



Summary Record of Decision

DEC 24-H102

In the Matter of

Applicant Ontario Power Generation Inc.

Subject Application to Amend the Pickering Waste Management Facility (PWMF) Licensing Basis to Process and Store a Maximum of 100 Dry Storage Containers Containing a Minimum of 6-year Cooled Fuel at the PWMF

Summary
Record of
Decision
Date August 3, 2024

SUMMARY RECORD OF DECISION – DEC 24-H102

Applicant: Ontario Power Generation Inc.

Address/Location: 700 University Avenue, Toronto, Ontario, M5G 1X6

Purpose: Application to Amend the Pickering Waste Management Facility (PWMF) Licensing Basis to Process and Store a Maximum of 100 Dry Storage Containers Containing a Minimum of 6-year Cooled Fuel at the PWMF

Application received: June 20, 2023

Hearing: *Notice of Hearing in Writing and Participant Funding* published on November 21, 2023
Revised Notice of Hearing in Writing and Participant Funding published on March 20, 2024

Summary Record of Decision Date: August 3, 2024

Panel of Commission: Dr. T. Berube, Acting President
Dr. V. Remenda

Licensing Basis: Amended

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1.0 INTRODUCTION

1. On [June 20, 2023](#), Ontario Power Generation Inc. (OPG) submitted an application to the Canadian Nuclear Safety Commission¹ (CNSC), under subsection 24(2) of the [Nuclear Safety and Control Act](#)² (NSCA), for an amendment to the licensing basis³ for the [Pickering Waste Management Facility](#) (PWMF). The PWMF is a Class I nuclear facility, located in the city of Pickering, Ontario, and within the traditional lands and waters of the Michi Saagiig Anishinaabeg, the Gunshot Treaty (1877-88), the Williams Treaties (1923), and the Williams Treaties Settlement Agreement (2018). The current licence, WFOL-W4-350.00/2028, expires on August 31, 2028.
2. The current licensing basis authorizes OPG to process and store, at the PWMF, dry storage containers containing used CANDU⁴ fuel that has been cooled in wet storage at the Pickering Nuclear Generating Station (NGS) for at least 10 years. OPG is seeking authorization to process and store, at the PWMF, up to 100 dry storage containers containing used fuel that has been cooled in wet storage at the Pickering NGS for a minimum of 6 years. The processing and storage of dry storage containers containing used fuel that has been cooled for less than 10 years is outside of the current licensing basis for the PWMF and requires Commission authorization.

Issues

3. Licence condition G.1, *Licensing Basis for Licensed Activities*, of WFOL-W4-350.00/2028 requires that:

The licensee shall conduct the activities described in Part IV of this licence in accordance with the licensing basis, defined as:

- i) the regulatory requirements set out in the applicable laws and regulations;*
- ii) the conditions and safety and control measures described in the facility's or activity's licence and the documents directly referenced in that licence;*
- iii) the safety and control measures described in the licence application and the documents needed to support that licence application;*

unless otherwise approved in writing by the Canadian Nuclear Safety Commission (hereinafter "the Commission").

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 The licensing basis is a set of requirements and documents for a regulated facility or activity comprising:

- the regulatory requirements set out in the applicable laws and regulations
- the conditions and safety and control measures described in the facility's or activity's licence and the documents directly referenced in that licence
- the safety and control measures described in the licence application and the documents needed to support that licence application

⁴ All nuclear power reactors in Canada are CANDU (Canadian Deuterium-Uranium) reactors. CANDU reactors are pressurized heavy water reactors that use natural uranium as fuel and heavy water as a coolant and moderator.

The licensing basis is established by the Commission at the time the licence is issued. As described in the licence conditions handbook for the PWMF, *Pickering Waste Management Facility Licence Conditions Handbook: LCH-W4- 350.00/2028*

operation during the licence period that is not in accordance with the licensing basis is only allowed based on the written approval of the Commission. Similarly, only the Commission can change the licensing basis during the licence period; and this would also be expected to be recorded in writing.

[...]

In the event that the Commission grants approval to operate in a manner that is not in accordance with the existing licensing basis, this would effectively revise the licensing basis for the facility. The appropriate changes would be reflected in the [compliance verification criteria] of the relevant [licence condition].⁵

4. This application does not call for a licensing decision that is specifically contemplated under section 24 of the NSCA, as a change to the licensing basis does not necessarily amend the terms of a licence, and would not in this case. What is requested would not change the licensed activities authorized in the current licence. The Commission has considered:
 - i) whether and what requirements the [*Impact Assessment Act*](#)⁶ (IAA) imposes in relation to the activities sought to be authorized
 - ii) whether OPG is qualified to carry on the activity that the licence, including the proposed changes to the licensing basis, would authorize; and
 - iii) whether, in carrying on that activity in the changed manner contemplated, OPG will make adequate provision for the protection of the environment, the health and safety of persons and the maintenance of national security and measures required to implement international obligations to which Canada has agreed.

5. As an agent of the Crown, the Commission recognizes its role in fulfilling the Crown's constitutional obligations, along with advancing reconciliation with Canada's Indigenous peoples. The Commission's responsibilities include the duty to consult and, where appropriate, accommodate Indigenous interests where the Crown contemplates conduct which may adversely impact potential or established Aboriginal⁷ or treaty rights.⁸ As such, the Commission must determine what engagement and consultation steps and accommodation measures are called for, respecting Indigenous interests.

⁵ CMD 24-H102, page 572 of 1230.

⁶ S.C. 2019, c. 28, s.1.

⁷ "Aboriginal" is the term used in this document when referring to the Crown's duty to consult as that is the term used in s. 35 of the Constitution Act, 1982. In all other cases, "Indigenous" is the preferred terminology and used accordingly.

⁸ *Haida Nation v. British Columbia (Minister of Forests)*, 2004 SCC 73; *Taku River Tlingit First Nation v. British Columbia (Project Assessment Director)*, 2004 SCC 74.

Public Hearing in Writing

6. On November 21, 2023, the Commission published [Notice of Hearing in Writing and Participant Funding](#)⁹ for this matter, which invited requests to intervene by May 17, 2024. On March 20, 2024, the Commission published a [Revised Notice of Hearing in Writing and Participant Funding](#)¹⁰ to announce an extension to the dates for filing submissions.
7. Pursuant to section 22 of the NSCA, the Acting President of the Commission established a Panel of the Commission over which he would preside, including Dr. V. Remenda, to consider the application. The Commission, in conducting a public hearing based on written materials, considered written submissions from OPG ([CMD 24-H102.1](#), [CMD 24-H102.1A](#),) and CNSC staff ([CMD 24-H102](#)). The Commission also considered written submissions from 5 intervenors (see Appendix A for a list of interventions).
8. In making its decision, the Commission asked questions to CNSC staff and OPG through [CMD 24-H102-Q](#). The Commission is satisfied with the completeness of the responses provided by CNSC staff ([CMD 24-H102.A](#)) and OPG ([CMD 24-H102.1B](#)).

Confidentiality Request

9. Alongside its application and supplemental submission, OPG submitted requests for confidentiality in accordance with rule 12 of the [Canadian Nuclear Safety Commission Rules of Procedure](#). On June 10, 2024, the Commission issued its decision¹¹ on OPG's request for confidentiality, setting out the measures it would take to protect information, pursuant to subrule 12(3).

CNSC Participant Funding Program

10. Pursuant to paragraph 21(1) (b.1) of the NSCA, the Commission has established a Participant Funding Program (PFP) to facilitate the participation of Indigenous Nations and communities, members of the public and interested parties in Commission proceedings. In [November 2023](#), up to \$50,000 in funding to participate in this hearing process was made available through the CNSC's PFP. A Funding Review Committee (FRC), independent of the CNSC, reviewed the funding applications received and made recommendations on the allocation of funds. Based on the recommendations from the FRC, the CNSC [awarded](#) a total of \$41,282.50 to 3 applicants: the Mississaugas of Scugog Island First Nation (MSIFN), Northwatch and Hiawatha First Nation. Recipients were required to submit a written intervention respecting OPG's application.

⁹ *Notice of Hearing in Writing and Participant Funding*, CNSC, November 21, 2023.

¹⁰ *Revised Notice of Hearing in Writing and Participant Funding*, CNSC, March 20, 2024.

¹¹ *Commission Ruling on Request to Protect Confidential Information in the Matter of OPG's application to amend the Pickering Waste Management Facility (PWMF) licensing basis to process and store a maximum of 100 dry storage containers containing a minimum of 6-year cooled fuel at the PWMF*, CNSC, 10 June 2024.

2.0 DECISION

11. Based on its consideration of this matter, the Commission concludes the following:
- an impact assessment under the IAA is not required
 - the contemplated licensing basis amendment does not present any novel adverse impact on any potential or established Aboriginal claim or right
 - the Commission's responsibility to uphold the honour of the Crown and its constitutional obligations with regard to engagement and consultation respecting Indigenous interests has been satisfied
 - OPG is qualified to carry on the activity that the amended licencing basis will authorize
 - OPG, in carrying out that activity, will make adequate provision for the protection of the environment, the health and safety of persons and the maintenance of national security and measures required to implement international obligations to which Canada has agreed.

Therefore,

the Commission amends the licensing basis for Ontario Power Generation's Pickering Waste Management Facility, located in Pickering, Ontario. Ontario Power Generation is authorized to process and store a maximum of 100 dry storage containers containing used fuel that has been cooled in wet storage at the Pickering Nuclear Generating Station for a minimum of 6 years. The terms and conditions of the current licence for the Pickering Waste Management Facility, WFOL-W4-350.00/2028, remain unchanged.

12. With this decision, the Commission directs CNSC staff to update the licence conditions handbook for the PWF, *Pickering Waste Management Facility Licence Conditions Handbook: LCH-W4- 350.00/2028*, as described in Part 2 of CMD 24-H102.
13. To confirm that the temperature and dose rate thresholds pertaining to dry storage containers are satisfied, the Commission requires that OPG provide dose rates and temperature measurements for both the weld surface and seal tube collected during commissioning of 2 to 4 dry storage containers containing 6-year cooled fuel with a comparison to predictions to CNSC staff no later than 30 days following the collection of data. The Commission directs CNSC staff to report to the Commission on the results of the dose rate surveys and measured outer surface and weld surface temperatures of the first dry storage container containing a minimum of 6-year cooled fuel. This information shall also be presented to the Commission at a public meeting.

3.0 CONCLUSION

14. Details of the Commission's consideration of the information submitted by OPG, CNSC staff, and intervenors in relation to this matter will be presented in a detailed *Record of Decision*, to be published at a later date.

Timothy Berube

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Berube
Date: 2024.08.03 11:27:05 -04'00'

Dr. Timothy Berube
Acting President
Canadian Nuclear Safety Commission

Date

Appendix A – Intervenors

CANDU Owners Group Inc.	CMD 24-H102.2
Christine Drimmie	CMD 24-H102.3
Northwatch	CMD 24-H102.4
Mississaugas of Scugog Island First Nation	CMD 24-H102.5
Hiawatha First Nation	CMD 24-H102.6