

Developments in the Canadian Nuclear Sector

Decommissioning, Waste Repositories and Environmental Assessment

Winnipeg, MB
Friday, September 21, 2018
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An Introduction to CELA

Litigation, Hearings and Statutory Tools

CELA's core mandate is to provide access to justice and public participation in environmental decision-making. These efforts include testing the existing laws and pushing for better decisions. We represent clients across Ontario in the courts, before administrative tribunals and by using legal tools.

CELA has been involved in federal EA processes, court cases and CNSC hearings regarding nuclear projects (e.g. new/refurbished reactors, disposal sites, licence renewals).

Agenda

1. Nuclear Context in Canada

2. Canada's Legacy Radioactive Wastes

- Projects currently under review

2. The Era of Decommissioning

- Update on the Whiteshell reactor in Pinawa, MB

3. Proposed changes to federal environmental assessment laws

- Bill C-69 and draft regulatory proposals expected Fall 2018

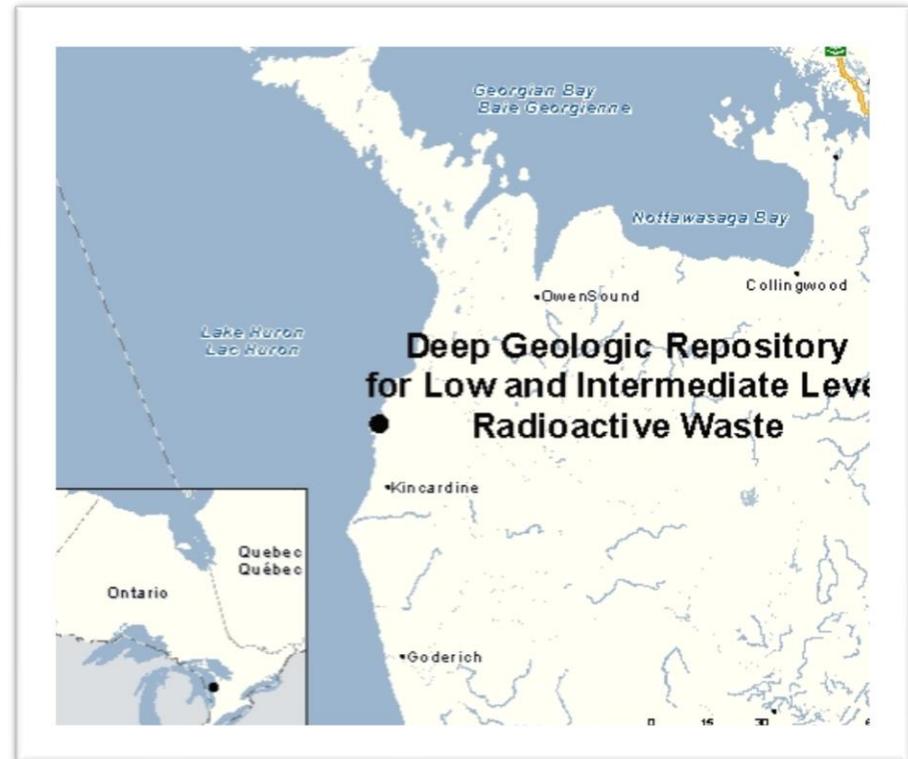
1. The Nuclear Context in Canada

- Canada has 5 nuclear power plants (19 reactors) in 3 provinces (Quebec's plant shut down in 2012)
- World's largest uranium mine is in Saskatchewan
- There are 2,000 licencees that use nuclear substances across Canada (e.g. industrial, commercial, & medical sectors)
- Over a million shipments of nuclear substances per year
- No permanent storage options for our waste

2. Canada's Legacy Radioactive Wastes

Deep Geological Repository

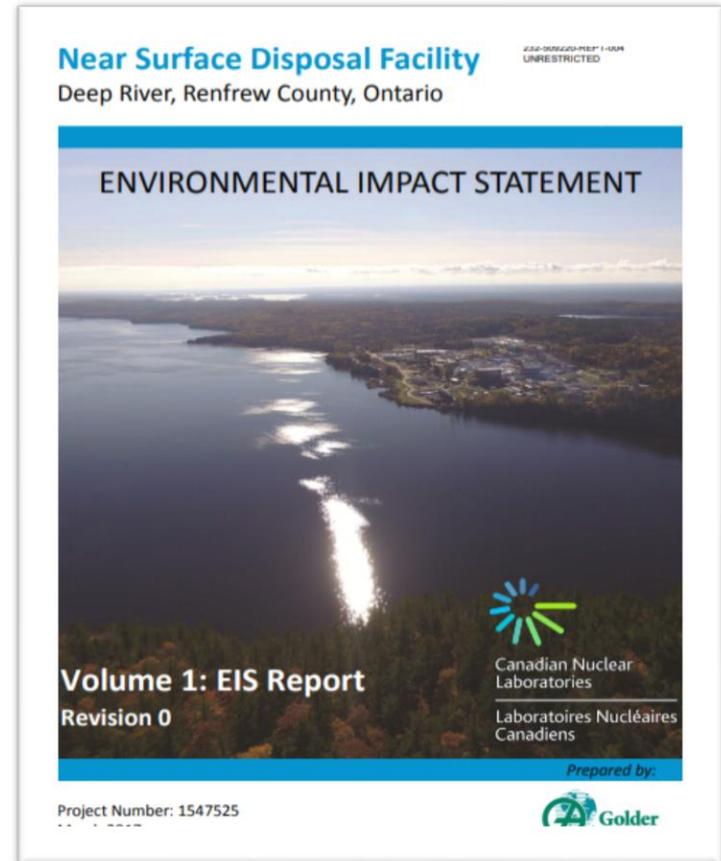
- Proposed site for mixture of low, intermediate, and long lived nuclear waste in deep rock cavity
- On hold pending further information, requested by Minister of Environment and Climate Change (Aug 2017)



2. Canada's Legacy Radioactive Wastes

Near Surface Disposal Facility

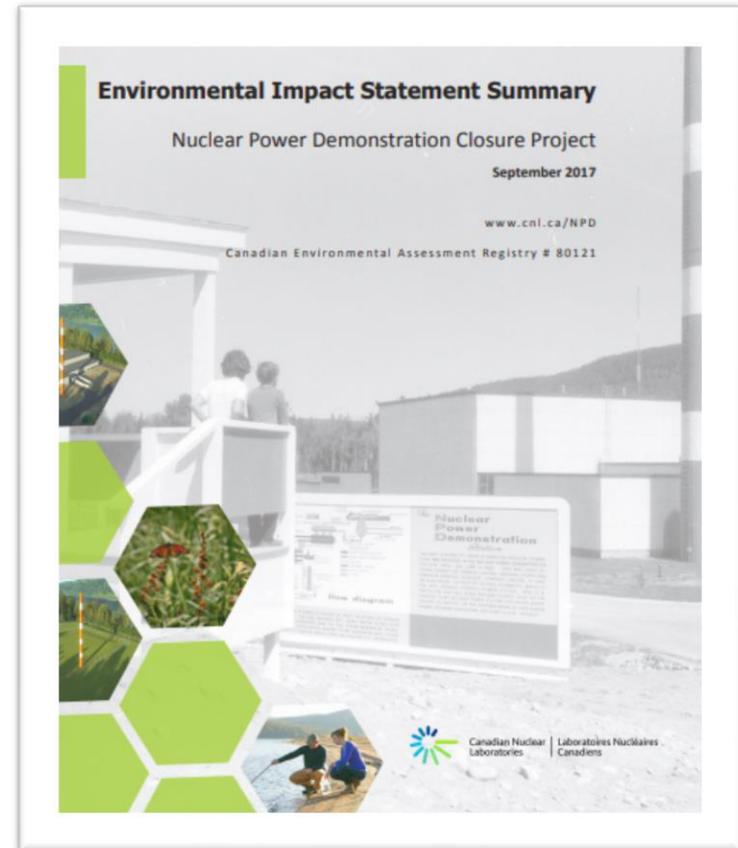
- Proposed disposal site for low and intermediate level waste; proposal amended to exclude ILW in Aug 2017
- Would accept waste from throughout Ontario
- Final environmental impact statement (EIS) expected Summer 2019



3. The Era of Decommissioning

Nuclear Power Demonstration Closure Project

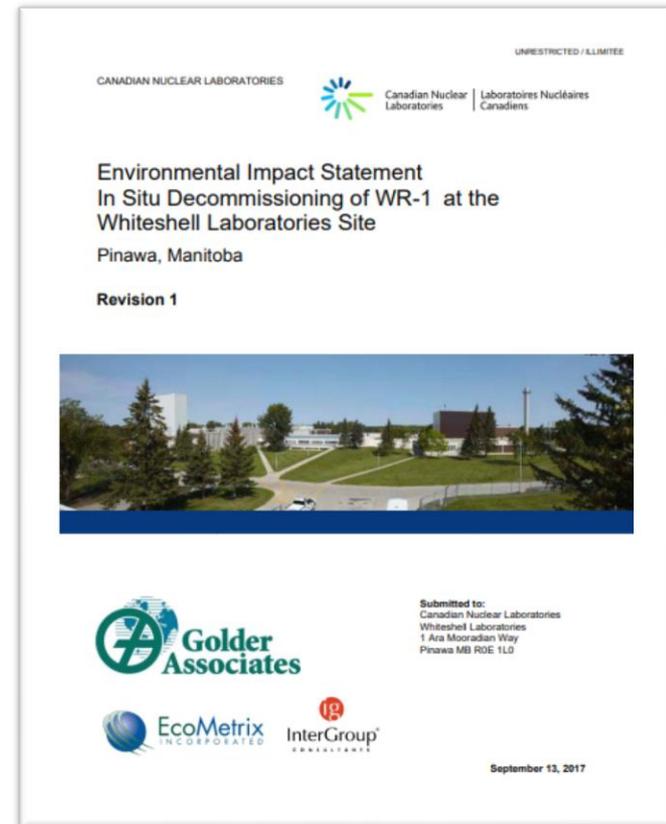
- Former nuclear generating station
- In-situ decommissioning aka “entombment”
- Project review delayed
- Additional time needed for review because of volume of public and government comments received



3. The Era of Decommissioning

Whiteshell Laboratories

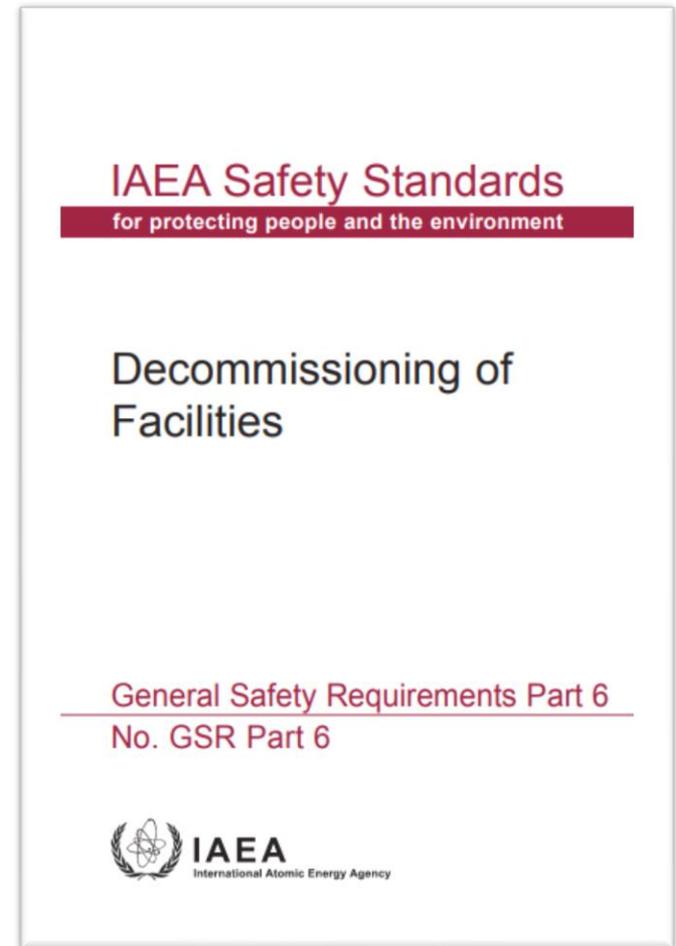
- Former research reactor
- Proposal for in-situ decommissioning
- Project review delayed due to volume of information requests
- 1 year licence granted from nuclear regulator, CNSC, as interim measure



3. The Era of Decommissioning

International Guidance

“**Entombment**, in which all or part of the facility is encased in a structurally long lived material, is not considered a decommissioning strategy and is not an option in the case of planned permanent shutdown. It may be considered a solution only under exceptional circumstances (e.g. following a severe accident).”



3. The Era of Decommissioning

International Guidance (cont'd)

Nuclear Safety and Control Act, SC 1997, c 9

An Act to establish the Canadian Nuclear Safety Commission and to make consequential amendments to other Acts

Preamble

[...]

AND WHEREAS it is essential in the national interest that consistent national and international standards be applied to the development, production and use of nuclear energy;

3. The Era of Decommissioning

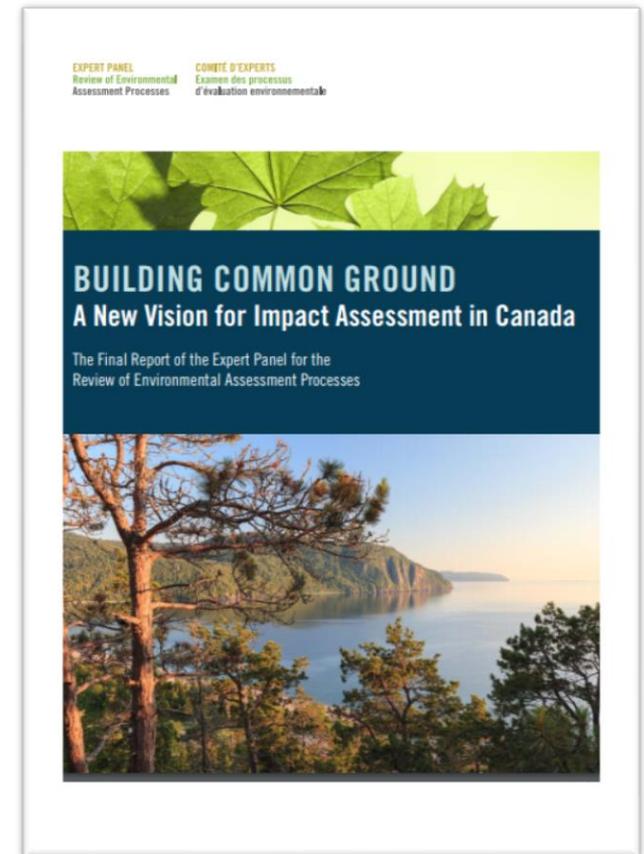
Findings and Recommendations

- Deficient public disclosure of information and overall lack of detail (ie. consideration of alternatives, methodology, goals for end-state)
- Project proposals are not aligned with international guidance
- Canada lacks a comprehensive waste framework and guidelines for decommissioning. Broad public consultation needed – **a strategic EA should be conducted to allow Canada to develop these comprehensive and publicly informed strategies**

4. Proposed Changes to Environmental Assessment Law in Canada

Bill C-69, *Impact Assessment Act*

- [Bill C-69](#) introduced in February 2018, proposes to repeal existing *Canadian Environmental Assessment Act, 2012* and enact *Impact Assessment Act*
- In 2017, Expert Panel found existing process was deeply flawed and EA authorities lacked public trust



4. Proposed Changes to Environmental Assessment Law in Canada

“Project List” Regulation

- Currently unclear which projects will be subject to IAA
- Public comment on draft proposals identifying projects to trigger IA expected Fall 2018
- Nuclear projects which currently do not trigger EA include:
 - Decommissioning (e.g. Pickering nuclear station, 2024)
 - Refurbishment (e.g. Bruce nuclear station)
- IA “Project List” should include these projects plus those caught by *CEAA 2012* and the former Comprehensive Study List of *CEAA 1992*

4. Proposed Changes to Environmental Assessment Law in Canada

Findings and Recommendations

- Purpose of IAA is to “foster sustainability” and consider project effects on environment, health, and socio-economic conditions (s. 6)
- IA requires consideration of purpose and need for the project, alternatives to the project, etc. (s. 22)
- IAA provides more opportunities for early public engagement and expert review
- **These are central hallmarks of sound EA not found in the *Nuclear Safety and Control Act*. NSCA licensing is not equivalent to an EA – despite CNSC claims to the contrary**

4. Proposed Changes to Environmental Assessment Law in Canada

Findings and Recommendations (cont'd)

- CNSC recognizes their lack of expertise in sustainability assessments, noting their reviews do not consider socioeconomic effects
- Without broader inclusion of nuclear projects in revised IA process, proponents can make unilateral determinations about the acceptability of a project, its social and economic impacts, without public input and expert review
- A project's social licence can be undermined by deficiencies in public consultation and formal licensing processes

4. Proposed Changes to Environmental Assessment Law in Canada

Public Comment Opportunity

Opportunity for public to comment on “Project List” proposal setting out activities requiring an impact assessment expected this Fall

<https://www.impactassessmentregulations.ca/>

Next Steps

- **Consultation on approach - Winter/Spring 2018**
Sought public input on the two proposed regulatory approaches
- **Review and analyze input** **CURRENT**
Reviewing and analyzing public input to guide development
- **Consultation on regulatory proposals - Fall 2018**
Seek public input on regulatory proposals
- **Finalizing of Regulations - Early 2019**
Developing draft regulations for formal publication in Canada Gazette

Thank you!

For more information:

<http://www.cela.ca>

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