived from the user fees levied on every passenger by ADM. The Minister of Transport will also, under paragraph 4.02.01 of the lease, receive a share of the increased income from the parking as a result of the planned addition of 3,100 parking spaces, and of the concessions income.

¶ 33 In reply to these submissions based on paragraph 5(1)(a), the respondent notes that the section in question requires that the federal authority be not only the proponent of the project but also the one who carries it out in whole or in part. He further argues that the applicants have failed to demonstrate how the Minister of Transport is to carry out the ADM project in whole or in part.

¶ 34 The intervenor and the respondent also note by way of preliminary submission that under the terms of the lease, ADM is to manage, operate and maintain the airport system solely on its own account and to the exclusion of anyone. [See Note 11 below] No agency or mandatory relationship is understood or implied. They further argue that all the rights enjoyed by the Minister of Transport under the lease are the normal prerogative of such an agreement, bearing in mind the fact that it was necessary for the Minister to ensure he had the necessary access to fulfil his obligations in the aeronautical field. [See Note 12 below] More specifically, the intervenor and the respondent argue that all the rights reserved by the Minister of Transport are intended either to protect his interests as ground lessor or to enable him to perform his obligations in the aeronautical field.

Note 11: Paragraph 8.02.01 of the lease.

Note 12: Navigation and air traffic control services, airport approval, and safety: paragraph 3.01.02 of the lease.

¶ 35 In addition, the respondent and the intervenor refer to the definition of the word "proponent" and point out that the Minister of Transport has denied having proposed the ADM project or being involved in any way whatsoever as proponent of this project within the meaning of the Act. [See Note 13 below] They add that a specific objective in the privatization of the Montreal airports, out of which ADM originated, was to turn the administration of these airports over to the private sector to the exclusion of the federal administration, including the Minister of Transport. This, they say, is the explanation for why the Department of Transport played no role in the development and establishment of the proposal circulated by ADM.

Note 13: Affidavit of Sam Henderson, Respondents' Record, page 4.

¶ 36 I note at this point that the applicants do not allege that there has been any subterfuge concerning the factual and legal relationship between ADM and the Minister of Transport. They acknowledge that this relationship is consistent with what is suggested by the contracts binding the parties. They further acknowledge that the perception ADM and the Minister have given us of their deeds and actions is consistent with the reality.

¶ 37 Bearing this in mind, the only way to make the Minister of Transport a proponent of the ADM project within the meaning of the Act is to argue that the Minister, through his silence on the ADM project, in fact proposed it. And that is what the applicants argue in paragraph 87 of their factum. If I clearly understand their position, the Minister of Transport, by virtue of the rights and powers he exercises under the lease and the associated agreement, could have blocked the project, and, since he did not do so, he becomes a proponent of it. Unfortunately, even on the assumption that the Minister of Transport had the discretion to block the project and that, to this extent, he can be accused of having authorized it, this does not make him a proponent of the project within the meaning of the definition. Similar reasoning applies to the fact that the Minister of Transport now has, through the prior lease, a financial interest in the project, to the fact that he can at the end of the day facilitate the financing of the project, and to the fact that he is likely to become the immediate or potential owner of the buildings that are to be constructed in the course of the project.

¶ 38 Although the usual meaning of "proponent" is very broad, [See Note 14 below] the meaning employed by Parliament in the CEAA is limited. Under the Act, a proponent of a project is the person that proposes it. In this regard, the record is unequivocal. The Minister of Transport neither directly nor indirectly proposed the project or any part thereof. It is ADM which, within the framework of the exclusive authority conferred on it by the lease and the 1992 agreement, [See Note 15 below] assumed the management of the airport system and, in the performance of that authority, decided to liberalize the flights and promote its project. [See Note 16 below] The only privilege to which the Minister of

Transport was entitled as such was to be informed of ADM's decision a few days before the public. This does not make him the author or co-author of ADM's proposal.

Note 14: The words "proponent" or "promoter" have several meanings. They include, in addition to the person who proposes or gives the initial impetus to a project, someone who finances or organizes it. (See Le Petit Robert, Nouvelle édition, 1992 update; The Concise Oxford Dictionary, Eighth Edition, 1992.) [Translator's note: The word "promoteur" in the French version of the CEAA is rendered as "proponent" in the English version.]

Note 15: In particular, paragraph 8.02.02 of the lease, and clause 30.01.01 of the agreement.

Note 16: I need not rule on the lawfulness of this decision, and shall carefully refrain from doing so, since the issue will be argued in the Superior Court within the next few days.

2. PARAGRAPH 5(1)(b)

5. (1) An environmental assessment of a project is required before a federal authority exercises one of the following powers or performs one of the following duties or functions in respect of a project, namely, where a federal authority

- (b) makes or authorizes payments or provides a guarantee for a loan or any other form of financial assistance to the proponent for the purpose of enabling the project to be carried out in whole or in part, except where the financial assistance is in the form of any reduction, avoidance, deferral, removal, refund, remission or other form of relief from the payment of any tax, duty or impost imposed under any Act of Parliament, unless that financial assistance is provided for the purpose of enabling an individual project specifically named in the Act, regulation or order that provides the relief to be carried out;

¶ 39 In regard to paragraph 5(1)(b), the applicants argue that both the right given to ADM to defer the payment of rent for a six-year period [See Note 17 below] and the payment by the Minister of Transport to the municipalities concerned of an amount equivalent to the municipal taxes otherwise payable constitute financial assistance within the meaning of this paragraph.

Note 17: Paragraph 4.05 of the lease.

¶ 40 The applicants concede, however, that such assistance cannot have been granted for the purpose of helping ADM to carry out its project since, in 1992, the project had yet to be conceived and thus no one had it in mind. [See Note 18 below] They do however argue that financial assistance, if any, was nonetheless granted "for the purpose" of helping ADM carry out its project, as required by paragraph

5(1)(b).

Note 18: As of July 28, 1995 ADM still planned to maintain the original assignments for Dorval and Mirabel. See "Plan directeur des installations aéroportuaires de Dorval et Mirabel", Applicants' Record, page 1785.

¶ 41 The applicants rely for this purpose on certain tax decisions [See Note 19 below] which, they argue, indicate that all that paragraph 5(1)(b) requires is that there be concomitance between the use of the financial assistance and the project in question. But the decisions on which the applicants rely in reaching this conclusion are to the diametrically opposite effect. The principle they establish is that a dollar is deductible even if it did not in fact produce any income, so long as it was spent for the purpose of producing income.

Note 19: Premium Iron Ores Limited v. The Minister of National Revenue, [1966] S.C.R. 685, in particular at 703; The Minister of National Revenue v. M.P. Drilling Limited, 76 DTC 6028; Royal Trust Company v. Minister of National Revenue, 57 DTC 1055 and Matabi Mines v. The Minister of Revenue (Ontario), [1988] 2 S.C.R. 175, at 187.

¶ 42 The words "for the purpose of", or "en vue de" in the French version, are unambiguous, as the cases cited by the applicants hold. For financial assistance to trigger the application of section 5, it must have been advanced or granted "for the purpose of" the project that one is seeking to subject to an environmental assessment. Since, in the case at bar, it is common ground that the financial assistance, if any, could not have been granted "for the purpose of" the project, paragraph 5(1)(b) cannot be applicable.

3. PARAGRAPH 5(1)(c)

5. (1) An environmental assessment of a project is required before a federal authority exercises one of the following powers or performs one of the following duties or functions in respect of a project, namely, where a federal authority
- (c) has the administration of federal lands and sells, leases or otherwise disposes of those lands or any interests in those lands, or transfers the administration and control of those lands or interests to Her Majesty in right of a province, for the purpose of enabling the project to be carried out in whole or in part;

¶ 43 In regard to paragraph 5(1)(c) of the Act, the applicants refer to the terms of paragraphs 3.01.03

and 3.01.04 of the lease, which read, in part, as follows:

[Translation]

3.01.03

The lessor expressly waives in favour of the lessor the benefit of its right of accession to any facility newly erected on any land capable of development... [See Note 20 below]

Note 20: Paragraph 4.02.01 of the lease defines the term "[Translation] land capable of development" as any part of the leased premises other than, inter alia, the air terminal and parking facilities.

3.01.04

If the lessee so requests, the lessor shall also waive the benefit of the right of accession to any new facility that shall be erected on any other part of the leased premises. ...

¶ 44 The applicants explain that the lease is not emphyteutic in nature and that the Minister of Transport prima facie retains the ownership of the facilities that are to be erected. It is only through the waiver of this ownership, as provided in paragraphs 3.01.03 and 3.01.04, that ADM becomes owner of the new facilities, and that, the applicants argue, is a sale or lease within the meaning of paragraph 5(1)(c). Once again, I note that the transfer covered in paragraph 5(1)(c) must take place "for the purpose of enabling the project to be carried out".

¶ 45 It's an either-or proposition. Either the reconveyance of the buildings to be erected under the lease takes place at the time when the Minister of Transport waived his right of accession, i.e. when the lease was signed in 1992, or there is a reconveyance of the buildings at the time they are erected. [See Note 21 below] In the first case, the application of paragraph 5(1)(c) is ruled out, since, as we have seen, it is conceded that neither of the parties involved had the ADM project in mind when the lease was signed. In the second case, the application of paragraph 5(1)(c) is likewise ruled out, since, according to the evidence, there is not at present any building capable of reconveyance.

Note 21: In the case of paragraph 3.01.04 of the lease, at the time when the buildings are erected and ADM makes a request for reconveyance.

¶ 46 Beyond this, I will take the liberty of saying, in obiter, that the issue as to whether paragraph 5(1)(c) is likely to be triggered if and when some facilities are built must be answered in the negative. In my view, it was when the lease was signed that the Minister of Transport formally undertook to convey the ownership of any buildings that might be erected, and it is therefore at that date that he authorized the

conveyance thereof within the meaning of paragraph 5(1)(c).

¶ 47 I conclude, therefore, that section 5 of the Act does not apply and that the environmental review process that the applicants are attempting to set in motion cannot therefore take place.

¶ 48 To those who will argue that this conclusion is consistent with the letter of the Act but ignores its spirit, I will say the following, over and above the fact that they have a remedy before the Court of Appeal. The spirit of the Act must be deciphered from the words used by Parliament to express it. In this instance, the Minister of the Environment indicated in his October 18 news release that he is disturbed that section 5 of the Act allows projects initiated by the privatized airport authorities to escape environmental review. [See Note 22 below] I agree, and as a citizen I am happy to note that the Minister has this concern. But it is not my job, as a judge, to decide what the policy of the Minister of the Environment should be in this regard, or to misconstrue the current Act by deciding myself what it should be.

Note 22: I will say in this regard that only paragraph 5(1)(a) appears to be defective, because of the limited meaning assigned to the word "proponent". The fact that paragraphs 5(1)(b) and (c) do not apply is attributable to temporal factors rather than the transfer of the airport authority to some local authorities.

¶ 49 The Act as it appears before me is clear and unequivocal. My only duty is to apply it. One can fault the judges for misconstruing laws, but they cannot be faulted for complying with the law and leaving the legislative task to our elected officials.

¶ 50 For these reasons, the motion in mandamus is dismissed.

ORDER

For the reasons accompanying this order, the motion in mandamus is dismissed.

Discussion of Ghali v Canada in relation to AECL concerns

Summary

- AECL has referred to the Ghali v Canada decision in discussion of proponent trigger
- Ghali case centered on claim that Minister of Transport should have conducted an EA under CEAA for the transfer of flights from Mirabel to Dorval
 - Motion was for an order of mandamus (to require the Minister to conduct an EA)
 - Claim that Minister had triggered under sections 5(1)(a), 5(1)(b), and 5(1)(c).
- The motion was dismissed

Argument that Minister of Transport was a proponent

- [Translation] "through the benefits he will derive from the fees imposed or levied by ADM (a company) in the context of its decision of February 20, 1996, the Minister of Transport becomes the proponent, in part, of the project within the meaning of section 5(1)(a) CEAA; he is also, in part, the proponent as owner subject to a suspensive condition of the improvements that ADM will make to Dorval airport and through the control he retains as Lessor over ADM's operations;
- This argues that the Minister is a proponent for at least the following reasons:
 1. as a person who is **sufficiently entitled** under the lease and the agreement concerning the aeronautics services and facilities **to prevent or authorize the project**. In the circumstances, the applicants submit, the Minister's silence amounts to authorization;
 2. **as the owner subject to suspensive conditions** of the improvements made by ADM in the context of carrying out the project; and,
 3. **in terms of his economic interest** and in particular in regard to the percentage of the fees imposed on passengers by ADM and the parking revenues he will receive as the lessor.

Rationale for Decision

- Decision noted that while understanding of proponent is broad, it is specific under CEAA, and stressed the fact that the proponent must
-

propose the project, although there is an allusion to the fact that the proposal may be direct or indirect (although no statement as to whether an indirect proposal would make one a proponent)

- Bearing this in mind, ***the only way to make the Minister of Transport a proponent*** of the ADM project within the meaning of the Act ***is to argue that the Minister, through his silence on the ADM project, in fact proposed it.*** And that is what the applicants argue in paragraph 87 of their factum. If I clearly understand their position, the Minister of Transport, by virtue of the rights and powers he exercises under the lease and the associated agreement, could have blocked the project, and, since he did not do so, he becomes a proponent of it. Unfortunately, even on the assumption that the Minister of Transport had the discretion to block the project and that, to this extent, he can be accused of having authorized it, this does not make him a proponent of the project within the meaning of the definition. Similar reasoning applies to the fact that the Minister of Transport now has, through the prior lease, a financial interest in the project, to the fact that he can at the end of the day facilitate the financing of the project, and to the fact that he is likely to become the immediate or potential owner of the buildings that are to be constructed in the course of the project.
 - "Although the usual meaning of "proponent" is very broad, [See Note 14 below] the meaning employed by Parliament in the CEAA is limited. Under the Act, a proponent of a project is the person that proposes it. In this regard, the record is unequivocal. ***The Minister of Transport neither directly nor indirectly proposed the project or any part thereof.*** It is ADM which, within the framework of the exclusive authority conferred on it by the lease and the 1992 agreement, [See Note 15 below] assumed the management of the airport system and, in the performance of that authority, decided to liberalize the flights and promote its project. [See Note 16 below] The only privilege to which the Minister of Transport was entitled as such was to be informed of ADM's decision a few days before the public. This does not make him the author or co-author of ADM's proposal."
-

AECL/NRCan/CEAA Meeting
Friday, January 21, 2004/5
CEAA Offices

Speaking Points

Agenda Item # 1: Introduction (Peter)

- NRCan, AECL, PCO and the Agency met in November to discuss AECL file
- Meeting was chaired by Tom Wallace of NRCan.
- Agency provided an update on the Crowns initiative; AECL offered comments on its forthcoming obligations under the Act.
- AECL concerns centred around the risk of potential litigation.
- Agency noted that a "legal clarity" regulation was not possible.
- Tom Wallace noted that the legislation had been passed, and that the Act would therefore apply to AECL.
- After some discussion, Tom Wallace identified three items to be dealt with in more depth at this working meeting.
- Those items are identified in the agenda, and are as follows:
 1. The "timing" issue: AECL's concern that when they are in a domestic vendor situation, an opponent might argue that AECL should be conducting a CEAA EA before the actual licensing application to CNSC is made.

s.21(1)(b)

- In the interim, Tom Balint and Greg Sayer have met to clarify some issues
 - The Agency will speak to the first of these items, and AECL to the second and third.
-

Agenda Item # 2: Timing of assessments (James/Irene/Tom)

Background: Subsection 8(3) of the Act ensures that the federal department triggered, because of its role as a regulator, is fully responsible for an assessment and not the Crown corporation that is the project proponent. It reads:

8(3) If a Crown corporation is the proponent of a project and proposes to do any act or thing that commits it to carrying out the project in whole or in part and a federal authority other than the Crown corporation is required under paragraph 5(1)(d) to ensure the conduct of an environmental assessment of that project, the Crown corporation is not required to ensure that an environmental assessment of the project is conducted but, for greater certainty, it may accept a delegation from the federal authority under section 17.

AECL concern: When they are in a domestic vendor situation (i.e., AECL is not the proponent), an opponent might argue that AECL should be conducting (as a proponent) a CEAA EA before the actual licensing application to CNSC is made.

Agency response:

- Greg Sayer and Tom Balint explored this item further at their December 13 meeting.
 - This concern is again predicated on an opponent arguing that AECL is a proponent when it is not, and there being a project as defined under the Act.
 - If AECL were the proponent, ss. 8(3) would apply and AECL would have no responsibilities for conducting an environmental assessment—raise Chalk River example.
 - If AECL were not the proponent, it seems unlikely that an opponent would initiate legal action to argue that AECL was the proponent only to have AECL conduct an EA of a project that would eventually require another EA by the CNSC.
 - An opponent of AECL would likely prefer to see CNSC conduct the EA rather than AECL.
 - AECL has raised the example of refurbishment work that would not require a license amendment—therefore the Act would not be triggered in association with that work. [The eventual re-start of the reactor would require a licence amendment.] A legal challenge would have to be predicated on there being a project as defined by the Act, and on AECL being the proponent.
-

Agenda Item # 3: Definitions of Key Terms in the Act (AECL)

[AECL will present its concerns regarding these definitions. These will likely have already appeared in correspondence with the Agency.]

Definition #1: "Proponent"

Background: "Proponent" is defined in s. 2 of the Act as:

in respect of a project, means the person, body, federal authority or government that proposes the project.

AECL concern: Any time AECL bids on a project or contracts to carry out a project, whether domestic or overseas, opponents of such a project, or AECL's competitors, could argue that AECL was a "proponent" under the Act even though AECL is not the project owner and has no decision-making authority over the nature of the project itself. AECL's role in these cases would be that of a supplier or a contractor.

Definition #2: "Project"

Background: "Project" is defined in s. 2 of the Act as:

(a) in relation to a physical work, any proposed construction, operation, modification, decommissioning, abandonment or other undertaking in relation to that physical work, or

(b) any proposed physical activity not relating to a physical work that is prescribed or is within a class of physical activities that is prescribed pursuant to regulations made under paragraph 59(b);

AECL concern: The lack of clarity of the definition of "project" leaves AECL open to arguments that activities undertaken before the bid stage of any project is reached (for example, participation in feasibility studies or technical/commercial evaluations; or business development or marketing activities) could amount to proponentcy, even though the project sponsor or owner would (and in AECL's view should) have responsibility for the environmental assessment process.

Definition #3: "Financial assistance"

Background: "Financial assistance" is not defined in s. 2 of the Act. Rather, it comprises the second of the section 5 triggers, namely:

5(1) An environmental assessment of a project is required before a federal authority exercises one of the following powers or performs one of the following duties or functions in respect of a project, namely, where a federal authority...

(b) makes or authorizes payments or provides a guarantee for a loan or any other form of financial assistance to the proponent for the purpose of enabling the project to be carried out in whole or in part, except where the financial assistance is in the form of any reduction, avoidance, deferral, removal, refund, remission or other form of relief from the payment of any tax, duty or impost imposed under any Act of Parliament, unless that financial assistance is provided for the purpose of enabling an individual project specifically named in the Act, regulation or order that provides the relief to be carried out;

AECL concern: It would be open to argument that the "definition" could encompass a broad range of financial arrangements that AECL might enter into with customers, thereby triggering the Act. This might even include AECL assisting a utility or customer in obtaining financing from third parties.

Agency supplemental work: Greg Sayer raised the following financial scenarios in his meeting with Tom Balint (Agency comments appear after each). AECL believes none of these comprise financial assistance, but could be argued as such.

1. **AECL makes a proposal to provide its services to an entity and agrees to take deferred payments with respect to the project.**

Agency comment: Awaiting confirmation that AECL presently enters into such arrangements.

2. **AECL agrees to provide goods and services to an entity and agrees to take compensation in the form of actual or contingent equity in, or provide performance guarantees, incentives, refunds to the project if pre-established performance targets are missed, or otherwise.**

Agency comment: AECL does not presently enter into equity relationships with an owner, as it is prohibited from doing so under the *Financial Administration Act*.

- 3. AECL provides services to an entity and takes compensation only if there is a return on the investment.**

Agency comment: AECL does not presently enter into this type of contract.

- 4. AECL proposes to provide services to an entity and agrees to provide credit to further the completion of the project.**

Agency comment: AECL does not presently enter into this type of contract, as it is prohibited from doing so under the *Financial Administration Act*.

- 5. AECL arranges financing or offers assistance in arranging financing or possibly guarantees.**

Agency comment: The financing body, not AECL, would potentially trigger the Act in these scenarios.

Agenda Item # 5: Next Steps (Peter)

- Based on what issues/concerns remain outstanding from this meeting, Peter to identify any further analysis/meetings required.



History of AECL "Exemption" Requests

"AECL needs a regulation that **exempts its commercial activities**, domestic and foreign, from the application of CEAA, in order that AECL can continue to fulfill its mandate."

-AECL written presentation to CEA Agency, October 14, 2003

"AECL proposes that a regulation be enacted to clarify the scope of CEAA's application to Crown corporations and to **exempt their commercial activities**."

- AECL written presentation to CEA Agency, January 23, 2004

"AECL proposes that a regulation be enacted to clarify the scope of CEAA's application to Crown corporations once they become federal authorities and to **exempt their commercial activities**."

-AECL letter to Bob Connelly, May 12, 2004

AECL requests "a modest exclusionary addition to the exclusion list regulations [sic] that would simply **exclude a project** in respect of which the only involvement of a Crown corporation is the making of a bid, a commercial proposal, or contracting for the provision of goods and services to a third party on commercial terms."

-AECL letter to Peter Sherhols, November 12, 2004

Canadian Nuclear Association Exemption Request

"The CNA strongly urges you to **exempt AECL's commercial business** from coverage under CEAA, both domestically and abroad."

-CNA letter to Minister Dion, November 4, 2004

"Timing" Item

Subsection 8(3) of the Act ensures that the federal department triggered, because of its role as a regulator, is fully responsible for an assessment and not the Crown corporation that is the project proponent. It reads:

8(3) If a Crown corporation is the proponent of a project and proposes to do any act or thing that commits it to carrying out the project in whole or in part and a federal authority other than the Crown corporation is required under paragraph 5(1)(d) to ensure the conduct of an environmental assessment of that project, the Crown corporation is not required to ensure that an environmental assessment of the project is conducted but, for greater certainty, it may accept a delegation from the federal authority under section 17.

AECL concern: When AECL is in a domestic vendor situation (i.e., they are not the proponent), an opponent might argue that AECL should be conducting (as a proponent) a CEAA EA before the actual licensing application to CNSC is made.

AECL's "Global" Concern

AECL's broad concern about becoming a federal authority under the CEA Act is as follows (in their own words):

Legal challenges to AECL's commercial activities may be raised in an attempt to require AECL to conduct environmental assessments, where currently there would be no trigger for such assessments, and where AECL's competitors would not face such challenges.

- from Appendix A to May 12, 2004 letter, AECL to R. Connelly

Latest AECL Concerns

The following are taken from the January 21, 2005 meeting. Except for items 4 and 5, none of these issues/arguments had been raised by AECL in past discussions or correspondence.

1. When AECL is in a domestic vendor situation, an opponent might argue that they should be conducting a CEAA EA before the actual licensing application to the Canadian Nuclear Safety Commission (CNSC) is made.

Argument:

Ss. 5(1) requires the FA to conduct an environmental assessment before exercising one of the powers or duties in ss. 5(1) (a) to (d). The language is emphasized below:

5. (1) An environmental assessment of a project is required **before** a federal authority exercises one of the following powers or performs one of the following duties or functions in respect of a project, namely, where a federal authority

(a) is the proponent of the project and does any act or thing that commits the federal authority to carrying out the project in whole or in part;

AECL then went on to focus on the verb tenses in ss. 8(3):

8 (3) If a Crown corporation is the proponent of a project and proposes to do any act or thing that commits it to carrying out the project in whole or in part and a federal authority other than the Crown corporation is required under paragraph 5(1)(d) to ensure the conduct of an environmental assessment of that project, the Crown corporation is not required to ensure that an environmental assessment of the project is conducted but, for greater certainty, it may accept a delegation from the federal authority under section 17.

The FA (in this case, AECL) is required under s. 5(1) to conduct an EA before "becoming" a proponent. However, ss. 8(3) cannot "release" a FA from the obligation to conduct an EA unless the FA "is" a proponent. AECL can be engaged in carrying out substantial portions of a project for years before submitting an application for a licence or licence amendment. Therefore, during the period before it "is" a proponent, AECL is open to legal challenge to conduct an EA.

AECL calls this a "gap," noting that "the Act says we shouldn't be doing the work, period, until we do the EA, even though another FA will be involved." To correct this "gap," suggested that 8(3) be amended via a regulation to read:

8 (3) If a Crown corporation is or will be the proponent of a project and proposes to do any act or thing that commits it to carrying out the project in whole or in part and a federal authority other than the Crown corporation is or will be required under paragraph 5(1)(d) to ensure the conduct of an environmental assessment of that project, the Crown corporation is not required to ensure that an environmental assessment of the project is

conducted but, for greater certainty, it may accept a delegation from the federal authority under section 17.

2. Where AECL is a proponent, yet is contracting with a third party (owner, operator). AECL would not be in control of when the third party applies for the licence, and thus argue that s. 8(3) does not remove AECL's obligations to do an EA.
3. Were AECL to make a bid in this situation, they would have to make it legally binding. By definition, therefore, they have made a commitment as a FA as per s. 5(1)(a), yet 5(1) requires that the EA be conducted before the commitment is made (language emphasized):

5. (1) An environmental assessment of a project is required **before** a federal authority exercises one of the following powers or performs one of the following duties or functions in respect of a project, namely, where a federal authority

(a) is the proponent of the project and **does any act or thing that commits the federal authority to carrying out the project in whole or in part;**

4. Definition of proponent

Raised the Ghali case (1996), noting that the court had thrown out any consideration of ownership as being necessary to define "proponent." Raised as an example a request by the Government of Ontario for proposals on how to replace its coal-based electrical generating capacity. In such a case, were AECL to propose reactors, are they then the proponent?

s.23

5. Definition of financial assistance

6. AECL should not be required to conduct environmental assessments of projects that do not require CNSC approval (assuming AECL is the proponent)—if CNSC's "threshold" has not been met, the project is known not to have environmental impacts. Examples offered included maintenance and refurbishment. Some of these appear on the Exclusion List, but the list doesn't necessarily "mesh" with AECL's activities.
 7. AECL doesn't want to trigger an EA on a service job when a competitor wouldn't. To solve this, the CNSC should add to the list of activities resulting in a Law List trigger.
-

October 2003 meeting

- "The concern for the impact of the application of CEAA on foreign sovereignty and confidentiality has been recognised by the government in the promulgation of the EDC environmental review regime, and the exemption of EDC from the application of CEAA. Regulations are required to achieve a similar result of [sic] AECL transactions for the same reasons."
- AECL offers the identical arguments for why its domestic activities should be exempted.
- Possible means to exclude all commercial activities from CEAA:
 - exclude AECL from POC and CEAA
 - amend Exclusion List to include a schedule for exclusion of domestic or foreign commercial activities of Crown corporations [not only AECL]
 - develop a new regulation to achieve the above

Boudria deck

- "No other country imposes its domestic regulations on international projects; EA guidance for such projects is done through export credit agencies."
-

Tsui, Kathy [CEAA]

From: McPherson, Lori [mcpersonl@aecl.ca]
Sent: January 31, 2005 2:56 PM
To: Mack, James [CEAA]
Cc: Guindon, Sylvana: NRCAN; Balint, Tom [CEAA]
Subject: RE: Meeting request

Hello Mr. Mack

The afternoon of February 15, 2005 will be good for our people. Please advise time and location.

Thank you
Lori

-----Original Message-----

From: Mack, James [CEAA] [mailto:James.Mack@ceaa-acee.gc.ca]
Sent: January 28, 2005 4:06 PM
To: McPherson, Lori
Cc: Guindon, Sylvana: NRCAN; Balint, Tom [CEAA]
Subject: RE: Meeting request

For the week of the 14th we have the following the afternoon of either the 14th or the 15th. Let me know if these times are not convenient. Given that this meeting is an urgent priority we are willing to cancel other meetings to make this happen.

Thanks,

James Mack

Legislative and Regulatory Affairs | Affaires législatives et réglementaires

613-957-0603 | facsimile / télécopieur (613) 957-0897

james.mack@ceaa-acee.gc.ca

Canadian Environmental Assessment Agency

160 Elgin Street, 22nd floor, Ottawa ON K1A 0H3

Agence canadienne d'évaluation environnementale

160, rue Elgin, 22^e étage, Ottawa (Ontario) K1A 0H3

Government of Canada | Gouvernement du Canada

-----Original Message-----

From: McPherson, Lori [mailto:mcpersonl@aecl.ca]

20/12/2005

Sent: January 27, 2005 8:42 AM
To: Mack,James [CEAA]
Cc: Guindon,Sylvana: NRCAN; Balint,Tom [CEAA]
Subject: RE: Meeting request

Hello Mr. Mack

Unfortunately, we have conflicts with all the date/times you provided. Can you supply me with some dates/times for the week of February 14? Please advise.

Thank you
 Lori

-----Original Message-----

From: Mack,James [CEAA] [mailto:James.Mack@ceaa-acee.gc.ca]
Sent: January 25, 2005 2:21 PM
To: McPherson, Lori
Cc: Guindon,Sylvana: NRCAN; Balint,Tom [CEAA]
Subject: Meeting request
Importance: High

Lori,

s.21(1)(b)

Would it be possible to arrange a meeting in Ottawa for **anytime on February 3rd**? If that date is not possible, things get more complicated. For back up, there are the following options:

- 2:00 - 4:30pm on February 4th;
- the afternoon of February 8th; or,
- the afternoon of February 9th.

Let me know if any of these times are suitable.

Thank you,

James Mack

Legislative and Regulatory Affairs | Affaires législatives et réglementaires

613-957-0603 | facsimile / télécopieur (613) 957-0897

james.mack@ceaa-acee.gc.ca

Canadian Environmental Assessment Agency

160 Elgin Street, 22nd floor, Ottawa ON K1A 0H3

Agence canadienne d'évaluation environnementale

20/12/2005

160, rue Elgin, 22^e étage, Ottawa (Ontario) K1A 0H3

Government of Canada | Gouvernement du Canada

-----Original Message-----

From: McPherson, Lori [mailto:mcpersonl@aecl.ca]
Sent: January 13, 2005 1:38 PM
To: Mack,James [CEAA]
Subject: FW: January 21st meeting: application of CEA Act to AECL

-----Original Message-----

From: McPherson, Lori
Sent: January 13, 2005 1:37 PM
To: 'Mack,James [CEAA]'
Subject: RE: January 21st meeting: application of CEA Act to AECL

Hello Mr. Mack

Thank you for accommodating this change. Participating in this meeting from AECL will be the following:

Allan Hawryluk
 Greg Sayer
 Doug Christensen
 Ahab Abdel-Aziz

Best regards,
 Lori

-----Original Message-----

From: Mack,James [CEAA]
Sent: January 13, 2005 1:21 PM
To: Hawryluk,Allan: AECL; Guindon,Sylvana: NRCAN
Cc: Sherhols,Peter [CEAA]; Sayer,Gregory: AECL; Smith,John [CEAA];
 Turmel,Natalie [CEAA]; Ballint,Tom [CEAA]; Sayer,Gregory: AECL;
 McPherson,Lori: AECL; Gendron,Irene [CEAA]
Subject: January 21st meeting: application of CEA Act to AECL
Importance: High

This is to confirm our new meeting time for Friday, January 21 from 1:30 to 4:00 p.m. at the Agency's offices (Place Bell, 160 Elgin Street, 22nd floor - someone will meet you at reception). Please send me the names of all attendees in advance so that I can notify reception.

The need for this working meeting between the Agency, AECL and NRCan was identified at the broader November 15 meeting at NRCan's offices, which was also attended by PCO.

s.21(1)(b)

The proposed agenda for next week's meeting therefore is as follows:

20/12/2005

1) Introduction

2) Discussion of section 8(3) of the CEA Act in relation to the timing of CNSC permits (Agency)

s.21(1)(b)

5) Next steps

Please contact me if you have any questions or suggestions about the agenda.

James Mack

Legislative and Regulatory Affairs | Affaires législatives et réglementaires

613-957-0603 | facsimile / télécopieur (613) 957-0897

james.mack@ceaa-acee.gc.ca

Canadian Environmental Assessment Agency

160 Elgin Street, 22nd floor, Ottawa ON K1A 0H3

Agence canadienne d'évaluation environnementale

160, rue Elgin, 22^e étage, Ottawa (Ontario) K1A 0H3

Government of Canada | Gouvernement du Canada

20/12/2005

Tsui, Kathy [CEAA]

From: Sayer, Gregory [sayerg@aecl.ca]
Sent: February 2, 2005 4:53 PM
To: Balint, Tom [CEAA]
Cc: Mack, James [CEAA]
Subject: RE: Meeting follow up

Thanks Tom

this looks fine but I will review it again tomorrow and confirm.

s.19(1)

Regards,

Greg Sayer
Legal Counsel
Atomic Energy of Canada Limited
(905) 823-9060 ext 2715
(905) 823-6986 (fax)
(416) 708-3917 (cell)
sayerg@aecl.ca

NOTICE - Privileged and Confidential Information

This e-mail contains information that is confidential, privileged, or exempt from disclosure. Any review, disclosure, or use of this information by persons other than the intended recipient is strictly prohibited. If you have received this e-mail in error please immediately contact the sender by return e-mail and destroy all copies of it.

-----Original Message-----

From: Balint, Tom [CEAA] [mailto:Tom.Balint@ceaa-acee.gc.ca]
Sent: January 28, 2005 4:32 PM
To: Sayer, Gregory
Cc: Mack, James [CEAA]
Subject: RE: Meeting follow up

Greg:

1. Here are the outstanding items that I've identified from our meeting last week. Please let me know if I've overlooked anything.

s.21(1)(b)

2. As requested, here is the Standing Committee transcript pertaining to the introduction of the ss. 8(3) amendment:

20/12/2005

House of Commons Standing Committee on Environment and Sustainable Development
December 11, 2002

(16 ↗ 15)

Mr. Robert Connelly: To turn to G-4.1, the primary function of this section is to retain the ability to create future regulations, if need be, for wholly owned subsidiaries of crown corporations. Proposed subsection 8.2 [sic] is to address potential conflicting decision-making responsibilities. This ensures that the federal department is triggered, because of its role as a regulator, and is fully responsible for the assessment, rather than a crown corporation, if it is also a proponent for the same project. An example of that might be Atomic Energy of Canada Limited, which is regulated by the Canadian Nuclear Safety Commission. We would prefer that the process to be used would be that under the act with the regulatory body, rather than any process that would be used by the crown corporation here.

-----Original Message-----

From: Sayer, Gregory [mailto:sayerg@aecl.ca]

s.21(1)(b)

Sent: Thursday, January 27, 2005 6:06 AM

To: Balint, Tom [CEAA]

Subject: RE: Meeting follow up

OK thanks Tom. gs

Greg Sayer

Legal Counsel

Atomic Energy of Canada Limited

(905) 823-9060 ext 2715 (voice)

(905) 823-6986 (fax)

(416) 708-3917 (cell)

sayerg@aecl.ca

NOTICE - Privileged and Confidential Information

This communication is intended for the person or entity it is addressed to and contains information that is confidential, privileged, or exempt from disclosure under applicable laws. No waiver of privilege or confidentiality, or consent to disclosure, is intended by virtue of communication via the Internet. Review, disclosure, dissemination, reliance upon, or other use of this information by persons or entities other than the intended recipient is strictly prohibited. If you have received this communication in error please contact the sender by return e-mail, or phone AECL's Legal Services Department at 905-823-9040, and immediately destroy all copies of this e-mail.

20/12/2005

-----Original Message-----

From: Balint, Tom [CEAA] [mailto:Tom.Balint@ceaa-acee.gc.ca]

Sent: January 26, 2005 6:52 PM

To: Sayer, Gregory

Subject: Meeting follow up

Greg:

I'm out of the office tomorrow, but will get to you on Friday a list of action items for the Agency and AECL that resulted from our meeting on Friday. I understand as well that James has been in touch with Alan's office regarding a next meeting.

Tom

20/12/2005

Tsui, Kathy [CEAA]

From: Mack, James [CEAA]
Sent: February 9, 2005 2:58 PM
To: Balint, Tom [CEAA]; Gendron, Irene [CEAA]; Turmel, Natalie [CEAA]
Subject: RE: Meeting follow up

Good to see that they are working on these but Tom I think we need to stress that if we are to analyze whether an arrangement is financial assistance we need to be able to review the documents - not just have them explained orally to us at a meeting. AECL did agree that they could provide us with copies for our review.

James Mack

Legislative and Regulatory Affairs | Affaires législatives et réglementaires

613-957-0603 | facsimile / télécopieur (613) 957-0897

james.mack@ceaa-acee.gc.ca

Canadian Environmental Assessment Agency

160 Elgin Street, 22nd floor, Ottawa ON K1A 0H3

Agence canadienne d'évaluation environnementale

160, rue Elgin, 22^e étage, Ottawa (Ontario) K1A 0H3

Government of Canada | Gouvernement du Canada

-----Original Message-----

From: Balint, Tom [CEAA]
Sent: February 9, 2005 2:55 PM
To: Gendron, Irene [CEAA]; Mack, James [CEAA]; Turmel, Natalie [CEAA]
Subject: FW: Meeting follow up

-----Original Message-----

From: Sayer, Gregory [mailto:sayerg@aecl.ca]
Sent: Wednesday, February 09, 2005 2:23 PM
To: Balint, Tom [CEAA]
Subject: RE: Meeting follow up

Tom, to confirm my note from last week, these items look fine.

With respect to the items left from our Dec 2004 discussion, we have some examples of deferred payment arrangements we can describe at our next

s.21(1)(b)

20/12/2005

meeting, and the item relating to "goods" and "project" we could also disposition at that time, as we did not get to them at our last meeting.

Regards,

Greg Sayer
 Legal Counsel
 Atomic Energy of Canada Limited
 (905) 823-9060 ext 2715
 (905) 823-6986 (fax)
 (416) 708-3917 (cell)
 sayerg@aecl.ca

NOTICE - Privileged and Confidential Information

This e-mail contains information that is confidential, privileged, or exempt from disclosure. Any review, disclosure, or use of this information by persons other than the intended recipient is strictly prohibited. If you have received this e-mail in error please immediately contact the sender by return e-mail and destroy all copies of it.

-----Original Message-----

From: Balint, Tom [CEAA] [mailto:Tom.Balint@ceaa-acee.gc.ca]
Sent: January 28, 2005 4:32 PM
To: Sayer, Gregory
Cc: Mack, James [CEAA]
Subject: RE: Meeting follow up

Greg:

1. Here are the outstanding items that I've identified from our meeting last week. Please let me know if I've overlooked anything.

s.21(1)(b)

- AECL to provide written suggestions for addressing concerns about the timing of environmental assessments and definitions.
- AECL to provide example contracts that illustrate their concerns about being subject to arguments that they are providing financial assistance.
- AECL to provide detailed examples of projects it engages in that do not require CNSC approval.

2. As requested, here is the Standing Committee transcript pertaining to the introduction of the ss. 8(3) amendment:

House of Commons Standing Committee on Environment and Sustainable
 Development
 December 11, 2002

(16 ↗ 15)

Mr. Robert Connelly: To turn to G-4.1, the primary function of this section is to

20/12/2005

retain the ability to create future regulations, if need be, for wholly owned subsidiaries of crown corporations. Proposed subsection 8.2 [sic] is to address potential conflicting decision-making responsibilities. This ensures that the federal department is triggered, because of its role as a regulator, and is fully responsible for the assessment, rather than a crown corporation, if it is also a proponent for the same project. An example of that might be Atomic Energy of Canada Limited, which is regulated by the Canadian Nuclear Safety Commission. We would prefer that the process to be used would be that under the act with the regulatory body, rather than any process that would be used by the crown corporation here.

3. Remaining from our December 13 meeting:

- o Could you please confirm if AECL presently enters into deferred payment contracts (as described in AECL scenario #3).
- o Could you please confirm if "goods" (as described in various of your scenarios) has ever included or would ever include a "project" as defined under the *Canadian Environmental Assessment Act*.

-----Original Message-----

From: Sayer, Gregory [mailto:sayerg@aecl.ca]
Sent: Thursday, January 27, 2005 6:06 AM
To: Balint, Tom [CEAA]
Subject: RE: Meeting follow up

OK thanks Tom. gs

Greg Sayer
 Legal Counsel
 Atomic Energy of Canada Limited
 (905) 823-9060 ext 2715 (voice)
 (905) 823-6986 (fax)
 (416) 708-3917 (cell)
 sayerg@aecl.ca

NOTICE - Privileged and Confidential Information

This communication is intended for the person or entity it is addressed to and contains information that is confidential, privileged, or exempt from disclosure under applicable laws. No waiver of privilege or confidentiality, or consent to disclosure, is intended by virtue of communication via the Internet. Review, disclosure, dissemination, reliance upon, or other use of this information by persons or entities other than the intended recipient is strictly prohibited. If you have received this communication in error please contact the sender by return e-mail, or phone AECL's Legal Services Department at 905-823-9040, and immediately destroy all copies of this e-mail.

-----Original Message-----

From: Balint, Tom [CEAA] [mailto:Tom.Balint@ceaa-acee.gc.ca]
Sent: January 26, 2005 6:52 PM
To: Sayer, Gregory
Subject: Meeting follow up

Greg:

20/12/2005

I'm out of the office tomorrow, but will get to you on Friday a list of action items for the Agency and AECL that resulted from our meeting on Friday. I understand as well that James has been in touch with Alan's office regarding a next meeting.

Tom

20/12/2005

Tsui, Kathy [CEAA]

From: Mack, James [CEAA]
Sent: February 11, 2005 9:38 AM
To: Riverin, Guy; EXT; Balint, Tom [CEAA]
Subject: Monday February 14th from 1:30 to 2:30
from CNSC.

Guy,

Thanks for agreeing to meet with us from 1:30 to 2:30 on Monday at your office.

As you know we have been working with AECL to discuss what their obligations would be when they come under CEAA in June 2006. A lot of these discussions are focused on whether there could be a legal challenge that AECL is a proponent under CEAA when they are contracted to a private-sector proponent.

We would like to discuss with you how the CNSC permitting process works and whether it may provide some clarity for who would be the proponent for these projects. We did notice that on the CNSC EA page of your internet site that the description of projects for your EAs identify the proponent and we would also like to talk specifically about how that information is developed.

Thanks again for agreeing to meet with us, and we'll see you on Monday. I'll give you a call from reception.

James Mack

Legislative and Regulatory Affairs | Affaires législatives et réglementaires
613-957-0603 | facsimile / télécopieur (613) 957-0897
james.mack@ceaa-acee.gc.ca
Canadian Environmental Assessment Agency
160 Elgin Street, 22nd floor, Ottawa ON K1A 0H3
Agence canadienne d'évaluation environnementale
160, rue Elgin, 22^e étage, Ottawa (Ontario) K1A 0H3
Government of Canada | Gouvernement du Canada

Tsui, Kathy [CEAA]

From : Mack, James [CEAA]
Sent: February 14, 2005 5:56 PM
To: Sherhols, Peter [CEAA]
Cc: Smith, John [CEAA]; Balint, Tom [CEAA]; Turmel, Natalie [CEAA]
Subject: Research on financial assistance

Peter,

You had asked us to start looking at how the term financial assistance is understood by the Government of Canada, and potentially by international organizations. As discussed yesterday, we had looked at what types of financial arrangements federal departments are involved in, and which ones are deemed as financial assistance for the purposes of the CEA Act. However, to answer your question, we were to look at how the government understands all forms of financing and whether these forms constitute financial assistance understood broadly (i.e. not specifically financial assistance as defined in relation to the CEA Act).

I did speak again to some of my contacts who are, or have, worked at IC, TBS, Finance, and the Bank of Canada to determine whether there was a broad interpretation of what, out of all possible forms of financial arrangements, was viewed by the Government of Canada as constituting a form of financial assistance. I have two main observations:

1) the term financial assistance is understood differently depending on what it relates to - there does not appear to be a general understanding of what constitutes financial assistance at the highest level. For example, financial assistance for the purposes of the Income Tax Act has a different meaning than financial assistance for the purpose of an international trade agreements. Again, even among different sectors within or between trade agreements financial assistance may be understood in different ways.

2) for most international trade agreements, in particular the WTO, financial assistance is generally defined as an action that should not be taken by a government. Therefore, it is problematic to talk in that sense about a government program that constitutes financial assistance to a private industry.

Given that there are no obvious leads from my these discussions, the next step appears to me to review the Income Tax Act to see if there is a legal definition of what constitutes a form of income. This may allow us to make statements about whether a contracting arrangement (as described by AECL) is understood to be a benefit, or source of income, for a private company. I am not yet sure what that work may entail.

I do still have a few outstanding calls that have not yet been returned. If they provide any other information I will let you know.

James Mack

Legislative and Regulatory Affairs | Affaires législatives et réglementaires
613-957-0603 | facsimile / télécopieur (613) 957-0897
james.mack@ceaa-acee.gc.ca
Canadian Environmental Assessment Agency
160 Elgin Street, 22nd floor, Ottawa ON K1A 0H3
Agence canadienne d'évaluation environnementale
160, rue Elgin, 22^e étage, Ottawa (Ontario) K1A 0H3
Government of Canada | Gouvernement du Canada

**Atomic Energy of Canada Limited
Summary of Working Meeting**

Meeting location:	Agency offices, Ottawa
Meeting date:	February 15, 2005, 1:30 p.m.
Present from Crown:	Gregory Sayer, Legal Counsel Alan Hawryluk, General Counsel David Tregunno, Director of External Relations Ahab Abdel-Aziz, Private Counsel Sylvana Guindon, NRCan
Present from CEAA:	Peter Sherhols James Mack Tom Balint Irene Gendron Natalie Turmel

Main message:

Discussion notes:

1. Introduction

Peter Sherhols noted that the purpose of this second meeting was to hear AECL's concerns about complying with their forthcoming obligations under the Act vis-à-vis international projects.

[Ahab Abdel-Aziz (hereinafter AAA) reported that AECL is nearly finished assembling the deliverables from the January 21 meeting, and will be providing these to the Agency soon.]

C-9) that Canadian federal authorities will conduct EAs for foreign projects, under the *Projects Outside Canada Regulations*.

In AAA's view, this is appropriate for most activities, but not for those in which AECL is engaged. CIDA, for example, confers benefits on a foreign government; AECL is more like a store, and the foreign government is free to shop elsewhere. Peter Sherhols summarized the cabinet process around the new Crown corporation obligations under the Act, and noted that AECL was discussed at that meeting. He reiterated that if AECL wishes to be exempted from their forthcoming obligations under the Act, for either domestic or international projects, they will have to make that request to cabinet.

The conversation moved to examining if AECL would trigger the Act for international projects, and what would result if they did.

AAA cited the Ghali case again (see summary note for meeting of January 21, 2005 for details), insisting that it says essentially that a contractor is a proponent. He also handed out copies of an affidavit by Lin Feng filed in the Sierra Club/CANDU case.

He noted that the principal issues for complying with the POC (assuming AECL is a proponent) pertains to ensuring that an EA is conducted of a project in a foreign country.

- AECL might have to obtain information from other companies involved in a joint project, for example (Bechtel, GE) to use in AECL's EA. This may not always be possible.
- May be impossible to obtain information from host country on cumulative effects of a project
- Have no leverage to ensure that mitigation measures are implemented
- Not in a position to comply with scoping language in ss. 15(3) [N.B. scoping requirements of ss. 15(3) are "in the opinion of" the RA]
- Not in a position to consider needs and alternatives under ss. 16(1)(e) [N.B. the factors in this section are considered at the discretion of the RA]

Referring to the affidavit, AAA noted that a Chinese EA does not finish until the end of the project; in using the Chinese EA to inform their own, AECL therefore would be unable to comply with s.11 [this gets back to the "timing issue" from the January 21 meeting].

Paragraph 14 of the affidavit also notes that "there is no mechanism under Chinese law to permit the application to a domestic project of ...mitigation or redesign requirements imposed by the environmental regulatory authorities of a foreign nation."

AAA raised the possibility that AECL might sign a contract with the Chinese government, which might come to a different EA decision for the project than AECL. In his view, AECL can do "lifecycle assessments" but they can't realistically be expected to include the site in the EA. In other words, they can EA the "product," but not the specifics of where it will be constructed.

Peter Sherhols asked AECL what they feel is the best they can do up until the irrevocable decision is taken. AAA suggested a class screening for each generation of reactor (pre-bid), with

s.21(1)(b)
s.21(1)(c)

Summary of AECL request—domestic and international (assuming they are a proponent)

Domestic

1. addition of “is or will be” to ss. 8(3) [see meeting note of January 21]
2. removal of non-CNSC-permitted activities from ambit of Act

s.21(1)(b)
s.21(1)(c)

AECL's request for clarification of the Act

AECL's request for clarification of the Act

AECL's deliverables from the January 21 remain outstanding. They are:

- AECL to provide concrete examples of the timing “gap.”
- AECL to draft a regulation addressing their concerns about the timing of environmental assessments and submit it to the Agency for comment.
- AECL to provide example contracts that illustrate their concerns about being subject to arguments that they are providing financial assistance.
- AECL to provide detailed examples of projects it engages in that do not require CNSC approval.

Outstanding Action Items—AECL

From our January 21 meeting:

s.21(1)(b)

s.21(1)(c)

- AECL to provide written suggestions for addressing concerns about the timing of environmental assessments and definitions.
- AECL to provide example contracts that illustrate their concerns about being subject to arguments that they are providing financial assistance.
- AECL to provide detailed examples of projects it engages in that do not require CNSC approval.

In addition, the following items remain outstanding from our December 13 meeting:

- AECL to confirm if they presently enter into deferred payment contracts (as described in AECL scenario #3).
- AECL to confirm if "goods" (as described in various of their scenarios) has ever included or would ever include a "project" as defined under the *Canadian Environmental Assessment Act*.

Summary of the Projects Outside Canada Regulations

Principal differences from the Act:

- No comprehensive studies
 - Addition of advisory committee as third option for advanced assessment (along with panel review and mediation)
 - Responsible Authority and Minister of Foreign Affairs frequently must be reported to and consulted, e.g., before referral to panel, mediation or advisory committee
 - Screening, screening report, and follow up may be delegated to foreign government or body
 - Mandatory public participation only in the event of a review panel, mediation, or advisory committee
 - No guarantee of public hearings with advisory committee
 - POC Regulations are not harmonized with the renewed CEA Act. Principal differences concern public participation in screenings (ss. 18(3)) and time for decisions (ss.20(4), 37(4))
-

Tsui, Kathy [CEAA]

From: Sayer, Gregory [sayerg@aecl.ca]
Sent: March 2, 2005 4:32 PM
To: Balint, Tom [CEAA]
Cc: Mack, James [CEAA]; Guindon, Sylvana: NRCAN
Subject: RE: AECL/CEAA Meeting followup

Thanks Tom. We are putting together a package to respond to these as well as the items discussed at our most recent meeting.

Regards, gs

Greg Sayer
Legal Counsel
Atomic Energy of Canada Limited
(905) 403-7515
(905) 823-6986 (fax)
(416) 708-3917 (cell)
sayerg@aecl.ca

NOTICE - Privileged and Confidential Information

This e-mail contains information that is confidential, privileged, or exempt from disclosure. Any review, disclosure, or use of this information by persons other than the intended recipient is strictly prohibited. If you have received this e-mail in error please immediately contact the sender by return e-mail and destroy all copies of it.

-----Original Message-----

From: Balint, Tom [CEAA] [mailto:Tom.Balint@ceaa-acee.gc.ca]
Sent: March 1, 2005 10:13 AM
To: Sayer, Gregory
Cc: Mack, James [CEAA]; Guindon, Sylvana: NRCAN
Subject: AECL/CEAA Meeting followup

Greg:

A reminder that, as agreed at our meeting of February 15, 2005, AECL will provide the following deliverables originally identified at our meeting of January 21, 2005:

s.21(1)(b)
s.21(1)(c)

The following deliverables remain from our meeting of December 13, 2004:

20/12/2005

s.21(1)(b)
s.21(1)(c)

Thanks,

Tom Balint

s.21(1)(b)

s.21(1)(c)

20/12/2005

ATOMIC ENERGY OF CANADA LIMITED AND THE CANADIAN ENVIRONMENTAL ASSESSMENT ACT

ISSUE

Atomic Energy Canada Ltd. (AECL) will be well represented at the Canadian Nuclear Association reception. Robert Van Adel, President and CEO of AECL, is presenting at the Nuclear Industry Seminar on March 10, 2005. It is possible that AECL's representatives may raise concerns regarding the Canadian Environmental Assessment Agency's (the Agency) initiative to develop a regulation to apply to AECL.

SUMMARY / KEY POINTS

- An amendment made to the *Canadian Environmental Assessment Act* (the Act) by Parliamentary Committee requires that all Crown corporations are to be subject to the Act or a regulation under the Act by June 11, 2006. The Agency has reached a consensus recommendation that thirty-seven out of forty-one affected Crown corporations will comply directly with the Act. The Agency has also initiated the drafting of a regulation for two corporations (Business Development Bank of Canada and Farm Credit Canada). Work is ongoing with AECL, and Canadian Commercial Corporation.
- Beginning in October 2003, the Agency conducted a detailed examination of AECL's past and current business lines, and wrote AECL in September 2004 to indicate that they would be minimally affected by complying with the Act for its domestic activities

s.21(1)(b)

s.21(1)(c)

A new regulation varying the environmental assessment process for AECL thus was not thought to be necessary at that time.

- AECL remains concerned about potential legal uncertainties in applying the Act to its business. The Agency continues to meet regularly with AECL to explore these concerns and whether a regulation will be necessary. Natural Resources Canada is a regular participant in these meetings.

Date: March 8, 2005
Approved by: Peter Sherhols/AVice-President/Policy Development/957-0065
Filename: J:/Crowns/Crowns Library/AECL/Briefing Note for Nuclear Industry Seminar Mar 09

CC. WRC.
 - provide or refer in Delta
 anything?
 => are we having to do

Irene / Jane

- need to be on record.
- relate letter from Peter!
- helped discussion, you
- still have issue, look for
- true enough! Summary!
- stop
- "no reaction"

Tsui, Kathy [CEAA]

From: Vachon, Al [CEAA]
Sent: December 22, 2005 2:00 PM
To: Tsui, Kathy [CEAA]
Subject: FW: Recent AECL docs

A start

-----Original Message-----

From: Balint, Tom [CEAA]
Sent: March 17, 2005 3:43 PM
To: Vachon, Al [CEAA]
Subject: Recent AECL docs



Pros and Cons of a
regulation....



Letter to Michael
Taylor respo...



Summary of
Working Meeting wit...



Summary of
Working Meeting wit...

Mr. Michael G. Taylor
Vice President
Corporate Affairs
Atomic Energy of Canada Limited
2251 Speakman Drive
Mississauga ON L5K 1B2

Dear Mr. Taylor:

Thank you for your letter and proposal of May 12, addressed to Mr. Robert Connelly. As I noted in my letter to you of June 2, Mr. Connelly, as the Acting President of the Canadian Environmental Assessment Agency, has referred this file to me.

Let me say at the outset that the government is committed to maintaining the commercial and competitive interests of Crown corporations in implementing their new obligations added by Parliament to the *Canadian Environmental Assessment Act* (the Act). The economic viability of Atomic Energy of Canada Limited (AECL), and indeed of all Crown corporations, is very much an important consideration in this initiative.

You have reiterated AECL's proposal for an exemption from the application of the Act for the domestic and international commercial activities of all Crown corporations. This is similar to what AECL put forward at the October 14, 2003 and January 23, 2004 meetings of our respective officials (the October proposal referenced AECL only, while the January proposal included all Crown corporations). Following each of those meetings, my officials indicated that while Parliament made provisions for varying the environmental assessment process for individual or classes of Crown corporations, it did not provide for the development of regulations that would exempt entire business lines of a Crown corporation from the application of the Act.

It is my understanding that your proposal for an exemption is based upon AECL's perception that recent correspondence from the former Minister of the Environment to the former Minister of Natural Resources indicated a "policy intent" of the government that AECL will not be required to conduct environmental assessments of its commercial activities (i.e., an explicit exemption would simply "clarify" this). In fact, the clarification provided by the Minister of the Environment was more limited than this and I would like to take this opportunity to review the contents and intent of that letter.

The letter confirms that under the circumstances of AECL's past CANDU sales (in which financing was provided by Export Development Canada, and AECL carried out commercial activities as a contractor, not a proponent), the Act would not apply to the offshore sale of a CANDU reactor. However, because the nature of AECL's potential future offshore and domestic commercial projects is unknown, the letter could not assure that all future AECL business would not trigger the Act. An exemption for such undefined projects would therefore be imprudent, and would also contravene the direction set by Parliament.

Having said this, we have spent considerable time and effort in reviewing your suggestion and have developed an alternative proposal that carefully considers the commercial nature of AECL's business while also reflecting the direction given by Parliament. We believe it will have a minimal impact on AECL's current activities. This letter puts forward that proposal, after further elaborating on the mandate given by Parliament and offering some analysis of the implications for AECL of complying with the Act.

The Agency's mandate regarding Crown corporations

As a result of changes made by Parliament to the Act via Bill C-9, forty-one parent Crown corporations will be subject to either the requirements of the Act or a modified environmental assessment process set in regulations, beginning June 12, 2006. These regulations could vary the environmental assessment requirements of the Act for Crown corporations to take into account their commercial and competitive circumstances.

As you know, during its review of Bill C-9, the Standing Committee on Environment and Sustainable Development (Standing Committee) initially voted to bring all Crown corporations under the ambit of the Act, immediately upon proclamation of the Bill. The amendment that was passed removed the explicit exclusion for Crown corporations that had always existed in the definition of "federal authority."

Later in the review process, the Standing Committee accepted government amendments to its original initiative. Those amendments included delaying the implementation of the new Crown corporation provisions for three years to provide time to develop regulations, where appropriate, and to ensure the necessary training occurs so that Crown corporations are able to fulfil their new obligations. The amendments also specifically exempted the Canada Pension Plan Investment Board, Export Development Canada, and wholly owned subsidiaries of Crown corporations. Finally, the amendments also added new regulatory authority to allow for the development, where appropriate, of a tailored process that takes into account the unique circumstances and competitive situations of specific corporations or classes of Crown corporations. This authority does not permit creating wide-ranging exemptions.

It is worth noting that included in the Committee's discussions were specific citations of a number of Crown corporations with commercial activities, including AECL, Business Development Bank of Canada, Canada Lands Company Limited, and Canada Mortgage and Housing Corporation. No suggestions to exempt the commercial activities of these Crown corporations were put forward at the Committee, House of Commons, or Senate stages of Bill C-9.

Our mandate, therefore, is to assess the implications (if any) of applying the Act to a Crown corporation's business, and where appropriate, to develop proposals that would vary or tailor the environmental assessment process for that Crown corporation. It is also important to note that the Standing Committee remains interested in this issue and has required that Agency officials update the Standing Committee every six months (until June 2006) on the implementation of the new Crown corporation provisions in the Act.

Analysis and proposed approach for AECL compliance with the Act

AECL's current domestic business lines

With regards to AECL's domestic projects, you note in Appendix B to your letter:

"In Canada, to the extent that AECL is involved as a supplier, any projects of consequence will, as is usually the case currently, be licensed by the CNSC [Canadian Nuclear Safety Commission] and the owner will be required to engage CEAA during licensing."

Subsection 8(3) of the Act clearly indicates that AECL would not be responsible for conducting an environmental assessment under such conditions:

*8(3) If a Crown corporation is the proponent of a project and proposes to do any act or thing that commits it to carrying out the project in whole or in part and a federal authority other than the Crown corporation is required under paragraph 5(1)(d) to ensure the conduct of an environmental assessment of that project, **the Crown corporation is not required to ensure that an environmental assessment of the project is conducted** but, for greater certainty, it may accept a delegation from the federal authority under section 17 [emphasis added].*

In other words, beginning on June 12, 2006, and under its current business lines, AECL would only be responsible for projects at AECL's own facilities in Canada where no federal permits are required, which you note in your letter that "AECL has no objection to."

Given the above, there does not appear to be a reason for a regulation to vary the Act for AECL's domestic projects. AECL could comply directly with the Act without undue effect on its commercial activities.

s.21(1)(b)

s.21(1)(c)

Should AECL's future business lines (domestic and/or international) trigger the Act, and it is found that these obligations present problems, we would re-examine the need for regulations to vary the requirements of the environmental assessment process.

Summary of Proposal

AECL's current domestic business will not be impacted by its new obligations under the Act, and therefore a regulation does not appear necessary.

s.21(1)(b)

s.21(1)(c)

s.21(1)(b)

s.21(1)(c)

In closing, you note in your letter that when

s.21(1)(b)

s.21(1)(c)

As noted previously, I share this desire to protect AECL's commercial transactions. As you know, environmental assessment under the Act is a planning tool that informs decisions taken by federal authorities, who typically do not wish to proceed with projects that would result in significant adverse environmental effects. The foreknowledge of such effects, arrived through environmental assessments, can only help to modify projects in appropriate ways that protect the commercial, as well as the natural environment. Such approaches are rapidly becoming part of normal due diligence.

I thank you again for writing. I trust that the information I have provided will prove helpful, and that this proposal for how AECL might comply with its forthcoming obligations under the Act provides you with the clarity and certainty you require while reflecting the direction set by Parliament.

Yours sincerely,

Peter R. Sherhols
Acting Vice-President
Policy Development

c.c.: Mr. Howard Brown, Assistant Deputy Minister, Natural Resources Canada
Mr. Christopher Padfield, Analyst, Privy Council Office

Tsui, Kathy [CEAA]

From: Vachon, Al [CEAA]
Sent: December 22, 2005 2:04 PM
To: Tsui, Kathy [CEAA]
Subject: FW: President's Speech and Presentation to CNA Seminar

includes references to EA obligations

-----Original Message-----

From: Mack, James [CEAA]
Sent: March 18, 2005 2:21 PM
To: Balint, Tom [CEAA]; Vachon, Al [CEAA]
Subject: FW: President's Speech and Presentation to CNA Seminar

James Mack

Legislative and Regulatory Affairs | Affaires législatives et réglementaires

613-957-0603 | facsimile / télécopieur (613) 957-0897

james.mack@ceaa-acce.gc.ca

Canadian Environmental Assessment Agency

160 Elgin Street, 22nd floor, Ottawa ON K1A 0H3

Agence canadienne d'évaluation environnementale

160, rue Elgin, 22^e étage, Ottawa (Ontario) K1A 0H3

Government of Canada | Gouvernement du Canada

-----Original Message-----

From: Gaudreault, Isabelle [<mailto:gaudreaulti@aecl.ca>]
Sent: March 18, 2005 2:17 PM
Subject: President's Speech and Presentation to CNA Seminar

FYI

Sent on behalf of Michael Taylor
Vice-President, Corporate Affairs

<<RVA Presentation - CNA 2005.pdf>> <<RVA Speech - CNA 2005.pdf>>

Isabelle Gaudreault

22/12/2005

Atomic Energy of Canada Ltd.

External Relations



(613) 237-3270 ext. 4918

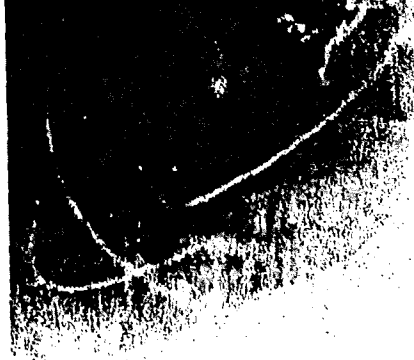


(613) 782-2017



gaudreaulti@aecl.ca

22/12/2005



Leading the Next Generation CANDU Technology



Robert Van Adel
President & CEO



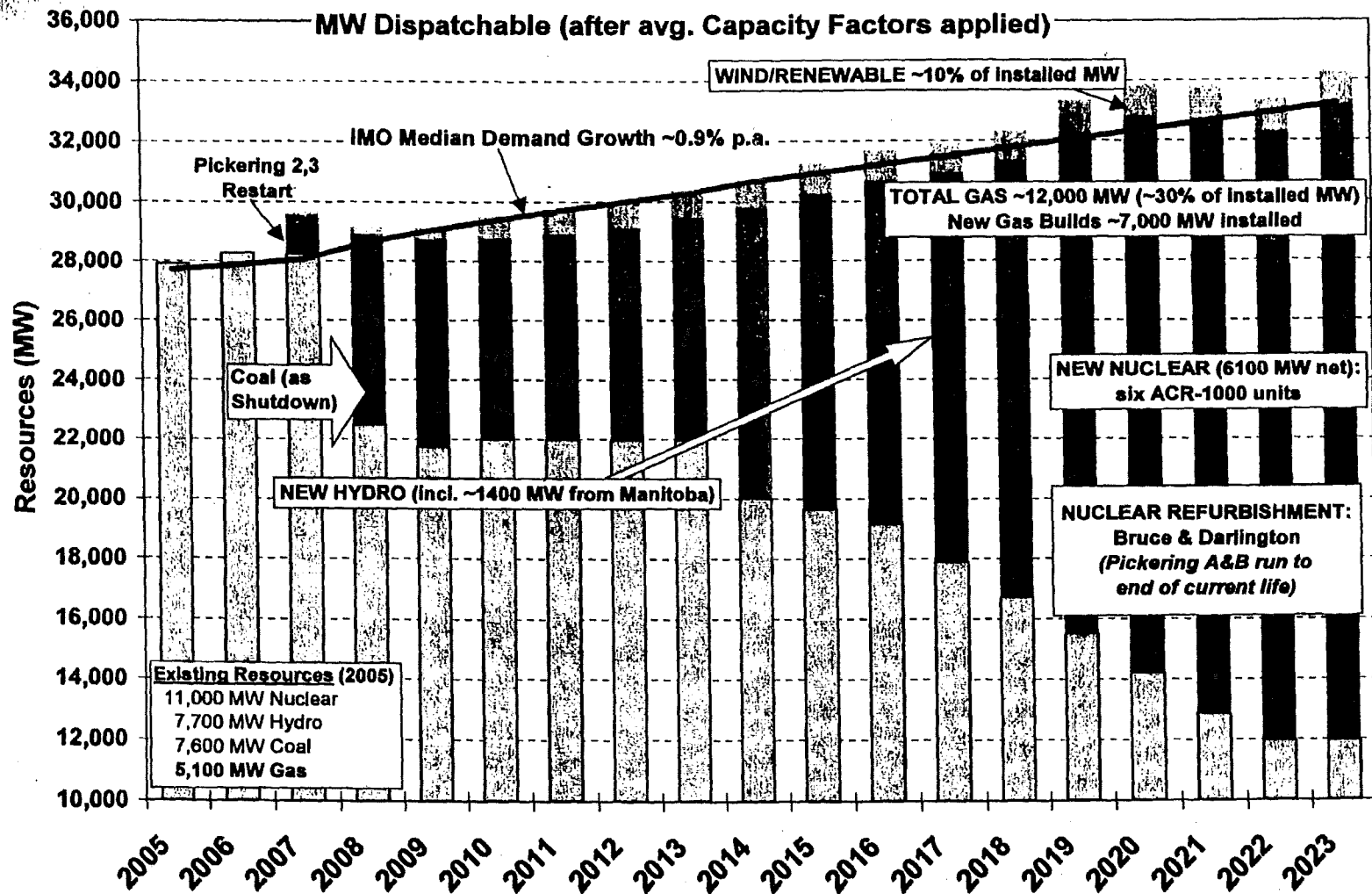
AECL
Atomic Energy
of Canada Limited

EACL
Énergie atomique
du Canada limitée

Leading the Next Generation CANDU Technology

- ★ Governments faced with tough decisions
- ★ Challenging energy gap looming
 - *Adopting more renewables, conservation*
 - *Revitalization of **CANDU** in Ontario*
- ★ The only viable baseload technology option
 - Replace CANDU with **CANDU**

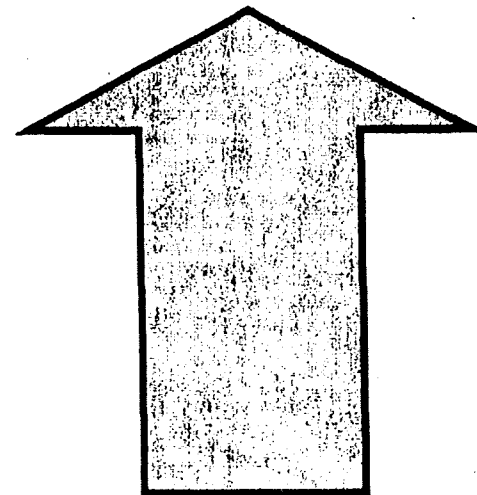
Electricity Supply Mix - Gas 30% Max.



Advanced CANDU Technology Solutions

Total Life Cycle approach supported by Supply Chain including:

- ✓ Refurbishment
- ✓ Reactors
- ✓ Services
- ✓ Waste Management
- ✓ Delivery Capability



***Resulting in Large
Benefits to Canada***

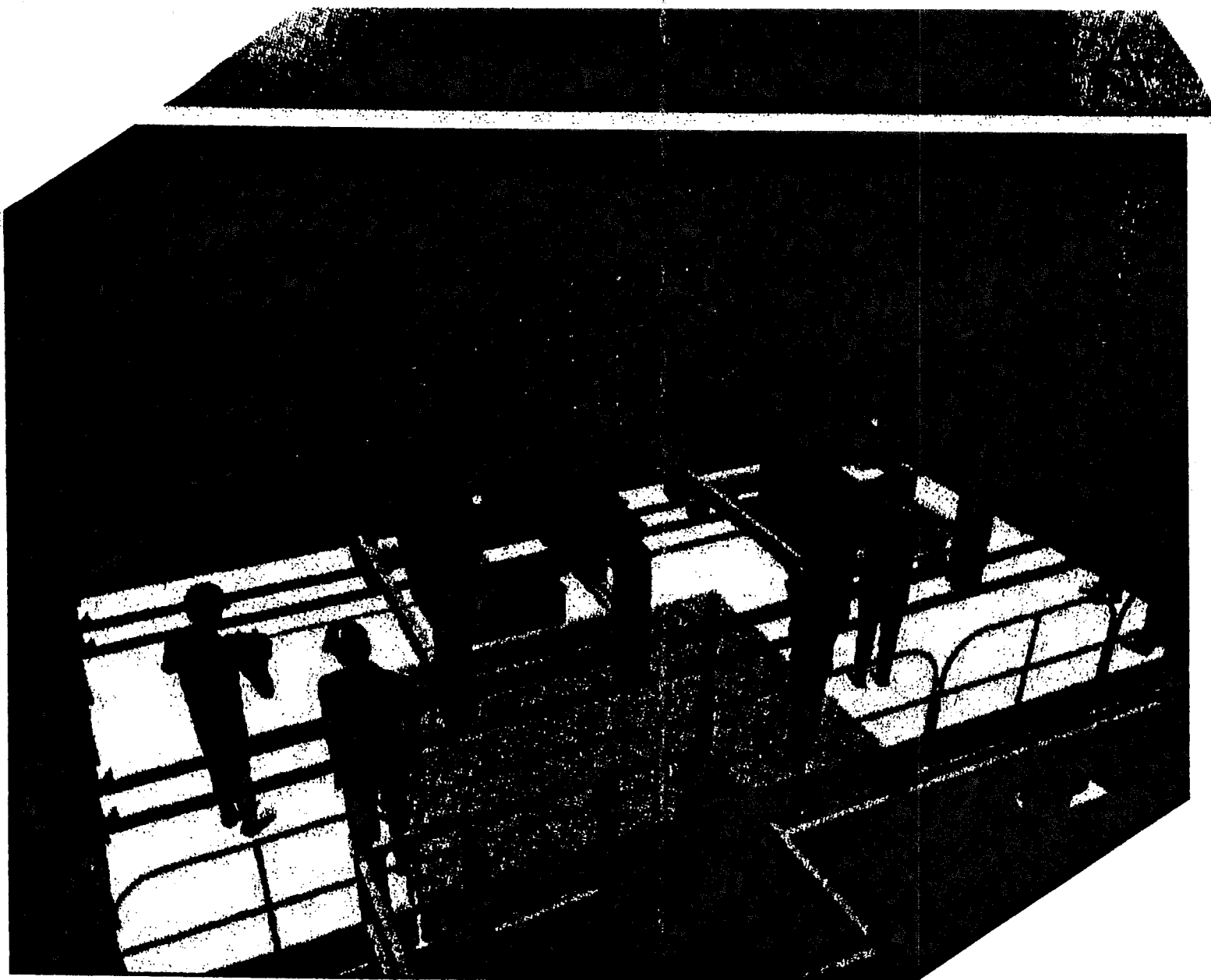


Refurbishment Technology

- ★ Refurbishment precedes new build
- ★ CANDU life-extended for decades
- ★ Strong demand worldwide – economic & timely
- ★ Bruce and Pickering units on line in 2004
- ★ Bruce and Lepreau projects soon
- ★ Gentilly 2, Korea, Argentina to follow

CANDU Refurbishment Technology

- ★ AECL R&D innovation for safe, efficient retube
- ★ AECL invested in re-tube technology for “heart transplant”
- ★ Advanced tooling reduces waste by-products
- ★ Advance planning, training & simulation are key
- ★ Outsourced projects by strong utility partners
- ★ Provides infrastructure & capability to launch new build ACR **from Canada**



CANDU Reactor Technology

- ★ **CANDU 6:** world class performance, contemporary, excellent build record
- ★ Replication project in China possible
- ★ AECL building Unit 2, negotiating Unit 3 in Romania
- ★ ACR (Advanced CANDU Reactor)
builds on C6 success
 - *Reduces costs & schedule*
 - *Most economic future technology*

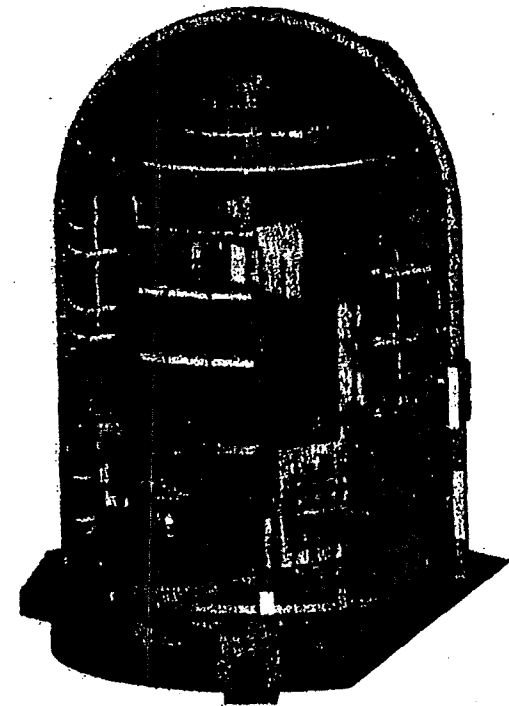


CANDU 6:

- ✓ **Available now**
- ✓ **Low-risk option for Ontario**

Advanced CANDU Reactor Technology

- ★ ACR –1000 competitive product
 - *Ready in 2008 /2009*
 - *Strong Government support*
- ★ ACR technology endorsed in U.S.
 - *ACR opportunity ... after first build US design*
- ★ ACR only viable future baseload option in Ontario
- ★ SCWR leads Gen IV Design



Canada, US
ACR

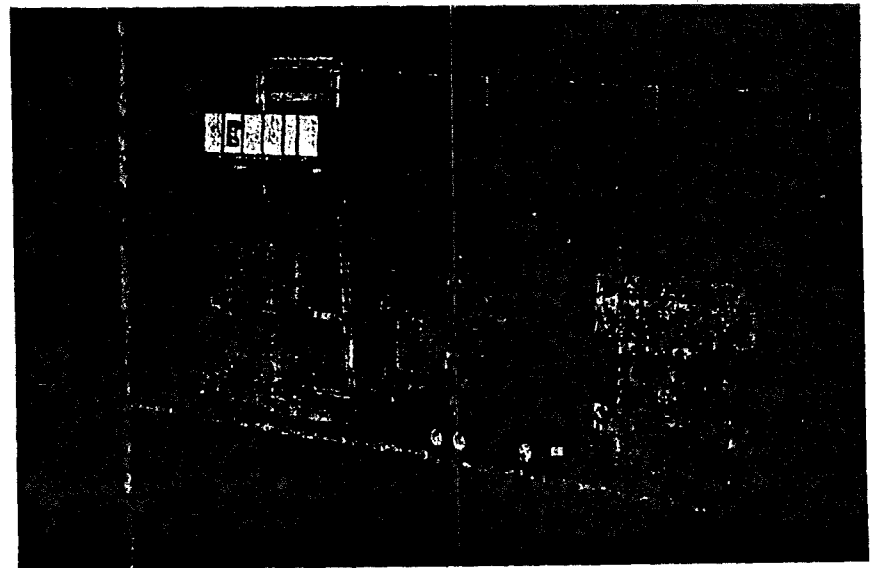


Nuclear Services Technology

- ☆ Industry success depends on operator performance
- ☆ Reactor life cycle services key to safety & reliability
- ☆ Chalk River provides unique 24/ 7 R&D support
 - *Ongoing plant performance research*
- ☆ “Smart CANDU” remotely monitors performance
- ☆ AECL technology sold to CANDU and non-CANDU customers – France, US, Japan

Waste Management Technology

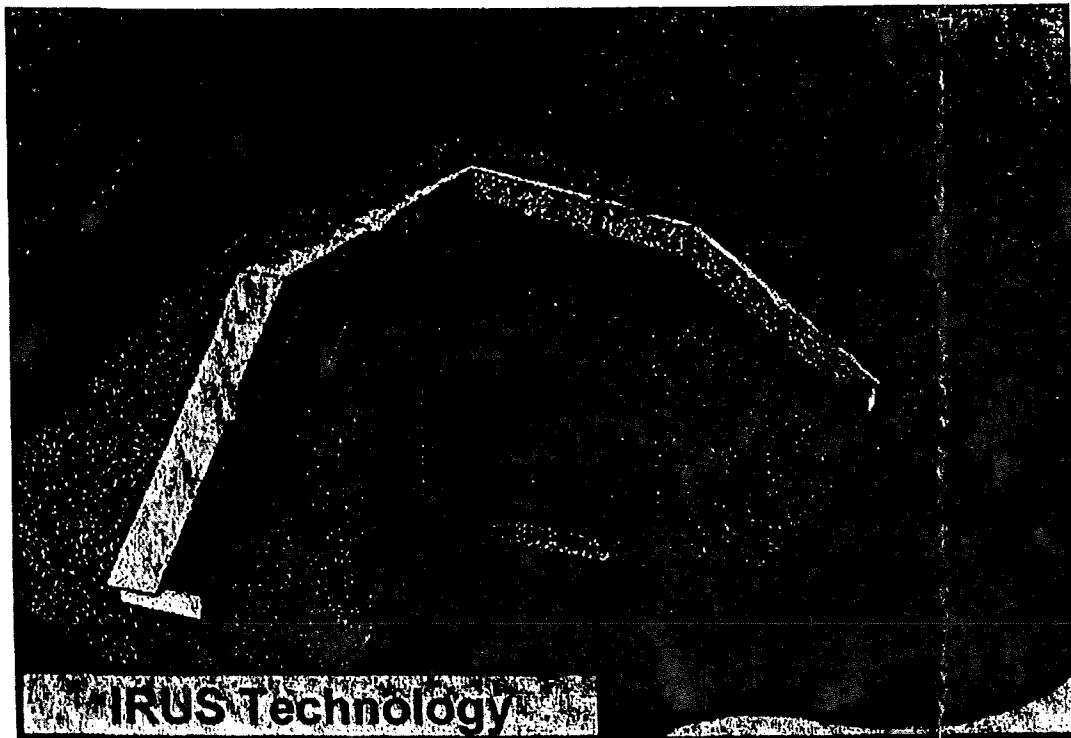
- ★ National Labs support waste technology
- ★ AECL has deep-rock disposal solution
- ★ AECL has solution now for spent fuel:
 - **MACSTOR** – *renewable, 100 yr. solution*
- ★ AECL R&D:
New waste technologies:
 - **IRUS**



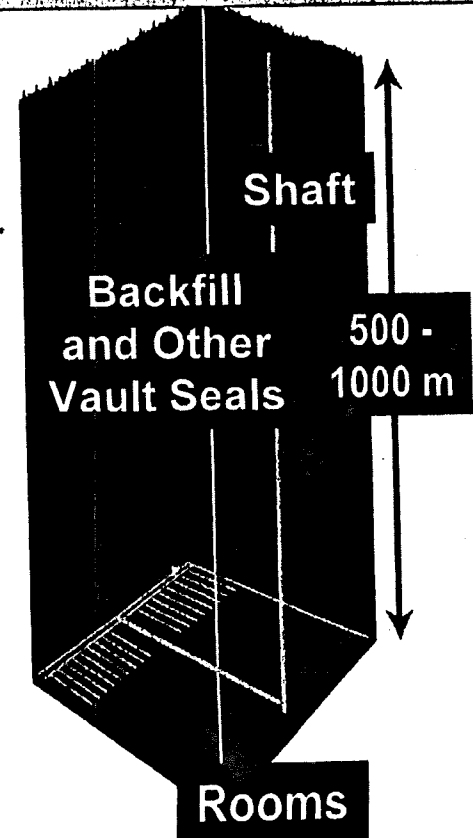
MACSTOR®

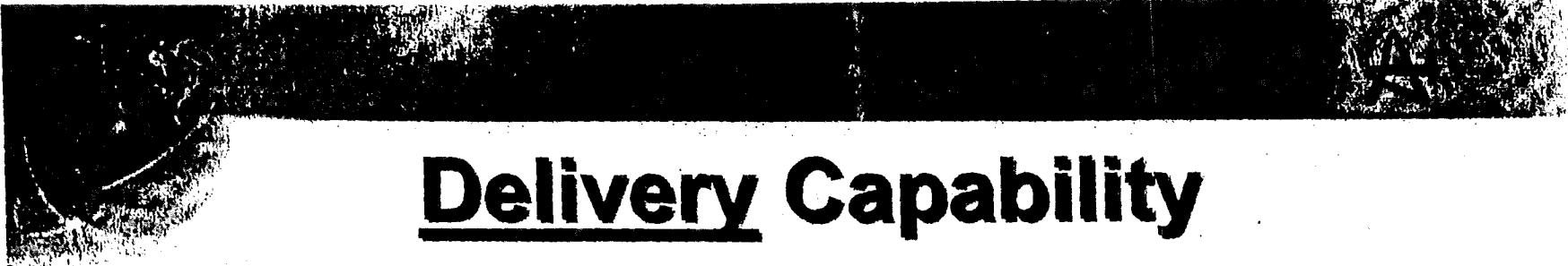
Waste Management Technology

DEEP-ROCK DISPOSAL



IRUS Technology





Delivery Capability

Improving Management / Governance

- ✓ Building on solid project mgt./ global contracting
- ✓ Strengthened Commercial disciplines: Customer focus
- ✓ Business Units: P & L
- ✓ Strengthened safety culture
- ✓ **Regulatory**: Reinforced high standards to meet / exceed
- ✓ Quality & Process Improvement
- ✓ Transparency & Accountability

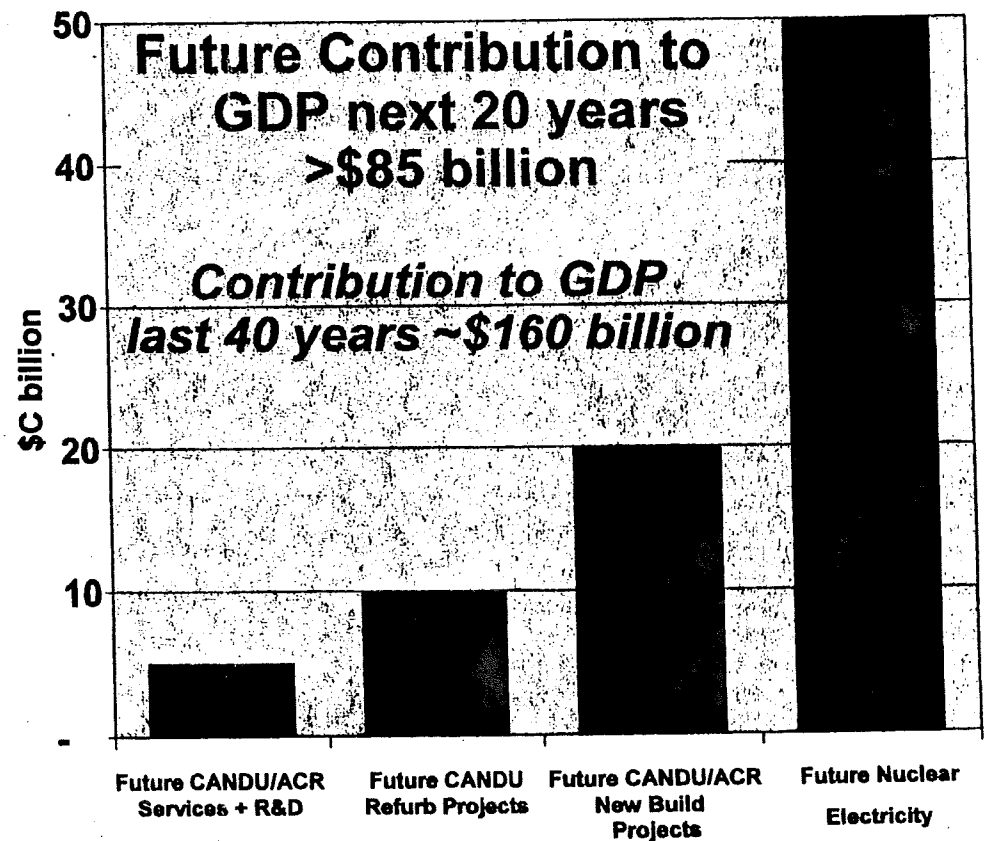
CANDU: Benefits to Canada

CANDU is Canadian:

- ✓ 30,000 jobs
- ✓ 150 companies
- ✓ \$5 billion / yr. industry

Essential to meeting Kyoto commitments:

- ✓ Clean air benefit up to
100 MT GHG/ yr.
- ✓ One ACR station will avoid
14 MT GHG/ yr.



Conclusions

- ✓ Canada is CANDU country – Federal & public support
- ✓ Must maintain investment in new build options to compete
- [✓ Government decisions supporting refurbishment and EA needed]
- ✓ Team CANDU ready to go now
- ✓ **CANDU**: Key to secure & economic power, maximizes high-tech jobs, quality of life, cleaner environment

AECT
EACL





Leading the Next Generation Technology

**Presentation to the Canadian Nuclear
Association's Annual Seminar**

***The Nuclear Renaissance -
Powering Up***

**March 10, 2005
Ottawa, Ontario**

**Robert Van Adel
President and Chief Executive Officer
Atomic Energy of Canada Limited**

Please Check Against Delivery

Slide 2 - Leading the Next Generation CANDU Technology

- We had a very interesting morning and I hope you will find the afternoon equally productive. It is a daunting task to “lead world-wide” as the advertised title of this talk suggests – so I will focus much of my remarks on Canada and especially on Ontario where AECL’s technology is indeed leading.
- A lot has been said in the past 2 years about the looming power crunch Ontario is facing ... as coal is phased out, old plants are retired and demand increases as population and the economy grows.
- Short-term measures underway to meet the looming capacity gap include renewables, conservation, refurbishing CANDUs, and incremental gas
- Many acknowledge that this will not be enough to assure adequate, reliable and competitive supply in Ontario, Canada’s economic engine – sustained growth is at stake.
- Most agree that if we are to remove coal in Ontario we will need new baseload as older plants are phased out, and the only 2 viable options are new build nuclear and perhaps in the longer term some hydro.

- To retain anywhere near nuclear's current share of the energy mix we will need to refurbish and build new plants. In the U.K. this notion of replacing shutdown plants with new build is referred to as replacing nuclear with nuclear – here in Canada, we refer to it as replacing CANDU with CANDU.
- Pollsters tell us that the majority of people in Ontario who want clean, available reliable safe and affordable electricity see new nuclear as inevitable.

[➤ If new nuclear is indeed inevitable, you have to plan for it now. Ontario has to start the approval processes now – especially the Environmental Assessment or EA for site-specific new nuclear projects – to meet the earliest in-service date of 2014.]

(insert slide 3

Shows why we think new build is inevitable)

- What we are talking about is replacing, or adding to existing nuclear capacity with new CANDUs on existing sites in supportive communities – we are not talking about greenfield sites.

[➤ We can't afford to wait, because of the perceived length of time & uncertainties of the EA process, and the potential it has to push out the date for project starts.]

Slide 4 - Advanced CANDU Technology Solutions

- Well, if the message conveys a sense of urgency about the nuclear option, then it is also valid to ask the question: Are we ready to deliver?
- What I'd like to do this afternoon is briefly update you on what we at AECL are doing to be ready to continue delivering CANDU technology to Ontario and around the world.
- To elaborate I will touch on each of the topics as listed on the slide.
- But first, let me remind you that AECL has a total life cycle approach, starting with CANDU R&D at Chalk River Laboratories, through to CANDU product design and engineering, to project management and nuclear services and waste management.
- AECL's unique capability is also supported by an integrated network of strong CANDU manufacturers, suppliers and partners – without which there would be no ability to deliver the CANDU product.
- Some have questioned the level of support of the federal government for AECL. In response, I need only refer you to Minister Efford's remarks last night in which he expressed the strongest level of support for the CANDU and AECL.
- In fact rather than give my talk, I was tempted to read Minister Efford's speech over again - it is enormously gratifying to hear that the government is behind our industry – fully supports AECL and the ACR, including a commitment to more funding.

- The federal government continues to make significant investments in CANDU technology, and they are demonstrating a strategic vision in doing so.
- Obviously, at the same time, new investments will have to be made in the infrastructure to support the technology as well, and the government acknowledges this obligation.

Slide 5 - Refurbishment Technology

- Now let's turn to the first topic : refurbishment of reactors.
- CANDU reactor refurbishment is being undertaken today as an essential interim step prior to next-generation ACR technology being project ready.
- Duncan says he would build new today if we were ready, but as a practical matter, we have to begin to fill the capacity gap with refurbishments while the EA and licensing processes are completed. This takes time, and in the interim, CANDU refurbishment makes the most sense for 2 reasons:
- It is economic and it can be done on a timely basis to ensure continued baseload supply.
- Refurbishments basically deliver a half-price new power plant – one that will operate for another 25 or 30 years and generate another 5 billion dollars or so worth of electricity – cleanly, safely, reliably. It is a good option.
- In the immediate future, we are looking forward to an announcement of the Bruce 1 & 2 refurbs, and a positive decision on the Point Lepreau refurbishment project in New Brunswick.

- This will be followed by additional refurbishments in Ontario, in Quebec, and in Korea and Argentina, where we are currently in negotiations to start refurbishment projects there.
- We are off to a good start, thanks to three large refurbished CANDUs coming back into service recently. CANDU is once again generating half of Ontario's electricity.
- So it just makes sense to get the most value out of your existing investment in CANDU while you plan new build infrastructure for the future.

Slide 6 - CANDU Refurbishment Technology

- In case you're not aware, CANDU is the only commercial reactor specifically designed to have its reactor core structures replaced. We have been investing in this capability for some time.
- Pressure tubes and calandria or 'core' tubes can be replaced following their first 30-year life span.
- And since AECL's R&D efforts have advanced fuel channel technology over time, the new tubes are even more robust. Naturally, the ACR incorporates these advances in component and material technology.
- The following animated clip shows just a hint of the hi-tech robotics, tools and technology developed by AECL to ensure a low-cost, safe and efficient re-tubing, while minimizing waste by-products.

[ROLL CLIP slide 7]

This is a simulation of the advanced tooling we are using to remove pressure tubes from the reactor core and to reduce their volume. You can see a tube being extracted from the core, tube is removed, the machine crushes a section of the tube and then cuts the section into small pieces. The whole process takes about 13 minutes. The machine is shielded and any debris is contained so that personnel can work in the area. The machine is fully prototyped and ready to go.

- As has been said before, successful refurbishment requires significant up-front investment in project planning and project management – this is critical to a smooth, on-time and on-budget refurbishment project and avoiding problems.
- An outsourced refurb requires a strong dedicated utility - a model that is key to engaging AECL and its partners on an equitable, risk-sharing basis. Bruce Power has stepped up to fill this role.
- In terms of the Pickering 1 refurbishment project, while based on a different approach, OPG has made solid progress, and we all look forward to this reactor being returned to service this Fall.
- Provincial governments, shareholder and public support – particularly by the local community – are also key drivers in making these major projects a success.
- As well, refurbishment projects enhance CANDU IP and our delivery know-how – the necessary building blocks for launching the new generation ACR from Canada..

Slide 8 - CANDU Reactor Technology

- Turning now from refurbishment to new build CANDU technologies, let me first talk a bit about the CANDU 6.
- In terms of proven reactor technology, the 6 is both a workhorse and a world beater.
- CANDU 6 reactors have been operating very successfully in Canada – in Quebec and New Brunswick, with a lifetime capacity factor of over 80%.
- The average lifetime capacity factor for the ten CANDU 6 units worldwide is 88% – one of, if not the highest performance of any class of reactor.
- Three of the top reactors worldwide last year were, in fact, CANDU 6 reactors designed and built by Team CANDU.
- CANDU 6 technology has evolved, as evidenced by the recently completed Qinshan project, where new construction and modular techniques were successfully deployed. Off this huge success, China is considering 2 more 6 units to replicate the Qinshan project as a step towards an ACR 1000 program.
- Last January, Prime Minister Martin opened the door even further in China to CANDU ACR 1000 technology with the signing of the Canada-China Energy Statement, supported by the CANDU (MOU) on next generation Nuclear Energy Cooperation between AECL and key Chinese government agencies.

- We are also completing the second CANDU 6 in Romania, and we will likely be starting Unit 3 in the near future.
- CANDU 6 is also an immediate and attractive potential capacity solution for Ontario.
- It's cheaper than gas and alternatives, and can be built in Canada in even shorter time than we did in China.
- In fact, the people in this room know how to deliver CANDU 6 power plants on time and on budget – and they have proved it by delivering six reactor projects in three countries over the past ten years
- Very simply, CANDU 6 offers Ontario certainty on price, schedule and risk – and could serve as a strategic bridge between the refurbished CANDU fleet, and the deployment of the ACR. Some have mentioned CANDU 9 series.
- But let's talk more about this future approach – launching the Advanced CANDU Reactor. The ACR takes the best features of CANDU 6 and improves upon them – reducing capital cost, construction time, footprint and waste, while simplifying design and construction via modularity.

Slide 9 - Advanced CANDU Reactor Technology

- The ACR 1000 has superior economics and is fully competitive against other reactor designs, and it will be one of the first Gen 3 PLUS reactor in the world to be project ready within the timeframe for new build commitments.
- ACR 1000 can be project ready for utility customers by 2008 – assuming a reasonable EA and licensing process
- We are well into the licensing process for the ACR in both Canada and the US, and after two years of pre-licensing work no show-stoppers have been identified by either licensing authority.
- With respect to our marketing efforts in the US, obviously we were disappointed that Dominion did not continue with its proposal to the US Department of Energy. However, we do understand the reality that the first reactor built in America will now be US technology. Perhaps we were too successful in being out front as the most likely first build project.
- But AECL and Hitachi are still active in the US. This is because the US market, like China, is big enough to support more than one reactor technology. We are also encouraged by the fact that the ACR has been well received by the US regulator, and endorsed by the US DoE for technology and superior economics.

- But when it comes to smaller nuclear markets, such as Canada, France and Japan, where considerable public investment has been made in a single domestic reactor technology, there is less potential for more than one technology. It's just not practical for small markets.
- Looking farther down the road, beyond ACR, the future of Canadian nuclear energy technology is very promising. The CANDU-based Super Critical Water Reactor is one of two leading international contenders for deploying Generation IV technology. And, as you heard the Minister say last night, Canada has signed an international treaty to support the SCWR.

Slide 10 - Nuclear Services Technology

- In support of our current and future CANDU Utility Owners, we are making investments as the vendor in order to deliver essential reactor support services in a more integrated way, with partners such as SNC-Lavalin, B&W and NNC.
- We are getting ready to deliver new and more services to meet the growing needs of the refurbished CANDU base, as well as those of the expanding fleet of new builds.
- We want to leverage for the benefit of all customers, our international services model where we have long-term, preferred supplier relationships.
- If the supply chain knows it has a key long-term role to play in the services business, they will continue to make investments in resources and supporting technology.
- The role of vendor based services, with any piece of sophisticated machinery, be it an aircraft or a CANDU reactor, is to contribute to the maintenance and life cycle support of the product to sustained high performance.
- CANDU customers give us high marks for our emergency support capabilities, and the fact that our Lab scientists and design engineers will work 24/7 to address a technical or operating problem until it is resolved.

- We have also developed new technologies to stay ahead of the maintenance curve, whether retro-fitted into existing units, or designed into ACR and Gen IV.
 - For example, we have developed sophisticated technology, to monitor plant water chemistry or component performance for multiple reactor sites from a central location using world experts.
- Regarding spin-offs of our services R&D, I'm pleased to tell you that AECL has been successfully selling its technology beyond the CANDU fleet.
 - For example, our reactor safety technology has been back-fitted into reactors in France, the US, Switzerland and Finland. (Pump, Emergency Core Cooling Strainers, Passive Hydrogen recombiners.)

Slide 11 - Leading Waste Management Technology

- To enable an expanding nuclear power option, we must also address its "fellow traveler" the successful management of the waste aspects, and we haven't been standing still here either, we have been investing in the deployment of a full suite of low, medium and high-level waste management technologies and services.
- AECL has considerable expertise in this area, since we have been safely managing Canada's legacy wastes since the 1940s.
- In our view, waste should not be seen as impediment to expansion of the nuclear option.
- As you know, the federal government invested about \$900M over 25 years to prove up deep underground disposal at AECL's underground labs in Manitoba.
- Later this year, we will know if the Nuclear Waste Management Organization recommends permanent underground disposal, or a combination of waste management options for Canada.
- Recently, OPG broke the ice with its announcement of the planned low and medium level facility at the Bruce site.

- For its part, AECL has successfully delivered another possible solution to long-term spent fuel called MACSTOR – an above-ground, modular, air-cooled, dry-storage system, which is proven technology – renewable indefinitely.

(insert slide 12)

- In addition we have developed new technologies to manage Canada's legacy waste starting with our Chalk River facilities.
- For example, IRUS (Intrusion Resistant Underground Structure) is designed for permanent passive disposal of wastes with an active lifetime of up to 500 years. IRUS will also have active monitoring, but will work even without human intervention.

Slide 13 - Delivery Capability

- The story wouldn't be complete if we didn't talk about AECL readiness as an organization to deliver.
- First let me say that AECL has the mandate and expertise to structure deals as required – to participate in whatever commercial structure is needed and we can leverage our strength to encourage private sector partners to optimize pricing and risk sharing, as well as to capitalize on our partners' contracting and project management skills.
- At the same time we are learning from our partners and customers to be more focused on their needs and it is starting to pay off in terms of higher customer satisfaction, better quality & timeliness.
- In terms of corporate governance, we are pleased that the recent Treasury Board report on Crown governance puts AECL at the top in basically all categories.
- We have restructured AECL into Business Units on a P&L basis – to be more commercial, and transparent to our shareholder and the public.

- We have been listening to the Regulator, (especially over the past several weeks) and we are improving our internal processes to not just meet regulatory requirements, but to lead with a higher standard that becomes a way of life in our company.
- We agree 100% with the Regulator's philosophy on this very important point – that we set a high standard, and the CNSC ensures that it is met.
- To further emphasize this thrust I have recently announced the addition of key resources including the creation of a new position of Chief Regulatory Officer to integrate and improve our safety culture and regulatory process, and to accelerate the process of change.
- AECL today is very different – more accountable, flexible and responsive to its customers and the Regulator, as well as its shareholder, the Government of Canada.

Slide 14 - CANDU: Benefits to Canada

- If things unfold as we hope, with CANDU refurbishments and new build, the benefits to Canada are enormous.
- Our industry today already has a \$5 to \$6 Billion a year economic impact, with 30,000 highly skilled workers in about 150 companies.
- In the past four decades, the value to Canada from the CANDU industry has amounted to an impressive \$160B -- \$100B of that is the value of electricity generated, while the other \$60B was generated by a number of things including CANDU builds at home and abroad, R&D, uranium and nuclear medicine exports, refurbishments, CANDU equipment & components, products & services.
- In the next two decades, assuming reasonable domestic and export sales, the contribution of the CANDU industry to Canada via domestic and export business is estimated to be about \$85B, an amount of benefit no other technology can offer our country.
- In terms of Kyoto, without CANDU, Canada's greenhouse gas emissions would jump 20% overnight.
- 100 million tonnes of harmful emissions can be avoided annually by the CANDU fleet in Canada alone.
- A twin ACR will avoid up to 14 million tonnes of air pollutants every year and should be eligible for clean energy credits.

- The recent federal Budget, with its funds to promote emissions free technology, should be a boost to launching new ACRs as both major energy and environmental solutions for Canada.

Slide 15 – ConclusionsIn light of these benefits and the readiness of our industry to deliver, it is my firm believe that Canada will remain CANDU country.

- Other vendors may offer one-off localization projects – but no follow-on benefit, such as exporting a new global reactor from Canada and sustaining the strategic domestic industry.
- We Canadians have the technology and the capability to expand our proven CANDU option in Ontario and elsewhere – the benefits are clear and compelling
- But to keep the new build option open given the long lead times for approving any project today, we must start the approvals process now. Even in advance of a final decision by the Ontario government that it is willing to support a new build program.
- Regarding a site-specific EA, the nuclear industry and its many supportive stakeholders can make a convincing public case for new build CANDU. Starting the EA now is simply an insurance policy to ensure the lights stay on during the next decade.
- Team CANDU is ready to go now.

Smith, John [CEAA]

From: Smith, John [CEAA]
Sent: May 6, 2005 5:24 PM
To: Vachon, Al [CEAA]
Subject: RE: Speaking points

Yes, please discuss.

-----Original Message-----

From: Vachon, Al [CEAA]
Sent: May 6, 2005 4:41 PM
To: Smith, John [CEAA]
Subject: RE: Speaking points

s.21(1)(b)

John -

I'm happy to discuss this further at your convenience. Al

-----Original Message-----

From: Smith, John [CEAA]
Sent: May 5, 2005 6:25 PM
To: Vachon, Al [CEAA]
Subject: Re: Speaking points

Can you check re the point about aecl's concerns. I think theyu have moved beyond exemption of commercial activities. Hopefully there are note or minuted of the most recent meetings. If not let's discuss.
<sent by John Smith from remote>

-----Original Message-----

From: Vachon, Al [CEAA] <Al.Vachon@ceaa-acee.gc.ca>
To: Smith, John [CEAA] <John.Smith@ceaa-acee.gc.ca>
Sent: Thu May 05 12:15:42 2005
Subject: Speaking points

s.21(1)(b)

John, below are a couple of speaking points relating to AECL to be included in your meeting with

Please let me know if you require anything further on this. Al

* PCO and NRCan participated in discussions in November 2004. NRCan has participated in two subsequent meetings.

s.21(1)(b)

* <<Letter to Allan Hawryluk re deliverables.doc>>

Al Vachon

Policy Advisor / Conseiller en politiques

Legislative and Regulatory Affairs / Affaires législatives et réglementaires Canadian

Environmental Assessment Agency / Agence canadienne d'évaluation environnementale 160

Elgin Street, 22nd Floor, Ottawa ON K1A 0H3 160 rue Elgin, 22e étage, Ottawa ON K1A 0H3

Al.Vachon@ceaa-acee.gc.ca <mailto:Natercia.Quintanilha@ceaa-acee.gc.ca> a

613-957-0663 | facsimile / télécopieur 613-948-1354 www.ceaa-acee.gc.ca

<<Picture (Metafile)>>

Smith,John [CEAA]

From: Vachon,AI [CEAA]
Sent: May 9, 2005 12:30 PM
To: Smith,John [CEAA]
Subject: RE: AECL contact info

John - further to the question of Michael Taylor's meeting request, I heard back from Greg Sayer. He has again raised the issue with Allan Hawryluk. They remain uncertain as to the purpose of the meeting, but suggest that it is not connected with ongoing discussions between the Agency and AECL. He also indicated that they are still collecting the outstanding materials and we should expect at least a couple of more weeks of waiting - which I think has been the line for several months now.

AI

-----Original Message-----

From: Smith,John [CEAA]
Sent: April 26, 2005 5:58 PM
To: Sherhols,Peter [CEAA]
Cc: Vachon,AI [CEAA]
Subject: FW: AECL contact info

FYI re: AECL, in case you want to call Allan. Greg Sayer was going to try and find out more and get back to us.

-----Original Message-----

From: Vachon,AI [CEAA]
Sent: April 26, 2005 5:42 PM
To: Smith,John [CEAA]
Subject: AECL contact info

John - In conversation with Greg Sayer today, Greg suggested that Michael Taylor's meeting request with the president might be separate from on-going CEAA-AECL negotiations. Further, he noted that he had been discussing this file with Allan Hawryluk the other day, and that Allan had made no mention of this meeting request. Greg indicated he will let me know when he finds out more about the purpose of the meeting. Here is the contact information for Allan Hawryluk.

Mr. Allan Hawryluk
Vice President
General Counsel and Corporate Secretary
Atomic Energy of Canada Limited
2251 Speakman Drive
Mississauga ON L5K 1B2

905-823-9060 x5154
hawryluka@aecl.ca

Al Vachon

Policy Advisor / Conseiller en politiques
Legislative and Regulatory Affairs / Affaires législatives et réglementaires
Canadian Environmental Assessment Agency / Agence canadienne
d'évaluation environnementale 160 Elgin Street, 22nd Floor, Ottawa ON K1A 0H3
160 rue Elgin, 22^e étage, Ottawa ON K1A 0H3 Al.Vachon@ceaa-acee.gc.ca
613-957-0663 | facsimile / télécopieur 613-948-1354 www.ceaa-acee.gc.ca

<< OLE Object: Picture (Metafile) >>

Smith,John [CEAA]

From: Smith,John [CEAA]
Sent: May 10, 2005 12:05 PM
To: Vachon,AI [CEAA]; Chan,Jim [CEAA]
Subject: FW: AECL: Judy Tam

Can we get as much documentation on this as possible; this is exactly the case we have been discussing with them.

-----Original Message-----

From: Jolicoeur,Suzanne [CEAA]
Sent: May 10, 2005 11:58 AM
To: Smith,John [CEAA]
Subject: FW: AECL: Judy Tam

Fyi

Suzanne Jolicoeur | (613) 957-0526 | <<mailto:Suzanne.Jolicoeur@ceaa.gc.ca>> télécopieur | facsimile (613) 957-0897
Agence canadienne d'évaluation environnementale | 160, rue Elgin, 22^e étage, Ottawa, Ontario K1A 0H3
Canadian Environmental Assessment Agency | 160 Elgin Street, 22nd floor, Ottawa, Ontario K1A 0H3
Gouvernement du Canada | Government of Canada

-----Original Message-----

From: Chan,Jim [CEAA]
Sent: May 10, 2005 11:55 AM
To: Vachon,AI [CEAA]; Johnson,Wayne [CEAA]; Jolicoeur,Suzanne [CEAA]; Bercier,Diane [CEAA]; Devin,Sarah [CEAA]
Subject: AECL: Judy Tam

Hi,

In talking with Louise Knox today, she asked if we were working with Judy Tam at AECL. I subsequently mentioned that she and AECL is visiting this week and she provided some more information on Judy's background.

Judy Tam at AECL has lots of experience with EA. In fact, Judy used to be a valuable contributing member of the regional Ontario REAC committee.

At the time during REAC, the provincial Ontario Ministry of Environment suggested that AECL's activities maybe closely related to project proponenty and would have to do a provincial EA. AECL argued that no, the project proponent would be Ontario Power Generation and AECL is the contract vendor strictly. AECL was deemed correct at the time and subsequently it was decided that AECL not continue their participation in the REACs because they did not have EA legislative obligations.

Jim Chan

Policy Analyst

Legislative and Regulatory Affairs | Affaires législatives et réglementaires

613-957-0677 | facsimile / télécopieur (613) 957-0897

<mailto:jim.chan@ceaa.gc.ca>

Canadian Environmental Assessment Agency
160 Elgin Street, 22nd floor, Ottawa ON K1A 0H3
Agence canadienne d'évaluation environnementale
160, rue Elgin, 22^e étage, Ottawa (Ontario) K1A 0H3
Government of Canada | Gouvernement du Canada

Atomic Energy of Canada Limited
Summary of Working Meeting

Meeting location:	Agency offices, Ottawa
Meeting date:	May 13, 2005, 1:30 p.m. – 3:30pm
Present from Crown:	Judy Tamm , Sr Env Assessment Analyst – at HQ Martin Klukas, Sr. Env Assessment Analyst – at Chalk River research facility Mary ? - IT technician
Present from CEAA:	Jim Chan – Crown corporation unit, L&RA Wayne Johnson – Training and Guidance Suzanne Jolicoeur - Registry Diane Bercier – Registry
Main message:	Questions posed by Judy and Martin (AECL) reflected a strong knowledge of the practice of EA and elements of the Act from a practitioners standpoint. If AECL was under the Act, this session provided an opportunity to see how information is posted onto the Registry internet site and clarify the requirements in the Project file. Overall, the session was positive and constructive. Majority of the time was spent on understanding the Registry requirements. However, it was clear that the Agency does not have enough information on the nature of AECL's activities to respond with certainty to their questions on what constitutes a project and when they trigger. The Agency has requested and is waiting documents to understand AECL's concerns and activity. At the moment, it is difficult to understand/ comment on triggers when information is not sufficient and scenarios presented by AECL are hypothetical which may never occur or AECL does not have the authority.

Background:

Judy Tamm (AECL) requested a meeting to learn about the requirements of the CEAR Registry. Discussions to date with AECL have been with AECL lawyers and not Judy. However, it is possible that she has been involved behind the scenes. In discussion with Louise Knox, we learned that Judy Tamm used to be a valuable contributing member of the regional Ontario REAC committee.

At the time during REAC, the provincial Ontario Ministry of Environment suggested that AECL's activities maybe closely related to project proponentcy and would have to do a provincial EA. AECL argued that no, the project proponent would be Ontario Power Generation and AECL is the contract vendor strictly. AECL was deemed correct at the time and subsequently it was

decided that AECL not continue their participation in the REACs because they did not have EA legislative obligations.

Meeting May 13th, 2005

Part 1: Wayne Johnson provided an overview of the Registry requirements in the Act

Part 2: Suzanne provided a Registry training session, including how to create a document, posting of documents, etc.

ATIP provisions do not apply to several government institutions, including AECL, Via Rail, NAC, CBC, EDC, CPC, PSPIB.

However, Registry section 55.5(3) clearly explains that the ATIP provisions apply to Crown corporations. This means that documents in the Project file should be already screened for confidentiality, privacy act info, and sensitive information.

Judy - What is in the Project file of the registry?

Martin - Are engineering reports (500 page technical) part of the Project file?

Response: All documents that are considered "records" pertinent to the EA. Documents should be physically available in hard-copy format. A document list was suggested for the Project file. This list could serve to

Judy - Can the Agency have access to the Project file?

Response: Based on self-assessment, the RA provides input to the online Registry site and the Agency maintains the physical Project file. No, the Agency does not normally ask to see the contents of the Project file. However, with the newly created QA Program, there may be situations in the future where the Agency requests documents and follow-up material.

Can the RA delegate the Project file to a proponent?

Response: The RA can delegate the conduct and preparation of an EA report but, still has to make a decision. Not sure if registry requirements can be delegated? Most likely probably, however, the RA would have to still maintain sufficient control and oversight because regardless of delegation authority in the Act, it is still the responsibility of the RA.

Judy - What happens if the public wants information from the Project file and AECL can not provide it in a timely fashion. Does the Agency audit this?

Response: No, auditing is done by the Agency as it is a self-assessment process. The purpose of the Registry is to provide convenient public access. Most RAs should not have difficulty in providing requests within 2 weeks. ATIP is normally a 30day process. The Agency does have a QA program which may seek documents from RAs.

Judy – Should we be concerned about patent and design documents in Project file.
Response:

Martin – If AECL becomes an RA like CNSC, can AECL have more clout to determine the scope of the EA? The current situation is such that CNSC determines the scope of the EA.

Judy – How long does the EA remain open with a long follow-up program even if it lasts 50 years?

Response: RA can determine whether a follow-up program, if any, is appropriate under a screening. The Act says that the EA remains open until the end of the follow-up program. In practice, few RAs undertake a follow-up program as defined under the Act. AECL currently does monitoring and evaluation programs as part of their risk management and safety which last 50 years. Jim responded that “follow-up” programs as defined in the EA maybe have a different meaning than a M&E program as part of a larger ISO 9000 program.

At the end of the Registry presentation, Judy asked several questions relating to when they trigger.

s.21(1)(b)

s.21(1)(c)

Is the Act triggered when we build a mock training control room (for Qinshan, China facility) at Mississauga facilities?

Response: It depends on the details of the project.

Is a project at AECL triggered by federal land?

Financial assistance: Wayne commented that the application of the Act is not black or white. It is important to understand the details. The financial assistance can be in “any form of financial assistance” to enable in whole, or in part. Training can be viewed as financial assistance if training is in lieu of \$, to enable a project. General training is not considered financial assistance.

What does EA consolidation mean?

Response: While it is a government priority as stated in the Speech from the Throne, we do not know what form and when consolidation will happen.

[REDACTED]

[REDACTED]

Tsui, Kathy [CEAA]

From: Vachon,Al [CEAA]
Sent: December 22, 2005 3:16 PM
To: Tsui,Kathy [CEAA]
Subject: FW: REAC membership AECL

-----Original Message-----

From: Smith,John [CEAA]
Sent: May 16, 2005 2:32 PM
To: Chan,Jim [CEAA]
Cc: Vachon,Al [CEAA]
Subject: RE: REAC membership AECL

Thanks. This is useful - may not be the final point in a discussion, but it helps solidify and reinforce our understanding.

-----Original Message-----

From: Chan,Jim [CEAA]
Sent: May 16, 2005 2:24 PM
To: Smith,John [CEAA]
Subject: FW: REAC membership AECL

-----Original Message-----

From: Knox,Louise2 [CEAA]
Sent: May 16, 2005 1:34 PM
To: Chan,Jim [CEAA]
Subject: FW: REAC membership AECL

-Jim--this should clarify our thinking when we were deciding whether AECL should continue on REAC in Ontario. Essentially, our terms of reference call for members to be entities which have responsibility for ensuring EAs are carried out under either federal or provincial legislation and AECL was not such an entity. -----Original Message-----

From: Knox, Louise [CEAA]
Sent: April 8, 2002 5:20 PM
To: Burgess,Steve [CEAA]
Subject: FW: REAC membership

FYI, Judy's not making this easy for me, see below...

Louise.Knox@ceaa.gc.ca
Regional Director - Ontario
CEAA
(416) 952-1575

-----Original Message-----

From: Tamm, Judy
Sent: April 8, 2002 4:45 PM
To: Knox, Louise [CEAA]
Subject: RE: REAC membership

Hi, Louise,

To respond to your questions:

(1) Not really. AECL has not built a nuclear power plant in Canada - they work with the utilities, such as OPG, Bruce Energy, New Brunswick Power, Hydro Quebec. These utilities have hired/would hire AECL to provide the design of specific components of a nuclear power plant. The utility would be the project manager/owner of the plant and therefore would be responsible for its licensing. The utility would also, probably, sub-contract the construction effort. (AECL's experience is in project managing the construction of internationally-based NPPs.) It is the utility that makes the decision as to what type of power to purchase.

(2) No. Presently under the CEA Act (and, I believe, even under the proposed Bill), the classification of crown corporations to which AECL belongs, has no legal requirement to perform EAs.

Hope this assists your discussions.

Judy Tamm
Environmental Studies
AECL-Sheridan Park
2251 Speakman Drive
Mississauga, ON L5K 1B2
Tel: 905-823-9040, Ext. 4197
Fax: 905-823-0416
tammj@aecl.ca

-----Original Message-----

From: Knox, Louise [CEAA]
Sent: Thursday April 04, 2002 2:22 PM
To: Tamm, Judy: AECL
Subject: REAC membership

Thanks very much for correcting my mis-understanding about AECL and power generation Judy. I'm embarrassed by my ignorance!

Before I circulate the info to the members of the fed/prov committee, maybe there are a few other questions I should ask about your business.

(1) would companies proposing to design, engineer and possibly license and construct non-nuclear power generation facilities see you as competitors?

(2) are you ever in the position of having legal responsibilities to carry out an environmental assessment?

These I think will be the key considerations for us. Glad we have talked about this and I look forward to further discussion.

Louise.Knox@ceaa.gc.ca
Regional Director - Ontario
CEAA
(416) 952-1575

Bill C-9

An Act to amend the Canadian Environmental Assessment Act
37th PARLIAMENT, 2nd SESSION
Standing Committee on Environment and Sustainable Development

Location:

<http://www.parl.gc.ca/LEGISINFO/index.asp?Lang=E&Chamber=C&StartList=2&EndList=200&Session=11&Type=0&Scope=1&query=3142&List=stat>

Question:

Locate mention of AECL in C-9 Committee deliberations.

Main findings in Committee minutes related to AECL:

- All federal authorities covered under the Act with no distinguishment between projects inside or outside of Canada
- 8(3) – precedence of licensing FA over Crown corporation.
- Note requesting update to standing committee every six months (Dec 11th, 2002)

Committee Minutes:

Thursday, November 7, 2002

Mr. Alan Tonks (York South—Weston, Lib.): Mr. Chairman, in addition to the explanations that have been made by the parliamentary secretary, I wonder if I could direct a question to staff.

It seems to be a very compelling argument that there are not two laws for different entities, and the public generally has a right to demand that this principle prevails. So if there is a compelling reason, what would it be, from a staff position, with respect to treating crown corporations differently under the Environmental Assessment Act?

I'm looking for some illustrations of urgency and relevant public interest that would be served in order to guide myself and the committee, I would think.

2 (0935)

Mr. Robert Connelly: Thank you, Mr. Tonks.

Perhaps I might explain how crown corporations are treated at the present time under the act and what is proposed in Bill C-9. At the present time, provision is made under the act to bring crown corporations under the act through regulation.

Some crowns are brought under the act as a proponent in some instances because of some other federal regulatory trigger. For example, ~~Atomic Energy of Canada Limited~~ must get a licence to do most of the things they might do within Canada from the Canadian Nuclear Safety Commission, and that will trigger the act. So in some instances they are brought in as a proponent, similar to a proponent in the private sector. So that is, by way of example, how the act functions at the present time.

They are not considered, though, as a federal authority under the act. They are brought in, in some instances, as a proponent much like the private sector is. So that's the first point.

In terms of Bill C-9, what is proposed is some modification to allow a greater variation of the development of regulations so that we can overcome a bit of a problem that has plagued us in the past, which is the notion of one size fits all. In other words, there have been concerns that a regulation perhaps ought to be tailored a little more to fit the unique circumstances of the crowns, and that is a modification that exists in Bill C-9.

I think those are the main points I'd like to raise, Mr. Chairman.

Mrs. Karen Kraft Sloan: Yes, Mr. Chair.

I also wanted to point out to the members that I believe after seven years of the legislation we maybe only have one set of regs for a crown corporation. It does cause some concern that there isn't universal application of environmental assessment for different types of federal organizations or entities. I think it's important to bring crown corporations under the federal Environmental Assessment Act.

One has to have a further examination of the crown core list when we look at ~~Atomic Energy of Canada~~, the Business Development Bank of Canada, the Canada Lands Company, Canada Mortgage and Housing, and the Export Development Corporation.... There was some concern as to whether they were covered because of a different act of Parliament, but there are some significant crowns that are not given the same universal application of treatment. So I would encourage members to support this motion.

Thursday, December 5, 2002

Mr. Gary Lunn: Thank you, Mr. Chair.

I moved this motion yesterday, and I'll just repeat my comments very briefly. The intent is to allow for variance of requirements for projects located outside Canada based on unique circumstances. We want to make sure we remove the ability to create different regulatory regimes for crown corporations inside Canada. We don't see any reason, just because they're crown corporations, that they should be able to have separate regulatory regimes while they're inside Canada. We understand the necessity for projects outside Canada, but with the ones inside, we do not believe there should be a separate regulatory regime.

Mr. Joe Comartin (Windsor—St. Clair, NDP): Mr. Chair, I have a question, and I guess it would be to Mr. Connelly. There is reference to crown projects in foreign lands, and I don't think it's clear—at least it's not clear to me—which projects would be involved. Perhaps we could get some indication of where they see this being applicable

Mr. Robert Connelly: Okay.

I'm not an expert on the work of all the crown corporations, but there are a few that have some projects that might be involved outside Canada. One that comes to mind would be the ~~Canadian Commercial Corporation~~. I think I explained on the day the amendment of the term federal authority was changed that I thought EDC would still be excluded, because of a previous change to their act. That seems to be incorrect, and I did want an opportunity to clarify that, so I'll take that opportunity here. The change to the definition of federal authority as it exists right now would also include EDC. There's a potential that other current crown corporations that deal with projects outside Canada could be affected by this too. Those are two that come to mind.

Mr. Julian Reed (Halton, Lib.): For clarification, would this involve things like CIDA projects, ~~nuclear projects~~ in other countries, and so on?

Mr. Robert Connelly: CIDA projects are already covered under the current act, because they have always been considered a federal authority. With the change to the definition of federal authority made earlier by this committee, the implication would be to bring all crown corporations under the act. That would mean that any time there is a project outside Canada and that crown corporation has an involvement, either as a proponent or as a funder, they would potentially be subject to the act as well.

Mr. Joe Comartin: I wanted to follow up, because this is one of the ones that bothered me. Does it apply to military sites in other lands? We've had a couple of incidents in the last few years of potential toxic sites. Would it apply to that type of situation?

Mr. Robert Connelly: It does apply to National Defence activities, except where it is determined that there is an emergency because of a war. There is that broad exclusion in the act. Another department that potentially has some projects abroad would be Veterans Affairs, with some of the monuments and cemeteries outside Canada. Those are examples of federal authorities that do or could have projects outside Canada that would be subject to this act.

Wednesday, December 11, 2002.

Mr. Robert Connelly: To turn to G-4.1, the primary function of this section is to retain the ability to create future regulations, if need be, for wholly owned subsidiaries of crown corporations. **Proposed subsection 8.2 is to address potential conflicting decision-making responsibilities. This ensures that the federal department is triggered, because of its role as a regulator, and is fully responsible for the assessment, rather than a crown corporation, if it is also a proponent for the same project. An example of that might be Atomic Energy of Canada Limited,** which is regulated by the Canadian Nuclear Safety Commission. We would prefer that the process to be used would be that under the act with the regulatory body, rather than any process that would be used by the crown corporation here.

Mr. John Herron: My question is for the officials. The amendment is not on the table, we're not discussing entirely the amendment, but our concern is about accountability and improving that aspect of it with respect to crown corporations. That's why we want the crown to play by the rest of the rules as the other folks do. But given that cabinet thinks that's a pretty tough thing to do, and if you've got three years to set up the regulations on that.... The government sat on Kyoto for five years before they really engaged in earnest this spring. ~~So I would like to hear a commitment from Mr. Connelly that he'd be amenable to coming before this committee or tabling something in writing once every six months on how the crown and their subs are progressing,~~ so that we don't get into a Kyoto situation, don't have this done at the thirty-fourth month, aren't rallying to try to get this done in the last few months. I would like to have a commitment from the agency for a progress report that those regulations are coming into effect, so we don't have a year or two on the process. If that's the case, maybe Gary and I could have a chat, but it might be better to do that at a different time.

Mr. Gary Lunn: I'm not so sure if I have a question or more of a statement, Mr. Chair, but here goes.

First, with G-1a, it's well known that yesterday this committee, all members on all sides, passed CA-22 and brought all crown corporations operating inside Canada within the act. ~~Crown corporations operating outside Canada~~ would continue to be exempt from the act, but this one made crown corporations accountable like any other corporation. This committee decided that they shouldn't have any different rules, just like anybody else. Of course, that's just the accord. It went all the way up to the PMO. We're told by numerous people that it went to cabinet and they're going to resolve it.

So what has the result been? I'm putting it on the record that they're now going through the back door because they can't deal with the clause where CA-22 was. Obviously, there'd be a line conflict, so they're changing the definition of a federal authority. They're exempting the Export Development Corporation, the Canada Pension Plan Investment Board, and any crown corporation that is a wholly owned subsidiary, Mr. Chairman. So I'll acknowledge that they snookered us on this one. This is not about a democracy, this is not about a committee that's going to operate. Obviously, the department is taking its orders from somewhere—with no disrespect to any of the people here—and they're coming back and they're going to undo what that amendment passed.

So I find it absolutely unbelievable that they're actually looking for our cooperation on other matters, when we have played fair ball on this bill all the way through. They will go to any lengths to get what they want and have absolutely no respect for democracy or what this committee has passed previously.

Thank you.

Mr. Robert Connelly: CA-22, Mr. Lunn, is not affected. Your motion is not changed.

Mr. Gary Lunn: My motion deals with federal authorities, and you're changing the definition of federal authorities.

Mr. Robert Connelly: Your motion dealt with the issue of crown corporations and the whole issue of variance with projects outside Canada environmental

assessment regulations, and that was accepted by the government with a friendly amendment.

Mr. Gary Lunn: The intent, though, was that the crown corporations operating inside Canada would be under the act.

Mr. Robert Connelly: Mr. Lunn, that's not what your motion does. Madam Kraft Sloan's motion brought all crowns fully under the act. CA-22 would not accomplish that.

Mr. Gary Lunn: I accept that.

Mr. Robert Connelly: I just want to clarify that Madam Kraft Sloan's amendment to the definition of federal authority would mean all crowns are covered under CEAA with no variance. They have to apply all the requirements of the Canadian Environmental Assessment Act, including all the registry requirements. The difference between that and the government motion is that we have the possibility of varying that requirement. They'll all come under the act, but we have the possibility of varying some of the requirements for those that, I think, need that variance in order to operate.

Mr. Gary Lunn: But they don't come under the act. Any crown corporation under this legislation has the ability to write its own regulations within three years.

Mr. Robert Connelly: Let me clarify that also, Mr. Lunn. These regulations are developed by the Minister of Environment and approved through a special committee council. As I said earlier, if the committee finds it appropriate for us to report on progress with that, we would certainly be pleased to do so.

Mr. Gary Lunn: Is it not true that the Canadian Environmental Assessment Act can then develop a specific regulatory regime for any crown corporation operating inside Canada, as long as it's done within three years? Is that true?

**Atomic Energy of Canada Limited
Summary of Working Meeting**

Meeting location:	Agency offices, Ottawa
Meeting date:	June 10 th , 2005
Present from Crown:	Michael Taylor, VP, Doug Christensen, GM External relations
Present from CEAA:	Jean-Claude Bouchard

Main message: Meeting cancelled by AECL, postponed til July, 2005

Jean Claude Bouchard called AECL the day of the meeting to delay it by half an hour. During the call, AECL's Michael Taylor suggested instead that the meeting be postpone to July because they had other urgent matters to attend.

The Record (Kitchener, Cambridge and Waterloo)

DATE:	2005.06.30
EDITION:	Final
SECTION:	LOCAL
PAGE:	B4
BYLINE:	PAT HALPIN
SOURCE:	RECORD CORRESPONDENT
DATELINE:	WALKERTON

Transport of more nuclear waste raises concerns

Brockton should be worried about an increase in the number of trucks carrying low and intermediate level nuclear waste through the municipality, said Coun. Chris Peabody.

Peabody, who has attended a number of open houses sponsored by Bruce Power and Ontario Power Generation, said there's potential for more nuclear waste to be brought to the Bruce site if refurbishment of the Pickering or Darlington sites goes ahead.

The Bruce nuclear power site has been an interim storage centre for low and intermediate level nuclear waste for nearly 30 years, and there are plans now to make the storage site a long-term one by burying the waste in rock vaults 660 metres underground.

About 20 truckloads a day go through the community now, and Peabody is worried about an increase in that number if refurbishing at the Toronto-area reactors goes ahead.

"I would be concerned about the truck traffic and accidents and overall risk factors of more trucks coming through the community with no economic benefit to Brockton," he said.

Peabody got council's support for a motion asking the Canadian Nuclear Safety Commission to evaluate truck traffic as a factor it looks at in an **environmental assessment**. The assessment would include the potential for accidents and wear and tear on roads.

The search is on for long-term storage of high level nuclear waste, which means trucks carrying highly radioactive material through Ontario.

"I think this council needs to start voicing their concerns about shipments of nuclear waste through our community," Peabody said.

GLOBE AND
MAIL

IDN: 051810176
DATE: 2005.06.30
PAGE: A20
BYLINE: DONALD JONES
SECTION: Letter to the Edit
EDITION: Metro
DATELINE: Mississauga ONT
WORDS: 103

Air-conditioning insanity

DONALD JONES Mississauga It's good news for the economy of Ontario that Toyota is coming (Town To Welcome Japanese Giant With Open Arms -- June 28). However, new industry needs electrical power and, right now, Ontario does not have any to spare, having to import more than 2,000 megawatts in our recent hot spell.

It will take five years to build a new nuclear station with another two or three years for **environmental assessment**. Conservation and windmills will not build automobiles and gas-fired generation will be expensive. The government has to make a decision now on new nuclear, it can't wait any longer.

Tsui, Kathy [CEAA]

From: Vachon, AI [CEAA]
Sent: July 6, 2005 4:38 PM
To: Chan, Jim [CEAA]; Devin, Sarah [CEAA]
Subject: FW: Information re: AECL

FYI

-----Original Message-----

From: Smith, John [CEAA]
Sent: July 6, 2005 4:37 PM
To: Bertin, Marc-Yves: PCO 2
Cc: Leboeuf, Yves [CEAA]; Vachon, AI [CEAA]
Subject: Information re: AECL

As per my voice mail, attached for your information is a recent briefing we provided to our President in preparation for a meeting with AECL. It provides the background and status of issues re: AECL becoming subject to the Canadian Environmental Assessment Act.

s.21(1)(a)

s.21(1)(b)

The Toronto
Star

DATE: 2005.07.08
EDITION: ONT
SECTION: Letter
PAGE: A23

We must begin assessment now

Ontario needs a bolt of energy

Editorial, July 7.

Your editorial about Ontario's future energy needs raises several critical points. Energy conservation must become part of our daily lifestyle to ensure we use the energy we have as efficiently and wisely as possible.

We also need to make maximum use of renewable energy sources. But conservation and renewables alone are not enough to meet the massive amounts of power needed to fuel Ontario's hungry industrial engine.

Nuclear power is part of a necessary energy mix - safe, reliable and clean and able to provide power at rates that will keep Ontario competitive and secure. CANDU is Ontario's best option for the reliable, clean and affordable electricity we need. We must begin an **environmental assessment** (typically a 5-year process) now so the CANDU nuclear option is available when Ontario needs it.

Martyn R. Wash, General Manager, Organization of CANDU Industries, Toronto

**Atomic Energy of Canada Limited
Summary of Working Meeting**

Meeting location:	Agency offices, Ottawa
Meeting date:	July 15 th , 2005
Present from Crown:	Michael Taylor, VP, Doug Christensen, GM External relations
Present from CEAA:	Jean-Claude Bouchard
Main message:	Meeting cancelled by AECL, postponed fall 2005

-----Original Message-----

From: Roussel, Chantale [CEAA]
Sent: July 15, 2005 10:06 AM
To: Sylvester, Peter [CEAA]; Smith, John [CEAA]
Cc: Roy, Rachelle [CEAA]
Subject: Meeting with AECL

Hi, just got a call from Mr. Taylor's office advising that they are dropping the meeting for now due to scheduling conflicts (holiday season). They'll be contacting us in late Summer to re-schedule in the Fall.

Thanks!

Chantale Roussel
Adjointe exécutive au Président / Executive Assistant to the President
Agence canadienne d'évaluation environnementale / Canadian Environmental Assessment Agency
Place Bell Canada, 22ième étage
160, rue Elgin
Ottawa ON K1A 0H3
Tél.: (613) 948-2670 Fax: (613) 948-2208
www.ceaa-acee.gc.ca

Tsu, Kathy [CEAA]

From: Vachon, Al [CEAA]
Sent: August 12, 2005 1:44 PM
To: Turmel, Natalie [CEAA]; Chan, Jim [CEAA]; Devin, Sarah [CEAA]
Cc: Smith, John [CEAA]
Subject: AECL meeting brief

Interesting and encouraging meeting with AECL: Greg Sayer - Senior Legal Counsel ; David Tregunno - Director of External Relations

The main points of the meeting are as follows:

- discussions restarted between the Agency and AECL
- issues to be explored and dealt with at the working level
- the Agency and AECL enjoy a shared understanding of the minimal implications for AECL in coming under the Act
- recognition that a regulatory option is no longer possible in advance of June 2006
- AECL will re-examine their outstanding issues, and provide details to Agency
- Agency and AECL will examine non-regulatory options for addressing AECL's concerns
- AECL very interested in engaging in forthcoming Exclusion List review as another means of addressing concerns
- AECL will recommend to Michael Taylor that the meeting with JC Bouchard be indefinitely put off
- work should begin in earnest in September

Al Vachon

Policy Advisor / Conseiller en politiques
Legislative and Regulatory Affairs / Affaires législatives et réglementaires
Canadian Environmental Assessment Agency / Agence canadienne
d'évaluation environnementale 160 Elgin Street, 22nd Floor, Ottawa ON K1A 0H3
160 rue Elgin, 22^e étage, Ottawa ON K1A 0H3 Al.Vachon@ceaa-acee.gc.ca
613-957-0683 | facsimile / télécopieur 613-948-1354 www.ceaa-acee.gc.ca



Government
of Canada

Gouvernement
du Canada

Canada

Tsui, Kathy [CEAA]

From: Vachon, AI [CEAA]
Sent: December 22, 2005 3:24 PM
To: Tsui, Kathy [CEAA]
Subject: FW: AECL meeting

-----Original Message-----

From: Smith, John [CEAA]
Sent: August 15, 2005 11:52 AM
To: Roussel, Chantale [CEAA]
Cc: Duguay, Lina [CEAA]; Roy, Rachelle [CEAA]; Vachon, AI [CEAA]
Subject: AECL meeting

AI Vachon in my group had a positive meeting recently with Atomic Energy of Canada Limited. The meeting involved a new participant (David Tregunno), who reports to Michael Taylor (Vice-President, Corporate Affairs). It was Mr. Taylor who wanted to meet with Jean-Claude.

Of note:

- there seems to be a better understanding and agreement on the minimal implications of the CEA Act for AECL.
- there is recognition that a regulatory option is no longer possible in advance of June 2006, and that non-regulatory options for addressing AECL's concerns will be addressed.

The AECL participants plan to recommend that Michael Taylor's meeting with Jean-Claude be indefinitely put off, pending further work. In light of the progress, if and when a meeting with Mr. Taylor is scheduled, we should provide an update note for Jean-Claude on status of the work.

Tsui, Kathy [CEAA]

From: Sayer, Gregory [sayerg@aecl.ca]
Sent: August 28, 2005 5:34 PM
To: Vachon, Al [CEAA]
Cc: tregunnod@aecl.ca; Devin, Sarah [CEAA]; Turmel, Natalie [CEAA]
Subject: RE: Meeting follow-up

Thanks Al. I will be back in office September 6 and will follow up in detail at that time.

To clarify a couple of points, I don't think there was agreement that the impact on AECL would be minimal or that any decision had been made to pursue only non-regulatory options. I think we identified that these were issues that will need to be explored further.

Look forward to discussing this further. Regards.

Greg Sayer
Senior Legal Counsel
Atomic Energy of Canada Limited
(905) 403-7515
(905) 823-6986 (fax)
(416) 708-3917 (cell)
sayerg@aecl.ca

**PRIVILEGED AND CONFIDENTIAL - UNAUTHORIZED USE OR DISCLOSURE
PROHIBITED**

-----Original Message-----

From: Vachon, Al [CEAA] [<mailto:Al.Vachon@ceaa-acee.gc.ca>]
Sent: August 26, 2005 2:42 PM
To: sayerg@aecl.ca
Cc: tregunnod@aecl.ca; Devin, Sarah [CEAA]; Turmel, Natalie [CEAA]
Subject: Meeting follow-up

<< Message: Untitled Attachment >> << File: The New Exclusion List Regulations.doc >>

CONFIDENTIAL AND PRIVILEGED INFORMATION NOTICE

This e-mail, and any attachments, may contain information that

22/12/2005

is confidential, subject to copyright, or exempt from disclosure.
Any unauthorized review, disclosure, retransmission,
dissemination or other use of or reliance on this information
may be unlawful and is strictly prohibited.

AVIS D'INFORMATION CONFIDENTIELLE ET PRIVILÉGIÉE

Le présent courriel, et toute pièce jointe, peut contenir de
l'information qui est confidentielle, régie par les droits
d'auteur, ou interdite de divulgation. Tout examen,
divulgation, retransmission, diffusion ou autres utilisations
non autorisées de l'information ou dépendance non autorisée
envers celle-ci peut être illégale et est strictement interdite.

Tsui, Kathy [CEAA]

From: Sherhols, Peter [CEAA]
Sent: December 29, 2005 11:11 AM
To: Tsui, Kathy [CEAA]
Subject: FW: Tor Star - CANDU not a 'slam dunk' for Ontario

-----Original Message-----

From: Trudeau, Aline [mailto:trudeaua@aed.ca]
Sent: Friday, September 16, 2005 11:12 AM
Subject: Tor Star - CANDU not a 'slam dunk' for Ontario

FYI
 Michael Taylor
 VP Corporate Affairs AECL

CANDU not a 'slam dunk' for Ontario

Canadian reactor faces competition

GE, Westinghouse possible: Source

RICHARD BRENNAN AND ROBERT BENZIE
 QUEEN'S PARK BUREAU
 TORONTO STAR

Ottawa should not take it for granted that Ontario will buy a federal Crown corporation's CANDU reactors for any new nuclear plants, senior provincial sources warn.

"It's not a slam dunk - that's for sure," a high-ranking government official told the *Toronto Star* yesterday.

The source said the CANDU was "considered the Cadillac (of nukes) when it was the only car."

But now there is competition from General Electric, Westinghouse in the U.S. and Areva-Framatome from France.

In the wake of Premier Dalton McGuinty's growing enthusiasm for nuclear power, it has been expected that Atomic Energy of Canada Ltd. (AECL), which builds the CANDU, would be a beneficiary.

McGuinty said Wednesday he was "prepared to go ahead with ... new nuclear" if the arm's-length Ontario Power Authority recommends that in its report due in December on the province's long-term energy supply.

The unnamed government official said AECL is going to have to compete for Ontario's business if and when the decision is made to build new reactors.

"Obviously CANDU is a Canadian technology but it has its drawbacks. And again, the kind of deals that were made in the 1960s and 1970s when old Ontario Hydro assumed all the risk are not going to happen that way again, so AECL is going to have to come to the table and compete," he said.

AECL's Dale Coffin said the CANDU reactors should have the inside track because regulators are familiar with them and they can be up and running sooner than their foreign-

29/12/2005

built competitors.

"A foreign technology - from France and that - would probably take much, much longer to get through that (regulatory) hurdle and there will be considerable delays," he said.

While there have been problems with the older CANDU reactors at Pickering, Coffin emphasized that the latest models, which are already successfully operating in South Korea, are among the best in the world.

Noting that AECL employs 3,200 people and there are 30,000 Ontario workers in the nuclear industry, Coffin said it makes economic sense for the province to buy domestic.

The CANDU is a heavy-water natural uranium reactor that is considered superior to the pressure-vessel Westinghouse reactor and is more expensive to build, but is considered cheaper to operate. There has never been a meltdown of a CANDU.

Still, the industry standard is the Westinghouse and CANDU has had a difficult time breaking through in markets like the U.S.

AECL is promoting the next generation of reactor called the ACR but has yet to build one.

CONFIDENTIAL AND PRIVILEGED INFORMATION NOTICE

This e-mail, and any attachments, may contain information that is confidential, subject to copyright, or exempt from disclosure.

Any unauthorized review, disclosure, retransmission, dissemination or other use of or reliance on this information may be unlawful and is strictly prohibited.

AVIS D'INFORMATION CONFIDENTIELLE ET PRIVILÉGIÉE

Le présent courriel, et toute pièce jointe, peut contenir de l'information qui est confidentielle, régie par les droits d'auteur, ou interdite de divulgation. Tout examen, divulgation, retransmission, diffusion ou autres utilisations non autorisées de l'information ou dépendance non autorisée envers celle-ci peut être illégale et est strictement interdite.

Tsui, Kathy [CEAA]

From: Sherhols, Peter [CEAA]
Sent: December 29, 2005 10:51 AM
To: Tsui, Kathy [CEAA]
Subject: FW: Globe and Mail - Editorial Sept 16
Follow Up Flag: Follow up
Due By: September 19, 2005 9:00 AM
Flag Status: Flagged

-----Original Message-----

From: Trudeau, Aline [mailto:trudeaua@aecl.ca]
Sent: Monday, September 19, 2005 2:48 PM
Subject: Globe and Mail - Editorial Sept 16

FYI
Dale Coffin
AECL

Ontario needs more nuclear power plants

Globe and Mail - Editorial
16 September 2005

Ontario Premier Dalton McGuinty is only being realistic when he declares that more nuclear power plants may be in the cards. Faced with a significant energy shortfall that could endanger the province's economic health, it would be irresponsible to rule out any safe option to boost long-term generating capacity.

Ontario's aging electricity system is already stretched to the limit, as vividly illustrated during the long summer heat wave. The province had to resort to costly imports. On one August day, operators even imposed a brownout to cope with shortages. More of the same - or even worse - awaits, as demand continues to soar. Mr. McGuinty inherited these problems from previous governments, which turned the mismanagement of electricity resources, including nuclear, into an art form. As installed capacity fell, demand soared, fuelled in no small measure by artificially low prices.

The McGuinty government appears to realize that bold measures are needed to fix the energy mess. The Premier told the Ontario Energy Association on Wednesday that the province has to refurbish, rebuild or replace 25,000 megawatts of supply over the next 15 years. That's a tall order, considering that current installed capacity is about 30,000 megawatts. On days when demand is high, Ontarians consume 25,000 megawatts. More than 2,200 megawatts have been added since Mr. McGuinty took office in October of 2003, and an additional 9,000 are coming on stream in the next five years. Of this new supply, 23 per cent will be nuclear and 23 per cent will come from renewable sources. Much of the rest will be from natural gas, the cost of which has soared by 64 per cent this year.

The government remains committed to closing the rest of its coal-fired generating plants by 2009, which would take 6,500 megawatts out of commission. And it has yet to sort out such complicated issues as regulation, ownership and pricing, although Mr. McGuinty insists that there will be no subsidization of prices. Caps on electricity prices may be politically popular, but they distorted the market, discouraged private investment and saddled the province with unnecessary debt.

29/12/2005

More nuclear power is obviously one good option, particularly in light of the soaring cost of other fuels. But the government is right not to throw more good money after bad into problem-plagued reactors that would take billions of dollars in further investments to restore to service. "We are prepared to go ahead with economical, safe, new nuclear if that is recommended by the OPA," Mr. McGuinty said. Good.

But in addition to finding the right mix of energy sources, the Ontario government must also come up with the right model of ownership. The province needs to encourage more private-sector involvement to help safeguard taxpayers from being saddled with the enormous costs associated with an ambitious expansion of generating capacity, nuclear or otherwise.

CONFIDENTIAL AND PRIVILEGED INFORMATION NOTICE

This e-mail, and any attachments, may contain information that is confidential, subject to copyright, or exempt from disclosure.

Any unauthorized review, disclosure, retransmission, dissemination or other use of or reliance on this information may be unlawful and is strictly prohibited.

AVIS D'INFORMATION CONFIDENTIELLE ET PRIVILÉGIÉE

Le présent courriel, et toute pièce jointe, peut contenir de l'information qui est confidentielle, régie par les droits d'auteur, ou interdite de divulgation. Tout examen, divulgation, retransmission, diffusion ou autres utilisations non autorisées de l'information ou dépendance non autorisée envers celle-ci peut être illégale et est strictement interdite.

Tsuñ, Kathy [CEAA]

From : Vachon, AI [CEAA]
Sent: September 9, 2005 11:21 AM
To: 'christensend@aecl.ca'
Subject: AECL Meeting follow-up

Hi Doug - further to our discussion this morning, I am forwarding you an email concerning my meeting with Greg Sayer in August.
You will notice information on the BDC/FCC regulation we discussed, as well as information on the proposed Exclusion List regulations that might be of interest to AECL. A look forward to receiving information on any of AECL's remaining concerns, and working together in advance of June 2006.
Regards, AI

AI Vachon

Policy Advisor / Conseiller en politiques
Legislative and Regulatory Affairs / Affaires législatives et réglementaires
Canadian Environmental Assessment Agency / Agence canadienne
d'évaluation environnementale 160 Elgin Street, 22nd Floor, Ottawa ON K1A 0H3
160 rue Elgin, 22^e étage, Ottawa ON K1A 0H3 AI.Vachon@ceaa-acee.gc.ca
613-957-0883 | facsimile / télécopieur 613-948-1354 www.ceaa-acee.gc.ca



Government of Canada
Gouvernement du Canada

Canada

-----Original Message-----

From: Vachon, AI [CEAA]
Sent: August 26, 2005 2:42 PM
To: 'sayerg@aecl.ca'
Cc: 'tregunnod@aed.ca'; Devin, Sarah [CEAA]; Turmel, Natalie [CEAA]
Subject: Meeting follow-up

Hi Greg

I wanted to follow-up on your meeting on 11 August.

I'm glad that we were finally able to meet, more so for the positive and constructive direction of the meeting.

As discussed, there is not sufficient time remaining to pursue any regulatory initiatives in advance of June 2006. However, our shared understanding of the minimal implications for AECL in coming under the Act and our decision to pursue non-regulatory options to address AECL's remaining concerns will assist us greatly in meeting that deadline.

s.21(1)(a)

s.21(1)(b)

In addition, you indicated that you would re-examine AECL's concerns in coming under the Act, and provide me with an update to focus our attention on in preparation for June 2006. I look forward to receiving them, and beginning to work more intensively together this fall.

Again, I appreciated the opportunity to meet, and hope you are enjoying these last golden days of summer,

AI

Al Vachon

Policy Advisor / Conseiller en politiques

Legislative and Regulatory Affairs / Affaires législatives et réglementaires

Canadian Environmental Assessment Agency / Agence canadienne

d'évaluation environnementale 160 Elgin Street, 22nd Floor, Ottawa ON K1A 0H3160 rue Elgin, 22^e étage, Ottawa ON K1A 0H3 Al.Vachon@ceaa-acee.gc.ca613-957-0663 | facsimile / télécopieur 613-948-1354 www.ceaa-acee.gc.caGovernment
of CanadaGouvernement
du Canada**Canada**

Tsui, Kathy [CEAA]

From: Vachon, Al [CEAA]
Sent: December 22, 2005 3:28 PM
To: Tsui, Kathy [CEAA]
Subject: FW: Templates for small projects

-----Original Message-----

From: Klukas, Martin [mailto:klukasm@aecl.ca]
Sent: September 28, 2005 1:41 PM
To: Vachon, Al [CEAA]
Subject: RE: Templates for small projects

Al

Thanks - we've been in contact with the Agency in the past and will continue to work with them.

Martin

-----Original Message-----

From: Vachon, Al [CEAA] [mailto:Al.Vachon@ceaa-acee.gc.ca]
Sent: 2005 Sep 28 11:32 AM
To: Johnson, Wayne [CEAA]; Klukas, Martin
Cc: Knox, Louise [CEAA]; Croteau, Jean-Philippe [CEAA]
Subject: RE: Templates for small projects

Hi Martin, in addition to Wayne's suggestion, you might contact the Agency's Ontario regional office for further operational advice. Our regional offices have extensive experience assisting RAs in operational matters, as well as providing a forum, through Regional Environmental Assessment Committees for EA practitioners to benefit both from Agency expertise and those of other EA practitioners. I have CC'ed the Ontario office on this email.
 regards,

Al Vachon

Acting Senior Policy Advisor / Conseiller principal en politiques par int.
 Legislative and Regulatory Affairs / Affaires législatives et réglementaires
 Canadian Environmental Assessment Agency / Agence canadienne
 d'évaluation environnementale 160 Elgin Street, 22nd Floor, Ottawa ON
 K1A 0H3 / 160 rue Elgin, 22^e étage, Ottawa ON K1A 0H3
 Al.Vachon@ceaa-acee.gc.ca 613-957-0663 | facsimile /
 télécopieur 613-948-1354 www.ceaa-acee.gc.ca

-----Original Message-----

From: Johnson, Wayne [CEAA]
Sent: September 28, 2005 10:45 AM
To: 'Klukas, Martin'
Cc: Vachon, Al [CEAA]
Subject: RE: Templates for small projects

Martin, it's time for you to start networking in the EA world.

22/12/2005

For now I suggest you contact

1) Marie Crevier who is director of Environment at the National Capital Commission - they have been involved in these types of EAs for years.

2) Allison Stoddard at Parks Canada - perhaps a regional contact in St. Lawrence Islands National Park would be of interest.

We do not keep templates of EA types. You really need to get your hands on sample EAs.

Another way may be to enter the Agency's Registry and search for similar projects then request a copy from the contact person .

-----Original Message-----

From: Klukas, Martin [mailto:klukasm@aec.ca]

Sent: September 28, 2005 9:22 AM

To: Johnson, Wayne [CEAA]

Subject: Templates for small projects

Wayne

Thanks for input re application of CEAA and grandfather clause.

We are in the process of developing our EA process for our role as RA. We have gained a lot of experience development of EA Screening reports for major projects-CNSC typically delegates preparation of screening reports to AECL. These screening reports have typically been similar in scope to comprehensive studies.

We anticipate that many of the projects which will be captured will be low risk projects (ie construction of administration buildings, parking lot expansions, demolition of small facilities) for which template/checklist approach would be suitable as an EA Screening Report. I'd be interested in templates/checklists other Responsible Authorities are using for minor projects. Could you examples of templates or provide names of staff we could contact for this.

Thanks
Martin

CONFIDENTIAL AND PRIVILEGED INFORMATION NOTICE

This e-mail, and any attachments, may contain information that is confidential, subject to copyright, or exempt from disclosure. Any unauthorized review, disclosure, retransmission, dissemination or other use of or reliance on this information may be unlawful and is strictly prohibited.

AVIS D'INFORMATION CONFIDENTIELLE ET PRIVILÉGIÉE

Le présent courriel, et toute pièce jointe, peut contenir de l'information qui est confidentielle, régie par les droits d'auteur, ou interdite de divulgation. Tout examen, divulgation, retransmission, diffusion ou autres utilisations non autorisées de l'information ou dépendance non autorisée

22/12/2005

envers celle-ci peut être illégale et est strictement interdite.

CONFIDENTIAL AND PRIVILEGED INFORMATION NOTICE

This e-mail, and any attachments, may contain information that is confidential, subject to copyright, or exempt from disclosure. Any unauthorized review, disclosure, retransmission, dissemination or other use of or reliance on this information may be unlawful and is strictly prohibited.

A VIS D'INFORMATION CONFIDENTIELLE ET PRIVILÉGIÉE

Le présent courriel, et toute pièce jointe, peut contenir de l'information qui est confidentielle, régie par les droits d'auteur, ou interdite de divulgation. Tout examen, divulgation, retransmission, diffusion ou autres utilisations non autorisées de l'information ou dépendance non autorisée envers celle-ci peut être illégale et est strictement interdite.

Smith,John [CEAA]

From: Smith,John [CEAA]
Sent: October 17, 2005 2:37 PM
To: 'Tamm, Judy'
Cc: Vachon,AI [CEAA]; Schafer,Paul [CEAA]
Subject: RE: Airport Authorities

Further to our discussion, I did want to re-iterate that on June 11, 2006, federal parent Crown corporations will be required to comply with the Canadian Environmental Assessment Act (the Act) as federal authorities, either by direct compliance with the Act or via a modified environmental assessment process set in regulations. This has been communicated to AECL staff with whom we have been discussing the issue. For example, this was clearly set out in a letter to Allan Hawryluk in early spring of this year, and echoed in more recent discussions with Greg Sayer and others.

Unlike airport authorities, regulations are not required in order for Crown corporations to be subject to the Act. The authority for regulation permits us to vary the environmental assessment process, if necessary. I believe you have seen the regulatory framework for Business Development Canada and Farm Credit Corporation posted on our web site. That framework clearly identifies variations to the EA process, and does not in itself set out the EA obligations or process.

If you do need more information on the proposed airport authorities regulation, I would be glad to provide it to you.

-----Original Message-----

From: Tamm, Judy [mailto:tammj@aecl.ca]
Sent: October 17, 2005 10:21 AM
To: Smith,John [CEAA]
Subject: FW: Airport Authorities

s.21(1)(b)

s.21(1)(c)

Good morning, John,

Would you be good enough to provide some background information on why regulations, under the CEAA, are being developed for the Airport Authorities.

Regards,
Judy Tamm, M.Sc, CEPP
Head, AECL's SP-EA Section
Environmental Technologies
AECL-Sheridan Park, SP1F3
2251 Speakman Drive
Mississauga, ON L5K 1B2

Phone: 905-823-9040, Ext. 4197
Fax: 905-822-0567

-----Original Message-----

22/12/2005

From: Schafer,Paul [CEAA] [<mailto:Paul.Schafer@ceaa-acee.gc.ca>]
Sent: October 17, 2005 9:57 AM
To: tammj@aecl.ca
Cc: Smith,John [CEAA]
Subject: Airport Authorities

Hi Judy,

I would recommend that you contact John Smith in our Policy shop regarding your question about the reason why regulations are being developed to bring Airport Authorities under the Canadian Environmental Assessment Act.

In regards to your question about the difference between the Canadian Transportation Agency and Transport Canada, I would recommend you contact Bill Aird at the CTA for information on his agency's mandate and how it differs from Transport Canada. He can be reached at 819-953-9924.

See you on November 1st!

Paul Schafer
Senior Program Officer, Ontario Region
416-952-1574 | facsimile / télécopieur 416-952-1573
paul.schafer@ceaa-acee.gc.ca
Canadian Environmental Assessment Agency | 55 St. Clair Ave. East, Room 907 Toronto ON M4T 1M2
Agence canadienne d'évaluation environnementale | 55, avenue St. Clair Est, 9ieme etage, Piece 907 Toronto ON M4T 1M2
Government of Canada | Gouvernement du Canada

CONFIDENTIAL AND PRIVILEGED INFORMATION NOTICE

This e-mail, and any attachments, may contain information that is confidential, subject to copyright, or exempt from disclosure. Any unauthorized review, disclosure, retransmission, dissemination or other use of or reliance on this information may be unlawful and is strictly prohibited.

AVIS D'INFORMATION CONFIDENTIELLE ET PRIVILÉGIÉE

Le présent courriel, et toute pièce jointe, peut contenir de l'information qui est confidentielle, régie par les droits d'auteur, ou interdite de divulgation. Tout examen, divulgation, retransmission, diffusion ou autres utilisations non autorisées de l'information ou dépendance non autorisée envers celle-ci peut être illégale et est strictement interdite.

22/12/2005

Smith,John [CEAA]

From: Vachon,Al [CEAA]
Sent: October 17, 2005 3:17 PM
To: Smith,John [CEAA]
Subject: FW: Crown corporation initiative - Training, Guidance and Operational Support / Initiative des sociétés d'État - Formation, orientation et support opérationnel

Fyi - the original "opportunities" letter was sent to Greg Sayer and Allan Hawryluk.

-----Original Message-----

From: Vachon,Al [CEAA]
Sent: October 17, 2005 3:09 PM
To: 'tammj@aec.ca'
Cc: 'Greg Sawyer -'; Smith,John [CEAA]
Subject: FW: Crown corporation initiative - Training, Guidance and Operational Support / Initiative des sociétés d'État - Formation, orientation et support opérationnel

Hi Judy, further to your exchange with John Smith regarding AECL's forthcoming obligations under CEAA, I wanted to provide you with the training, guidance and operational support letter (below) sent out to AECL and all of the other Crowns coming under the Act as of 11 June 2006. Please let me know if you require anything further on this.
Regards, Al

Al Vachon

Acting Senior Policy Advisor / Conseiller principal en politiques par Int.
Legislative and Regulatory Affairs / Affaires législatives et réglementaires
Canadian Environmental Assessment Agency / Agence canadienne
d'évaluation environnementale 160 Elgin Street, 22nd Floor, Ottawa ON
K1A 0H3 / 160 rue Elgin, 22^e étage, Ottawa ON K1A 0H3
Al.Vachon@ceaa-acee.gc.ca 613-957-0663 | facsimile /
télécopieur 613-948-1354 www.ceaa-acee.gc.ca

-----Original Message-----

From: Devin,Sarah [CEAA]
Sent: July 29, 2005 2:10 PM
Subject: Crown corporation initiative - Training, Guidance and Operational Support / Initiative des sociétés d'État - Formation, orientation et support opérationnel

La version française suit...

On June 11, 2006, parent Crown corporations will become subject to the obligations of the Canadian Environmental Assessment Act (the Act). This letter is intended to provide your organization with some information that may help you prepare for that date.

With less than one year remaining to carry on your preparations for compliance with the Act, the Agency encourages your organization to take advantage of our upcoming training courses and to contact our regional offices if you have any questions. Training details and contact information are provided in the attached letter.



implementation
LETTER to crown...

À compter du 11 juin 2006, les sociétés d'État mères seront assujetties aux exigences de la Loi canadienne sur l'évaluation environnementale (la Loi). La présente vise à fournir certains renseignements à votre organisme pour vous préparer à la mise en application de la Loi.

Avec moins d'un an à faire pour vous préparer à devoir se conformer à la Loi, l'Agence encourage votre organisme à profiter de nos prochains cours de formation. Si vous avez des questions, n'hésitez pas à communiquer avec nos bureaux régionaux. Les renseignements sur la formation et les coordonnées des personnes-ressources sont présentés dans la lettre ci-jointe.



Lettre Juillet 2005 -
Mise en ...

Tsui, Kathy [CEAA]

From: Smith, John [CEAA]
Sent: November 8, 2005 12:27 PM
To: Vachon, Al [CEAA]; Devin, Sarah [CEAA]
Cc: Sylvester, Peter [CEAA]
Subject: FW: Meeting with AECL

s.23

See last para: AECL coming under the Act was not an issue. Louise raised some questions in that para
I think there is a straightforward answer and I've left a message with Louise to coordinate how to proceed.

-----Original Message-----

From: Knox, Louise [CEAA]
Sent: November 8, 2005 12:16 PM
To: Burgess, Steve [CEAA]
Cc: Smith, John [CEAA]; Robinson, David J. [CEAA]; Young, Bruce [CEAA]; Hainsworth, Cathy [CEAA]; Cameron, Darla [CEAA]; Advokaat, Eric [CEAA]; Schultz, Jeremy [CEAA]; Chan, Jim [CEAA]; Thompson, Mary Claire [CEAA]; Schafer, Paul [CEAA]
Subject: Meeting with AECL

Hello all,

Just want to summarize my meeting with Michael G. Taylor, V-P Corporate Affairs with AECL and Peter J. Allsop, Manager, Plant Performance and Processess with AECL in Mississauga.

I'll send you a copy of the "deck" but the main message was that AECL believes Ontario may, by the end of this month, announce its decision on the mix of energy generation options it prefers, and that "new nuclear" will be among these. AECL seems to want to pursue an option where OPG, as proponent, could hire AECL to construct and obtain approvals for a new nuclear facility which OPG would then operate. The new reactor would likely be proposed to be at the Darlington site, or possibly the Bruce site. AECL is trying to understand what would be involved in obtaining the EA and approvals.

Luckily, I had invited Phil Brennan from MOE who could answer to some extent their questions about whether or not a newly proposed nuclear generation facility would be subject to the EA requirements of the province (answer: no) and whether transmission lines would be subject to same (answer: yes) and the extent to which coordination is possible (answer: full extent, where both processes apply). There were questions about scope of project (I suggested they speak to potential RAs about this) about level of detail (same response) about factors which could make the EA go smoothly (I suggested they provide all the information they're asked for, quickly, and treat interested/affected members of the public with respect; I also indicated use of slightly enriched uranium in a new reactor would likely attract attention--this based on the report of the advisory committee to the Nuclear Waste Management Office).

They assume they would be into a comp study, so let me use this to confirm with Dave that they would be captured under Part VI item 19(d) if their capacity were more than 25MW (thermal), which it would be.

They talked about potential for panel--so I would like to use this to ask Bruce whether a CNSC/CEAA joint panel would be an option. Also, I had a call from Heather Jarrett this week asking about a CNSC panel as a substitution for a CEAA panel--I referred the call to Bruce and would be interested in knowing the outcome of this discussion Bruce, when you have time.

The questions about how AECL as a crown corporation would fulfill its obligations under CEAA, and what these might be, never came up. I suppose this is because they see themselves in this scenario acting under contract to the proponent which would be the prime mover. However, I think it

Louise Knox

Director, Ontario Region

Directrice, Région de l'Ontario

416-952-1575 | facsimile/télécopieur 416-952-1573

louise.knox@ceaa-acee.gc.ca

Canadian Environmental Assessment Agency

55 St. Clair Ave E. Suite 907 Toronto, ON M4T 1M2

Agence canadienne d'évaluation environnementale

55 avenue St. Clair Est pièce 907 Toronto ON M4T 1M2

s.23

The Fredericton
Daily Gleaner

DATE: 2005.11.12

SECTION: Opinion/Editorial

PAGE: D8

COLUMN: Q&A<

BYLINE: MARK TAYLOR Q&A<

PHOTO: SUBMITTED PHOTO

ILLUSTRATION: **NUCLEAR WASTE DECISIONS:** Elizabeth Dowdeswell, president of the **Nuclear** Waste Management Organization, recommends New Brunswick as one of the possible places to store **nuclear** waste.

New Brunswick would be a good place for burying *nuclear* waste

New Brunswick faces a decision that will likely impact the province for many generations to come.

The **Nuclear** Waste Management Organization (NWMO) recently handed its final report to the federal government. This body has been given the task of recommending to Ottawa where to store the country's **nuclear** waste. In its document, the organization named New Brunswick as one of four possible provinces locations. The other provinces include Quebec, Ontario and Saskatchewan.

Elizabeth Dowdeswell is president of the NWMO. She is no stranger to environmental and public policy issues. Her impressive career includes stints as Executive Director of the United Nations Environment Program and Assistant Deputy Minister of Environment Canada.

Dowdeswell says the **nuclear** waste storage plan would take at least 30 years and possibly more than 120 years to see the nation's **nuclear** waste find a home.

Dowdeswell spoke recently with reporter Mark Taylor by phone from her Toronto office about her organization's report, its implications and the reasons for placing the nation's **nuclear** waste in New Brunswick.

Q: Why recommend New Brunswick as one of the possible places to store **nuclear** waste?

A: It's for two reasons.

One, because in the interest of fairness, it's one of the provinces that actually produces the stuff and, consequently, along with several other provinces, it is viewed as being fair to consider. If we produce the waste, in fact, we have some responsibility for taking care of it in the long term. But secondly, the actual approach that we have developed had several phases to it. One of those phases would mean that the first phase would see the waste remaining at the site while we're into the process of site selection for the centralized site, going through the environmental assessment (and) at the licencing period. So, it's envisioned that phase one would necessarily keep the waste at site for some period of time. So, New Brunswick is implicated in that way as well.

Q: Do you have any suggestions at this point on where the waste could be stored in the province?

A: We have not entered into the site selection discussions at this point, other than to make the two comments.

One, that the four provinces that are involved in the *nuclear* fuel cycle should be the starting point for consideration. Secondly, that what's of most importance to us is, of course, that we would be intending to seek a willing host community. There will be technical and scientific criteria, obviously. But the ethical and social criteria of seeking a willing and informed host community is very important to us.

Q: For a person living in New Brunswick, why should he or she feel OK with having *nuclear* waste stored in their backyard?

A: First of all, the specific process and the criteria will be worked on in collaboration with communities. We'll be starting to talk about possibilities as soon as the government actually makes a decision. So, a lot of that is yet to come. Because we're very much promoting a collaborative process and we know from other countries that this is a process that takes time and it takes relationship building, we need to ensure that the process very honestly engages citizens in communities in the design of the process. And that's certainly what is what we want to do moving forward.

You had asked the question of why and I think that, in a sense, it essentially boils down to this culture of responsibility that Canadians seem to have and feel. There's been a very strong feeling, as we've gone across Canada the past three years, of Canadians saying we must not leave this (decision) to future generations. We've created this waste. It's our responsibility to start the process of dealing with it in the long term. Further to that, we have heard a very strong feeling that in particular in those provinces where the waste is created, is the place where they (Canadians) feel it makes sense, that it's only fair to say that's where the process should start.

For many individuals, it comes down to that ethical responsibility to look after the waste. And for those communities that even indicate to us a willingness to have a conversation, I think it's driven by that culture of responsibility. Certainly, as well, there are communities, I suspect, or individuals in particular, who can see that there are some possibilities for economic development. And people are convinced that the safety case can be made. As long as this material is safe, then they move to the next step which is to say "Maybe there are some opportunities for us in the community in which I live." So, I anticipate some people will have that discussion going on as well.

Q: But how could you explain to a person that the material is safe? A: You can say a couple of things. One is that the waste right now is in interim storage facilities that have been shown to be safe and secure. They are licenced by the Canadian **Nuclear** Safety Commission and there haven't been incidents of a breach of safety of the material for which we have had in place for many years now in Canada. That's part of it.

But part of it is also, because we're talking about so very long periods of time, is being able to ensure people that we have as many barriers and as many contingencies as possible to the best of the state of our knowledge to protect us from any unfortunate circumstances.

And that's one of the very reasons why we're suggesting in the long term that the waste is not only protected by the engineered barrier. By isolating it and containing it deep underground in appropriate rock formations that are not fragmented and are very secure over many periods of years.

Q: How significant of an issue is this for the country right now?

A: In most cases there are appropriate solutions for the short term that have been put in place.

I think we are getting to stage where certain Canadians have told us they're not comfortable leaving this decision to another generation. That is a question of stewardship and responsibility.

We can't continue producing this waste until we know what we're going to do with it



2005.11.24

CATEGORY: Business

BYLINE: STEVE ERWIN

PUBLICATION: cpw

Ontario considering two new reactors for Darlington nuclear plant: sources

TORONTO (CP) _ The Ontario government is leaning towards a multi-billion-dollar expansion of its Darlington nuclear generating facility as part of an ongoing effort to expand the province's energy supply, sources say.

The province is investigating the potential construction of two 700-megawatt Candu 6 reactors _ which, combined, would be able to generate enough power for one million homes _ at the site in Clarington, some 80 kilometres east of Toronto, sources told The Canadian Press.

It would mark the first new nuclear construction in Ontario since controversial cost overruns at Darlington _ the original cost of the plant nearly tripled to some \$14 billion during construction in the 1980s _ soured governments on such projects.

Plenty of work needs to be done before the province will announce it's going ahead with the expansion, including negotiating construction and supplier contracts that guarantee the province doesn't face similar cost increases, sources said.

Ontario's Ministry of Energy is also waiting for a report due in early December from the Ontario Power Authority that's expected to lay out future supply needs and recommend further expansion of Ontario's nuclear power base.

But sources insist the province is eyeing a Darlington expansion that could be started quickly and efficiently, noting that there's infrastructure already in place to accommodate more units at the site and confidence the project would be welcomed by the local community.

"The fastest, most cost-efficient way to add new nuclear generating capacity would be a pair of Candu 6's at Darlington," said one source familiar with the talks, who spoke on condition of anonymity.

Energy Minister Donna Cansfield said the government has "absolutely not" made any decisions on a Darlington expansion.

But earlier this week, Clarington Mayor John Mutton met Tuesday with top bureaucrats at Ontario's Energy Ministry to discuss just such a project.

Mutton confirmed the meeting, but refused to talk about what was discussed _ except to say he provided assurances that Clarington is ready and willing to accept an expansion of the Darlington plant.

Clarington's council passed a resolution earlier this month pledging its support for an expansion.

Mutton also accompanied Premier Dalton McGuinty on his recent trip to China, where the two examined Candu 6 reactors now in place in that rapidly emerging economy. Mutton said the premier was "receptive" to Clarington's interest in an expansion, which the mayor said would create "tens of thousands of person-hours of employment" for his city.

"Without question, it's the best site for nuclear rebuild," Mutton said in an interview.

He hopes an announcement confirming a decision on the project will be made not long after the Ontario Power Authority releases its report on what the province's future supply mix should look like.

"The sooner the better that these decisions start coming down, because we've got to get on with the *environmental assessments*," which can take several years to complete, Mutton said.

Earlier this year, McGuinty said Ontario would be willing to look at expanding its nuclear capacity, citing a need to refurbish, rebuild, or replace 25,000 megawatts of supply over the next 15 years.

This fall, the province approved a deal allowing Bruce Power (TSX:TRP TSX:CCO) to refurbish four units at its nuclear generating station off the shores of Lake Huron.

It's unclear how much it would cost to build two new Candu reactors at Darlington. Estimates suggest each would run at least \$1.5 billion, while others say the cost could be much higher.

Darlington would be relatively easy to expand; it was initially designed to accommodate a second set of nuclear units, but the idea was scrapped due to cost concerns. The facility's transmission lines are also designed to carry twice the plant's current capacity.

"Darlington is a site with room and infrastructure to accommodate additions," said Murray Elston, president of the Canadian Nuclear Association, which is lobbying the province for more nuclear rebuilds.

Darlington and Bruce "are in communities that are not only supportive, but are also heading into a third-generation of people working at the sites .n.n. understanding what exactly it takes to operate them safely."



The Windsor
Star

DATE: 2005.12.02
EDITION: Final
SECTION: News
PAGE: A7
BYLINE: Steve Erwin
SOURCE: The Canadian Press
DATeline: TORONTO
ILLUSTRATION: Photo: Donna Cansfield

Nuclear expansion expected in Ontario: Report may recommend more electric generation to serve future demand

TORONTO - Initial groundwork for a multibillion-dollar expansion of Ontario's Darlington nuclear site could start "within a month" of the release next week of a key report on the province's energy future, sources said Thursday.

The Ontario government is to announce shortly after receiving the report that it is seeking *environmental assessments* to increase the capacity at the nuclear station by 50 per cent, sources told The Canadian Press.

The report from the Ontario Power Authority, originally scheduled to be delivered to the government on Thursday, is now expected to be received Dec. 9.

The report is widely expected to support expanding Ontario's nuclear generating capacity to ensure the province has enough power in coming decades. Ontario needs to refurbish, rebuild or replace 25,000 megawatts of supply over the next 15 years.

While the report won't specify where nuclear expansion projects should take place, sources say it will act as a catalyst for the government to announce an expansion at Darlington, located 80 kilometres east of Toronto in the town of Clarington.

"There is going to be some action, very quickly after" receiving the report, a source said.

Environmental assessments over several years need to be completed before the project can proceed.

"There's great urgency to do the *environmental assessments*," the source said.

The province is said to be considering construction of two 900-megawatt Candu reactor units at Darlington, which would generate enough power for more than one million homes. It would take up to a decade to complete the project.

The province recently approved a deal allowing Bruce Power to refurbish four units at its nuclear generating station on the shore of Lake Huron.

Energy Minister Donna Cansfield maintains no further decisions on nuclear expansion have been made.

But public support increased Wednesday night when the council of Durham Region, a broader jurisdiction that includes Clarington, unanimously endorsed support for a nuclear expansion at Darlington.

Community commitment

"Obviously, it's nice to have the community make their commitments," Cansfield said Thursday.

"But for us, we're going to wait until the Ontario Power Authority brings out its report."

But there's plenty of activity regarding a Darlington expansion already taking place.

Sources say Jim Hankinson, president of Ontario Power Generation, which operates the Darlington facility, is privately urging Premier Dalton McGuinty to move ahead on an expansion project soon.

Clarington Mayor John Mutton also met last month with Ontario's deputy minister of energy, James Gillis, to discuss plans for Darlington.

"There's just such a silent campaign going on -- everyone is gearing up for the *environmental assessments*," a source said.
