

# Record of Proceedings, Including Reasons for Decision

In the Matter of

Applicant 588972 Alberta Limited, operated as Enviropac

Subject Opportunity to be Heard on the Revocation of  
the Order and Licences Issued to 588972  
Alberta Limited

Hearing  
Date October 9, 2008

## RECORD OF PROCEEDINGS

Applicant: 588972 Alberta Limited, operated as Enviropac

Address/Location: 2236 - 80<sup>th</sup> Avenue, Edmonton, Alberta, T6P 1N2

Purpose: Opportunity to be heard on the revocation of the Order and licences issued to 588972 Alberta Limited

Order Issued: April 3, 2008

Date of hearing: October 9, 2008

Location: Canadian Nuclear Safety Commission (CNSC) Public Hearing Room, 280 Slater St., 14th. Floor, Ottawa, Ontario

Members present: M. Binder, Chair            M. J. McDill  
A.R. Graham                        A. Harvey  
C.R. Barnes

Secretary: K. McGee  
Recording Secretary: M. Young  
Senior General Counsel: J. Lavoie

<b>Applicant Represented By</b>	<b>Document Number</b>
• R. M. (Bob) Masnyk, President, Chief Executive Officer of Enviropac Inc.	CMD 08-H22.2
<b>CNSC staff</b>	<b>Document Number</b>
• A. Régimbald • K. Mayer	CMD 08-H22

**Order:** Revoked  
**Licence:** Revoked

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## Introduction

1. 588972 Alberta Limited, operated as Enviropac and previously located at 2236 - 80<sup>th</sup> Avenue, Edmonton, Alberta, currently holds the following three suspended licences issued by the Canadian Nuclear Safety Commission<sup>1</sup> (CNSC):
  - storage licence 12127-2-09.1, issued January 1, 2006 and suspended May 16, 2007;
  - licence to process unsealed nuclear substances 12127-3-09.0, issued October 1, 2004 and suspended May 16, 2007; and
  - calibration licence 12127-4-09.0, issued October 1, 2004 and suspended May 16, 2007.
2. Following a proceeding<sup>2</sup> held on February 7, 2007, the Commission concluded that Enviropac was no longer qualified to carry on the activities that its licences authorized, and suspended those licenses, pursuant to section 25 of the *Nuclear Safety and Control Act*<sup>3</sup> (NSCA) and subsection 8(2) of the *General Nuclear Safety and Control Regulations*<sup>4</sup>. The Commission concluded that Enviropac had not taken all reasonable precautions to protect the environment, the health and safety of persons, maintain security, and fulfill other obligations as set out in paragraph 12(1) of the *General Nuclear Safety and Control Regulations*.
3. As Enviropac was no longer qualified to carry on licensed activities, the Commission also issued Commission Order 07-1 (Commission Order) to replace the Designated Officer Order issued September 15, 2006 and confirmed by the Commission on December 14, 2006<sup>5</sup>. The Designated Officer Order had been issued to reflect the urgent need for Enviropac to address health and safety issues related to the non-compliance of licence conditions, as the storage conditions of the nuclear substances and radiation devices at the Enviropac site posed an unreasonable risk to the public and the environment. CNSC staff had determined that the storage of nuclear substances and radiation devices at the site was not sustainable for the long-term, and timely remediation of the site was necessary.
4. At the February 7, 2007 proceeding, CNSC staff presented a plan for the remediation of the Enviropac site that could be completed within one year of being initiated. The plan included the removal, transport and storage of all nuclear substances and prescribed equipment from the site.

<sup>1</sup> 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.

<sup>2</sup> Refer to the *Record of Proceedings* on “Review by the Commission of the Designated Officer Order Issued to 588972 Alberta Limited on September 15, 2006 and Licensing Actions”, hearing dates December 14, 2006 and February 7, 2007.

<sup>3</sup> S.C. 1997, c. 9.

<sup>4</sup> S.O.R./2000-202.

<sup>5</sup> Refer to the *Record of Proceedings* on “Review by the Commission of the Designated Officer Order Issued to 588972 Alberta Limited on September 15, 2006”, hearing dates December 14, 2006.

5. The Commission Order included conditions that prohibited Enviropac from conducting any and all activities relating to the powers, rights and privileges granted under its licences. The Commission Order also provided the CNSC with full and unfettered access at all times to the Enviropac premises and prohibited Enviropac from interfering with the CNSC's possession, transfer, transport and storage of nuclear substances and prescribed equipment located on the Enviropac premises. The Commission Order also required that Enviropac submit to CNSC staff a monthly report on its compliance activities that have been taken under the Commission Order.
6. With the issuance of the Commission Order, the Commission suspended Enviropac's licences, which ensured that Enviropac remained a licensee during the remediation of the site. In doing so, Enviropac remained accountable for its responsibilities and obligations under the NSCA, including compliance with the *General Nuclear Safety and Control Regulations* and the *Cost Recovery Fees Regulations*<sup>6</sup>.
7. The Commission directed a Designated Officer to take possession of all nuclear substances and prescribed equipment on the three CNSC licences issued to Enviropac, pursuant to subsection 9(1) of the *General Nuclear Safety and Control Regulations*.
8. CNSC staff provided an update to the Commission on the progress it had made regarding initiating the remediation of the site at the February 21, 2008 Commission meeting<sup>7</sup>.
9. Following the February 21, 2008 meeting, the nuclear substances and prescribed equipment were removed from the site, but it was determined that surface contamination resulting from Americium-241 remained at the site. Further analysis determined that the extent of the contamination was greater than had previously been found and in more areas of the building than had been expected, including non-work areas such as the mezzanine.
10. On April 3, 2008, a Designated Officer issued an Order to the landlord of the premises located at 2236 - 80<sup>th</sup> Avenue, Edmonton, Alberta. The Designated Officer Order was issued to provide CNSC regulatory control of the site, thus ensuring controlled access and prohibiting work at the site, due to the contamination from Americium-241. The Commission confirmed<sup>8</sup> the Designated Officer Order on May 15, 2008.
11. CNSC staff initiated the cleanup of the contamination at the premises located at 2236 - 80<sup>th</sup> Avenue, Edmonton, Alberta through the work of a qualified contractor. The contractor conducted the cleanup in August 2008.

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<sup>6</sup> S.O.R./2003-212.

<sup>7</sup> Refer to the Minutes of the Canadian Nuclear Safety Commission (CNSC) Meeting held Thursday, February 21, 2008.

<sup>8</sup> Refer to the *Record of Proceedings* on "Opportunity to be heard on the Designated Officer Order Issued to Mr. E. Kolewaski with respect to the premises located at 2236, 80<sup>th</sup> Avenue, Edmonton, Alberta, previously leased to Enviropac", hearing date May 15, 2008.

12. Following the cleanup, CNSC staff concluded that the radiological criteria for the site have been met. CNSC staff recommended to the Commission that it revoke the Commission Order issued to Enviropac and revoke the three licences held by Enviropac.

#### Issues

13. Pursuant to subsection 43(3) of the NSCA, the Commission, on its own initiative, redetermined the Commission Order issued to Enviropac for the purpose of revoking the Order, pursuant to paragraph 43(4)(j) of the NSCA.
14. Pursuant to section 25 of the NSCA, the Commission, on its own motion, considered the revocation of the three licences, pursuant to subsection 8(2) of the *General Nuclear Safety and Control Regulations*.

#### Proceeding

15. Pursuant to section 22 of the NSCA, the President of the Commission established a panel of the Commission to consider the revocation of the Commission Order and the three licences.
16. The Commission, in making its decisions, provided an opportunity to be heard to Enviropac on October 9, 2008 in Ottawa, Ontario. During the proceeding, the Commission considered a written submission and an oral presentation from CNSC staff (CMD 08-H22) and Enviropac (CMD 08-H22.2).

#### **Decision**

17. Based on its consideration of the matter, as described in more detail in the following sections of this *Record of Proceedings*,

the Commission, pursuant to paragraph 43(4)(j) of the *Nuclear Safety and Control Act*, revokes Commission Order 07-1 issued to 588972 Alberta Limited and operated as Enviropac on June 28, 2007.

The Commission, pursuant to section 25 of the *Nuclear Safety and Control Act*, revokes storage licence 12127-2-09.1, licence to process unsealed nuclear substances 12127-3-09.0 and calibration licence 12127-4-09.0, issued to 588972 Alberta Limited and operated as Enviropac

## Issues and Commission Findings

18. CNSC staff described the remediation activities conducted at 2236 - 80<sup>th</sup> Avenue, Edmonton, Alberta. CNSC staff stated that the on-site remediation process was thorough and comprehensive, and all nuclear substances and prescribed equipment were removed from the site. CNSC staff reported that the site was successfully decontaminated and no further CNSC regulatory control is required. CNSC staff recommended that the Commission revoke the Commission Order because the conditions of the Commission Order are no longer required.
19. CNSC staff stated that two remedial actions remain with respect to the licensed activities of Enviropac: the characterization and inventory of high-risk sealed sources currently stored at Atomic Energy of Canada Limited (AECL) Whiteshell Laboratories, and filing in Federal Court to obtain an order for the disposal of all nuclear substances and prescribed equipment seized in this matter.
20. CNSC staff stated that it expects that all remaining issues regarding the identification and characterization of the sources currently stored at AECL Whiteshell Laboratories will be completed by the end of the fiscal year 2008-2009. CNSC staff noted that, due to the potential exposures associated with these sources, it will work with AECL to carry out the work in the hot cells of AECL's Shielded Facilities Building.
21. CNSC staff stated that once the work has been completed at AECL Whiteshell Laboratories, the Commission will apply to the Federal Court to obtain an order for the disposal of all nuclear substances and prescribed equipment seized in this matter. CNSC staff stated that the necessary documentation will be filed in accordance with the *Federal Court Rules*<sup>9</sup>. CNSC staff noted that until the Federal Court process is complete, the nuclear substances will continue to be stored at licensed locations under the control of CNSC staff to ensure that no unreasonable risk is posed to the health and safety of persons and the environment.
22. CNSC staff stated that Enviropac remains unqualified to carry on the activities that its licences authorize. Since all nuclear substances and prescribed equipment have been removed from the premises and Enviropac is no longer a tenant at 2236 - 80<sup>th</sup> Ave, Edmonton, Alberta, CNSC staff recommended that the Commission revoke the three licences held by Enviropac.
23. CNSC staff noted that a significant amount of cost recovery fees for Enviropac remain unpaid, contrary to subsection 17(2) of the *Cost Recovery Fees Regulations*.
24. During the opportunity to be heard, Enviropac submitted a request for documentation compiled during CNSC staff's investigation of the matter.

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<sup>9</sup> S.O.R./98-106.

**Conclusion**

25. The Commission has considered the information and submissions as presented in the material available for reference on the record for the proceeding.
26. Based on the above information, the Commission is satisfied that the radiological cleanup criteria have been met and the premises located at 2236 - 80<sup>th</sup> Avenue, Edmonton, Alberta are no longer contaminated. The Commission agrees with CNSC staff's conclusion that regulatory control of the site is no longer needed and the conditions of the Commission Order are no longer required.
27. The Commission, pursuant to paragraph 43(4)(j) of the NSCA revokes Commission Order 07-1 issued to 588972 Alberta Limited and operated as Enviropac on June 28, 2007.
28. Commission concludes that Enviropac remains unqualified to carry on the activities that its licences authorize. The Commission, pursuant to section 25 of the NSCA, revokes storage licence 12127-2-09.1, licence to process unsealed nuclear substances 12127-3-09.0 and calibration licence 12127-4-09.0, issued to 588972 Alberta Limited and operated as Enviropac
29. The Commission directs CNSC staff to provide Enviropac with the requested documentation, as appropriate.



NOV 19 2008

Michael Binder  
President,  
Canadian Nuclear Safety Commission

Date