

Under the Port Hope Area Initiative (PHAI), a **Special Circumstance** may be applied to a property where the cleanup of historic low-level radioactive waste (LLRW) is not practical, reasonably achievable or desired.

In these cases, some amount of LLRW will be left in place. To support this action, Canadian Nuclear Laboratories (CNL) will conduct a risk assessment to confirm that the continued presence of the LLRW is protective of human health and the environment. However, if CNL is unable to gain the property owner's permission to access the property to complete its investigations or remedial work, an exemption to the risk assessment in the process will be made.



Types of Special Circumstances

There are six types of Special Circumstances that may be applied to a property:

1 An **Access Constraint** will be applied to a property when the owner has denied access to CNL to perform or complete PHAI work.

2 A **Property Owner Directed Remediation** may be applied, at the request of the property owner, to preserve a feature of the property that is of importance to the owner. In this case, the property owner has not denied access, but has restricted access.

3 A **Physical Constraint** may be applied to a property where conditions such as the instability of a structure would require extraordinary measures to remove the waste.

4 An **Operational Constraint** may be applied where the depth of the excavation required to remove the waste would be unreasonable or not practical.

5 An **Environmental Constraint** may be applied where the removal of the waste would have a detrimental effect on a significant environmental or ecological feature such as protected or endangered plant and animal life (e.g. Butternut trees, natural heritage areas).

6 A **Social/Heritage Constraint** may be applied where the cleanup of the waste would have a detrimental effect on a significant social or heritage feature of the community (e.g. historic buildings and property, including mature trees and other natural features).

Details of these constraints are available in the Special Circumstances Protocol developed by CNL and reviewed by the Municipality of Port Hope and the Canadian Nuclear Safety Commission. This protocol is available upon request.

Process of applying a Special Circumstance

- CNL will inform the owner of its intention to apply a Special Circumstance to a particular property. This is usually done during the design phase and prior to the signing of the Remediation & Restoration Agreement. Data available through the testing of the property will guide the discussions and result in drawings or maps that show the planned work and potential impacts.
- CNL leads the Special Circumstances process and consults with Atomic Energy of Canada Limited (AECL) – as the representative of the Government of Canada – before applying an exemption from PHAI activities to a property.
- In some cases the identification of a constraint may not happen until remediation is underway, in which case the remediation may be temporarily halted until the property owner is made aware of the issue and a new path forward is developed.
- CNL will identify the type of Special Circumstance being applied to the property.
- Likewise, the property owner may identify any areas or features of the property that they do not want disturbed during the design phase.
- CNL will provide information to the owner on the environmental and health impacts associated with leaving LLRW in place, should this information be available.



- Once CNL and the property owner have reached a preliminary agreement on the application of a Special Circumstance to the property, CNL will provide a Special Circumstance Decision Package that includes detailed information on the application, rationale and impacts. The property owner will have the opportunity to review this package, solicit independent legal advice (if so desired), and sign off on the revised design.

Outcomes of applying a Special Circumstance

In the case of a physical, operational, environmental or social/heritage constraint, CNL must be satisfied that there are no environmental and health risks associated with leaving LLRW in place.



- Where a Special Circumstance is applied, property owners and occupants will be able to use their properties as usual. They will continue to be eligible for building permits, like other property owners in Port Hope, within the terms of applicable municipal by-laws. However, depending upon the specific nature or location of the LLRW being left on the property, some safety measures may be required by the property owner to avoid disturbing the LLRW, short of removal.
- If, within a period of 20 years following the closure of the Port Hope Long-Term Waste Management Facility, there is a compelling reason for the waste to be disturbed – such as construction of a building or pool, tree removal due to storms/disease/age, or the construction of utility services, AECL will dispose of the waste at an appropriate waste management facility.
- AECL's liability during the 20-year period is limited to the transportation and disposal of LLRW materials. Excavation of soils, scanning of removed material and restoration of the property will be the responsibility of the property owner.
- After the 20-year period, if it is necessary to remove LLRW from a property, doing so will be the responsibility of the property owner. This responsibility extends to any costs associated with transportation and disposal in accordance with all regulations applicable at that time.
- If a Special Circumstance is applied to your property, information about LLRW in Port Hope may be requested at any time by contacting CNL. This will include property-specific studies, scientific information and precautionary measures related to LLRW. This information will also be made available

to other members of the public, such as real estate buyers and their agents, which may affect the market value of the property and may be taken into account by mortgage lending and insurance institutions.

- It is unlikely that the property would qualify for compensation under the PHAI Property Value Protection Program, which you should take into account if you request a Property Owner Directed Remediation.





PHAI Compliance Letter



After cleanup of your property is completed, you will receive a Compliance Letter similar to the letters other property owners will receive. However, the letter will note that a Special Circumstance has been applied and the property complies with the requirements of the PHAI.

This letter and other documents relating to the remediation of your property, such as the Special Circumstance Decision Package, will be kept on file by CNL and will be available to members of the public in accordance with the requirements of Canada's *Access To Information Act*.

No Compliance Letter will be issued for properties to which an Access Constraint has been applied.

It's your decision

The Special Circumstance Decision Package will provide details of the constraint application specific to your property. Acceptance of the Special Circumstance must be provided by the property owner in writing to CNL.

Subsequently, the property owner will receive a Remediation & Restoration Agreement that will confirm the owner's acceptance of the Special Circumstance, acknowledge the information disclosed to the owner relating to the Special Circumstance and otherwise describe the agreed-to remedial and restoration work to be performed at the property.

A property owner can decline the application of a Special Circumstance or PHAI remediation plan for the property. However, doing so will result in opting out of the PHAI cleanup.



Property owners are encouraged to seek legal or other professional advice before signing the Remediation & Restoration Agreement for their property.

