



CANADIAN ENVIRONMENTAL LAW ASSOCIATION
L'ASSOCIATION CANADIENNE DU DROIT DE L'ENVIRONNEMENT

March 14, 2011

Darlington New Nuclear Power Plant Project Joint Review Panel

Care of:

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Attention: Mr. Alan R. Graham, Chair, Ms. Ms. Jocelyn Beaudet, and Mr. Ken Pereira, Panel Members

Re: Darlington New Build Environmental Assessment Hearing before Joint Panel, commencing March 21, 2011 – Additional Procedural Matters

Dear Mr. Graham, Ms. Beaudet, and Mr. Pereira,

As requested in your procedural directions, CELA writes to advise as to those procedural matters we wish to address at the opening of the Hearing before the Joint Panel on March 21, 2011.

We note that you have already addressed a number of matters in prior correspondence and directions, such as:

- Provided the ability to monitor hearing remotely by telephone access at a number previously provided by the Hearing Panel;
- Provided for the potential of a one week extension of time to register by those who had a reason for missing the January 13, 2011 deadline for registration
- Provided various ways to participate in the Hearing to suit various interests and levels of expertise such as in writing only, by oral presentation only, by both written submission and by oral presentation
- Provided for the ability to make submissions remotely by telephone
- Provided morning, afternoon and evening times for the hearing and accommodated schedules of those wishing to present

- Provided, in directions to the agencies to participate, that participants may ask questions of the agencies
- Stated, (in a letter to Northwatch), that the hearing is flexible and that you will continue to receive information from any parties up until delivery of final report to the Minister
- That hearing transcripts will be available

We would suggest that it would be useful to make available at the earliest opportunity, a summary of all procedural directions to date, summarizing those directions and responses contained in previous correspondence with various parties and previous Panel directions, together with the results of the March 21st submissions and Panel decisions.

The procedural matters which we still wish to address are as follows:

1. **First and foremost we submit that it is imperative that this Panel postpone the hearing to a future date** to be set, in view of the current ongoing tragedy in Japan and the many questions pertaining to the status of the Nuclear Power reactors there. It will take time to obtain reports from the relevant authorities, and to assess and analyze those reports. It will be essential for you to take into account lessons learned from the events and circumstances in Japan. This was also the case for example in the recent severe Gulf BP oil spill; in that case the National Energy Board waited for the report from that tragedy before moving ahead with the rest of its information gathering exercise in the Arctic drilling review (which is still currently underway). There are many many questions arising in relation to the events in Japan; and of course the situation there is very volatile at the present. Once the current crisis has passed, it will be imperative to assess the implications for the reactor designs, choice of technology and potential siting of a New Build set of Nuclear Power Plants at Darlington, among several matters of direct relevance to the Hearing before you.
2. We repeat the point that many of the participants who have retained expert advice to review the Darlington EA require additional funding. As we have stated in previous correspondence, this is the case in relation to the potential that the CANDU 6 is contemplated to be within the scope of the Panels consideration in the present hearing. This will also be the case in relation to the unfortunate events in Japan and the necessity for analysis of those events in relation to the proposal before you, and for participants to make informed comments on those matters.
3. We repeat the strong concern we have voiced in two prior letters, sent in conjunction with other organizations, about the potential that the CANDU 6 technology may be in scope for this hearing based on some questions asked late in the review period. We intend to raise this concern again on March 21st, based on those two previous letters sent to you. We also reiterate that if it is confirmed that the CANDU 6 technology is considered by the panel to be within the scope of this hearing, then that alone requires a delay of this proceeding to allow further analysis by participants, and to allow participants the express opportunity to pose further questions and concerns to the Panel for the purpose of obtaining additional information to address the implications of this potential technology choice.
4. We also intend to raise concerns about the scope of this hearing in that other necessary issues such as accident risk from each of the potential technologies, emergency planning, consequences of system failures for each of them are not adequately addressed in this EA, or at all.

5. We intend to raise concerns that the EA is premature given the lack of information as to the technology choice for any potential New Build reactors at Darlington. The absence of information as to the technology that would be pursued is fundamental to the ability of this Panel to make an informed recommendation to government; and to the ability of the participants to adequately participate at an appropriate level of detail.
6. We will raise again a concern about the denial of transportation from nearby public transit to the Hearing venue. This raises serious accessibility and safety issues for participants.
7. We would like confirmation of the right of participants to ask questions of the proponent and the Agencies who have been directed to make presentations to the panel as seems to be indicated in the letters of Direction to those Agencies. We would also request an indication of how those questions are to be conducted and pursued – for example will they be allowed following each presentation; one participant at a time; or during the presentations as questions occur to participants.
8. We repeat our request and belief that you should receive the information from the Proponent and Agencies as sworn evidence. This may be true of Participants as well, depending upon the nature of the participation.
9. We repeat our request for visual Web access or skype or webcast technologies for visual access to the hearing and to see visual materials as they are being discussed, in particular, for those participating remotely.
10. We would also request clear direction to participants as to how to access materials which are being presented each day, both for those attending in person, and those participating remotely.
11. We would also request French translation of all written and visual material be provided by the Panel, as well as simultaneous translation. We request that translation included written translation for transcripts.
12. We would like clarification of the time by which we can expect hearing transcripts (we request overnight posting on your websites).

We look forward to the opportunity to raise these matters before you at the opening of the hearing on March 21, 2011.

Thank you for your attention.

Yours very truly,



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