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Friday, April 05, 2002

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'Major changes' to world's biggest nuclear storage site never approved

Government didn't follow its own rules when it approved the storage facility planned for Inverhuron, Ontario.

Dateline: Friday, March 29, 2002

By Normand de la Chevrotiere

As the president of a volunteer community group, I've just learned some hard lessons. Let me explain, first by way of a question: what would you expect would happen if a small group tried to point out to government agencies that they seemed to have forgotten to follow their own processes and procedures?

For our group, the Inverhuron and District Ratepayers' Association (IDRA) in the tiny hamlet of Inverhuron near Kincardine, Ontario, it means facing about \$100,000 in punitive cost awards, plus legal fees, the result of rulings from the top three courts in the land. The costs were awarded to the federal government (the Ministry of the Environment and the Atomic Energy Control Board (AECB) - now Canadian Nuclear Safety Commission, the federal nuclear regulator) and Ontario Hydro (now Ontario Power Generation, OPG). OPG is the owner and operator of what will be the world's largest nuclear waste storage facility when it opens likely later this year at the Bruce nuclear complex, next to Inverhuron on the shoreline of Lake Huron.

Actually, the courts didn't quite rule. Both the Federal Court and Federal Court of Appeal said they weren't an "academy of science" and were not able to judge the technical issues before the court. But they did award costs against our citizens group and in favour of the government and Hydro. The Supreme Court of Canada refused to hear an appeal, but awarded further costs against the IDRA.

While our community must face the consequences of its judicial experience, the rulings and the fines have not diminished our concerns. The IDRA still wants OPG to submit its huge, new, above ground, high level radioactive waste storage facility to an independent and expert environmental assessment.

If the world's largest nuclear waste facility doesn't merit an independent assessment, what would?

After all, if the world's largest nuclear waste facility doesn't merit an independent assessment, what would? The Canadian Environmental Assessment Act has such provisions for projects of this scope and seriousness. But the government and the courts appear to have seen no need for such assessment.

However, a funny thing happened on the way through litigation. The court process gave us access to documents previously not made public. The documents provide a clear paper trail of letters between Hydro and AECB showing that the design of the waste facility had been radically changed by Hydro after it was presented to the public for comment and to AECB for approval.

The letters clearly show that the AECB deemed the changes made by Hydro to be "major," and requiring of further study and scrutiny through an additional public comment period. AECB notified at least four government departments of this opinion. Even Hydro's own consultants, GE Canada, flagged Hydro's new choice of design as requiring further safety study and assessment. Yet despite these cautions and a direct request from the AECB, plus a commitment from Hydro to inform the public of the changes, nothing happened.

Instead, Hydro wrote back to AECB to urge approval of the nuclear waste project as soon as possible, saying that further delays in the approval process could have a negative impact on the start-up. AECB appears to have acquiesced. Everything, apparently, was now fine. The Minister of the Environment agreed (did she even know about the changes)? The waste facility was quickly licensed for construction.

It became apparent we were seen as bothersome, pest-like

The Inverhuron and District Ratepayers Association has taken care of parks, beaches, social activities and other matters of interest to the hamlet since 1946. As its president, I was one of those convinced that the agencies in question would be more than open to hearing concerns about our nuclear neighbour, including those over increased cancer rates in the area. But as we went through layers of public hearings and correspondence with Hydro, AECB and other agencies, it became apparent we were seen as bothersome, pest-like.

We thought that introducing our concerns to the process would eventually lead to a safe, permanent storage of toxic waste materials, a goal everyone supported. Instead, I'm now concerned about the ability of a community group to bring such issues before the courts without fear of extensive, punitive measures.

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Two days after the Supreme Court refused to hear our appeal, lawyers for Hydro and then the government were at our door demanding their money, and in Hydro's case, with interest at the maximum allowable rate. Although community donations made it possible to bring the case to court, raising funds to pay Hydro and the federal government will be much

more difficult. People sense a gross inequity.

Ironically, Hydro was originally not even named as a party to the IDRA litigation. They asked the IDRA to allow them to be included, and we extended them this courtesy. Now we owe them the lion's share of the costs awarded by the courts, and Hydro continues to accrue interest daily.

Meanwhile, something still has to be done with hundreds of thousands of deadly used fuel bundles at nuclear sites. This has been a completely obvious and predictable dilemma for decades. The government's failure to find a permanent site for these toxic materials now means a "medium" term solution is being established in our community for a yet-to-be-determined period, regardless of any risks which may arise as a result of not applying what seem to be the prescribed processes under federal legislation.

On April 16, the IDRA will have an opportunity to make a presentation to an all party Standing Committee in Ottawa regarding changes to the Canadian Environmental Assessment Act. It is our hope the committee will agree that the public process of community involvement in these important matters needs a little tweaking.

Normand de la Chevrotiere is the President of the Inverhuron and District Ratepayers Association .

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