

Legal fight over nuclear dump hits dead end

Ratepayers group saddled with crippling legal costs

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A four-year lawsuit to force independent environmental assessment of the country's largest nuclear waste dump at Bruce Nuclear Power Development wound up recently.

A Supreme Court of Canada decision declining to hear a further appeal has left the 300-member Inverhuron Ratepayers Association deep in debt and may threaten the organization's existence, president Normand de la Chevrotiere said in an interview, Wednesday.

Federal and Supreme Court orders requiring the association to pay more than \$70,000 in legal costs to Ontario Power Generation and the federal government also raise questions about how citizens groups can afford to challenge future government decisions, he said.

De la Chevrotiere also remains concerned about the original purpose of his group's lawsuit. That's the potential threat to the environment along the Lake Huron shore from large-scale, above-ground storage of radioactive waste from Bruce reactors.

"If a project of this size and significance doesn't merit independent assessment, could I ask you just what would?" de la Chevrotiere said from his home near the Bruce generating stations.

"It sends a horrible message to the citizens of Canada that government decisions are beyond question," he said.

Inverhuron is a community of cottages and homes on the shore of Lake Huron. It is the closest settlement to the Bruce, which includes eight nuclear reactors and is among the largest nuclear power developments in the world.

In May 2000, a Federal Court of Canada judge dismissed an appeal by the ratepayers of a decision by the federal environment ministry allowing the Bruce Used Fuel Dry Storage Facility to

proceed without a formal environmental assessment. That followed a report commissioned by then-owner Ontario Hydro which minimized environmental impact from the project.

After public consultations, then-federal Environment Minister Christine Stewart agreed with the utility's assessment and ruled out independent work on environmental impact.

The project is now under construction by Hydro's successor company, Ontario Power Generation. Company spokesman John Earl said in an interview Wednesday that construction is to be completed this fall.

The Canadian Nuclear Safety Commission has yet to issue operating licences for the fuel storage site. OPG expects to make application for the licences later this year, Earl said.

The storage facilities are to provide space for up to 744,000 bundles of highly radioactive used fuel in above-ground concrete-and-steel silos. Delays in development of a national spent fuel disposal site require nuclear plant owners to develop extra on-site storage facilities beyond the capacity of original plant designs.

At an earlier stage of the lawsuit, ratepayers' lawyer Rod Northey argued that a judgment for costs against the group raises a public "access to justice" issue. A costs assessment against the Inverhuron group could effectively stop it and other public-interest groups from taking important public health and environmental issues to court, Northey said.

Citizens groups should not be "punished" for daring to raise public health issues in court before, rather than after, a tragedy such as the Walkerton water problem takes place, the lawyer said. De la Chevrotiere said OPG lawyers have already approached his group seeking payment of its share of \$70,000 in costs, plus interest worth another \$5,000.

Association lawyers performed some of the legal work without charging fees. The ratepayers president would not discuss the total amount of the association's own legal bills, however, except to say it was a "very monumental sum of money."

"We're pretty much tapped out," he added.