

Record of Proceedings, Including Reasons for Decision

In the Matter of

Applicant SRB Technologies (Canada) Inc.

Subject Financial Guarantee for the Safe State of
Closure for the Class IB Facility Located in
Pembroke, Ontario

Hearing Date September 12, 2007

RECORD OF PROCEEDINGS

Applicant: SRB Technologies (Canada) Inc.

Address/Location: 320-140 Boundary Road, Pembroke, Ontario K8A 6W5

Purpose: Financial Guarantee for the safe state of closure for the Class IB facility located in Pembroke, Ontario

Application received: July 18, 2007

Date of hearing: September 12, 2007

Location: Canadian Nuclear Safety Commission (CNSC) Public Hearing Room, 280 Slater St., 14th. Floor, Ottawa, Ontario

Members present: L.J. Keen, Chair
A.R. Graham
C.R. Barnes
M. J. McDill

Secretary: M. A. Leblanc
Recording Secretary: M. Young
Acting General Counsel: S. Maislin Dickson

Applicant Represented By	Document Number
• S. Levesque, President	
CNSC staff	Document Number
• B. Howden • B. Barker	CMD 07-H145

Licence Condition: Requirements met
Date of Release of Decision: October 23, 2007

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Introduction

1. SRB Technologies (Canada) Inc. (SRBT) has requested that the Canadian Nuclear Safety Commission¹ (CNSC) accept the financial guarantee it has submitted for the safe state of closure for its Class IB nuclear substance processing facility located in Pembroke, Ontario. The financial guarantee was submitted pursuant to Condition 12.1 in licence NSPFPL-13.01/2008 (the Licence). The financial guarantee was submitted in the form of an Escrow Agreement and a Financial Security and Access Agreement.
2. Subsection 24(5) of the *Nuclear Safety and Control Act*² (NSCA) gives the Commission the discretion and authority to require that a licensee provide a financial guarantee in a form that is acceptable to the Commission. CNSC Regulatory Guide G-206³ provides guidance on the attributes of an acceptable financial guarantee in terms of liquidity, certainty of value, adequacy of value and continuity.
3. The Commission required in the Licence that SRBT establish and maintain an acceptable financial guarantee for the ultimate decommissioning of its facility. The Commission required that SRBT provide a financial guarantee made up of the following two components: one to cover the costs of the safe state of closure of the facility, to be in place no later July 31, 2007 (Licence Condition 12.1), and the remainder to cover the full decommissioning costs, to be in place no later than May 31, 2008 (Licence Condition 12.2).

Issues

4. In considering the application, the Commission was required to decide:
 - a) if the Escrow Agreement and the Financial Security and Access Agreement constitute an acceptable financial guarantee for the safe state of closure of SRBT's Class IB nuclear substance processing facility located in Pembroke, Ontario, pursuant to Condition 12.1 of licence NSPFPL-13.01/2008.

Hearing

5. Pursuant to section 22 of the NSCA, the President of the Commission established a Panel of the Commission to review the request.

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

² S.C. 1997, c. 9.

³ CNSC Regulatory Guide G-206, *Financial Guarantees for the Decommissioning of Licensed Activities*, June 2000.

6. The Panel of the Commission (hereafter referred to as the Commission), in making its decision, considered information presented for a public hearing held on September 12, 2007 in Ottawa, Ontario. During the hearing, the Commission considered a written submission from CNSC staff (CMD 07-H145). SRBT was also present at the hearing to answer any questions from the Commission. There were no intervenors.

Decision

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

the Commission, pursuant to section 24 of the Nuclear Safety and Control Act, accepts the Escrow Agreement for \$79,368.10 and the Financial Security and Access Agreement as the financial guarantee provided by SRBT for safe state of closure for the Class IB nuclear substance processing facility located in Pembroke, Ontario.

Issues and Commission Findings

8. In making its decision, the Commission considered issues related to the acceptability of the proposed financial guarantee to satisfy the safe state of closure for the SRBT facility.

Background

9. At the time of the two-day public hearing⁴ held on October 25 and November 27, 2006 for the renewal of SRBT's operating licence, SRBT had failed to meet the licence condition that required SRBT to have in place, no later than October 31, 2006, a financial guarantee for the decommissioning of the facility. The revised Preliminary Decommissioning Plan (PDP) had been reviewed by CNSC staff and was found to be acceptable in relation to CNSC Regulatory Guide G-219⁵, except for the adequacy of the cost estimate and the lack of an associated financial guarantee. SRBT committed to provide a revised cost estimate and funding proposal by February 28, 2007.
10. Following the two-day hearing, the Commission issued a possession licence to SRBT. The Licence contained a condition that required SRBT to address the financial guarantee as a priority and have in place, no later than July 31, 2007, a financial guarantee that represents the cost of the safe state of closure of the facility. The Licence also contains a condition requiring SRBT to have in place, no later than May 31, 2008, the remaining financial guarantee representing the final phase to fully decommission the facility.

⁴ Refer to the Record of Proceedings on *Application for the Renewal of Class IB Operating Licence for the Gaseous Tritium Light Source Facility in Pembroke, Ontario*, Hearing Date November 27, 2006.

⁵ CNSC Regulatory Guide G-219, *Decommissioning Planning for Licensed Activities*, June 2000.

11. CNSC staff stated that the financial guarantee for the safe state of closure would be based on the cost estimate that SRBT was to submit to the Commission by February 28, 2007. CNSC staff explained that the cost of the safe state of closure would include such activities as the removal from the facility of any tritium stock, work in progress, wastes containing tritium and hazardous materials, and any other hazardous waste on site.
12. CNSC staff stated that SRBT submitted a revised cost estimate on January 30, 2007, which, following further revision, was accepted by CNSC staff on June 15, 2007.

Cost Estimate

13. CNSC staff stated that SRBT's cost estimate for the safe state of closure at the facility is \$79,368.10. CNSC staff explained that this value was determined by using reasonable cost assumptions, including the following factors: labour, preliminary investigations, removal and transport of nuclear substances, removal and transport of hazardous materials, running costs to complete the safe state of closure (estimated at three months), and a 25% contingency allowance. CNSC staff further stated that the costs also included the use of contractors for conducting the decommissioning work, and using an external laboratory for any related analysis.
14. CNSC staff noted that the cost estimate for the safe state of closure would be incorporated into the cost estimate for the full decommissioning of the facility, which has been determined to be \$550,476.94. CNSC staff stated that both cost estimates meet the acceptance criteria of CNSC Regulatory Guide G-206.
15. CNSC staff further noted that the cost estimate for the full decommissioning is based on the current facility design and its authorized activities and will require revision if any substantive changes are made to the facility or its operations in the future.
16. Noting that SRBT is a tenant of the property on which its facility is located, the Commission asked how the facility rental arrangement would affect the costs for ongoing operations of licensed activities, as opposed to those that are specific to the closure of the facility. SRBT responded that the cost estimate for the safe state of closure includes a three-month running cost arrangement to pay for all of the running costs of the building, including rent, gas, electricity and insurance.
17. The Commission sought further information concerning the rationale for this three-month term. SRBT responded that three months represents the period of time needed to remove all of the hazardous substances from the facility, the radioactive substances, and to perform the preliminary assessments that are required for the safe state of closure.

Financial Guarantee

18. CNSC staff stated that SRBT proposed a financial guarantee for safe state of closure in the form of an Escrow Agreement. CNSC staff reported that SRBT had deposited the full amount of the proposed financial guarantee for safe state of closure, \$79,368.10, to the escrow agent in the form of a term deposit. CNSC staff further reported that SRBT proposed that a Financial Security and Access Agreement be associated with the escrow account. CNSC staff explained that the Financial Security and Access Agreement would allow the CNSC access to the funds in the event of a default by SRBT. CNSC staff reported that SRBT submitted its application to the Commission for acceptance of the proposed financial guarantee for safe state of closure on July 18, 2007.
19. CNSC staff stated that it reviewed the financial guarantee and found both the Escrow Agreement and the Access Agreement to be acceptable. CNSC staff noted that an escrow agreement with the associated security and access agreement is an acceptable form of financial guarantee as set out in CNSC Regulatory Guide G-206. CNSC staff explained that this type of financial instrument meets the acceptance criteria of liquidity, certainty of value, adequacy of value and continuity.
20. CNSC staff stated that, while the Escrow Agreement and the Financial Security and Access Agreement only deal with the cost of the safe state of closure of the facility, SRBT has proposed to revise the agreements at a later date to encompass the full decommissioning plan, in order to meet the date stipulated in Licence Condition 12.2, May 31, 2008. CNSC staff noted that both the Escrow Agreement and the Financial Security and Access Agreement contain a mechanism by which both agreements can be amended to incorporate the remainder of the decommissioning costs.
21. SRBT stated that, despite the financial constraints brought on by the Commission's decision to issue SRBT a possession licence rather than an operating licence, it has complemented the funds in the escrow account to cover one hundred percent of the cost of the safe state of closure of the facility. SRBT assured the Commission of its determination to fully comply with the financial guarantee requirements and the relevant licence conditions for the full decommissioning of the facility.
22. The Commission sought further information concerning the escrow account. SRBT responded that the account is held in escrow in the name of the escrow agent, and it is an interest bearing account, payable at term. SRBT noted that it chose a term of 270 days in order to cover the period leading up to May 31, 2008. CNSC staff added that should the Commission find SRBT's proposal to be acceptable, the CNSC President will be required to sign the Financial Security and Access Agreement that will allow the CNSC access to the funds.

Conclusion

23. The Commission has considered the information and submission of the CNSC staff as presented in the material available for reference on the record.
24. The Commission is satisfied that the financial guarantee submitted by SRBT is acceptable. The Commission is satisfied that SRBT has fulfilled the requirements of Condition 12.1 of licence NSPFPL-13.01/2008.
25. The Commission therefore accepts the Escrow Agreement for \$79,368.10 and the Financial Security and Access Agreement as the financial guarantee provided by SRBT for the safe state of closure for the Class IB nuclear substance processing facility located in Pembroke, Ontario.

Linda J. Keen,
President
Canadian Nuclear Safety Commission

Date of release of Decision: October 23, 2007