

Property Value Protection Plans: - a Brief Overview

1. The details below have been obtained from documents already in our possession or complemented by a simple internet search. Further details can be obtained if required subject to agreement regarding additional effort. Copies of the two Canadian Agreements referred to are available, although the relevant websites are also listed at the end of this Overview.

1. What is a PVP?

2. As discussed in the International Review of Community Benefits (Partnership Document 140), it is not uncommon for agreements to be made between siting communities and a disposal facility implementer to formalise protection measures for local property owners. Indeed, it is one of the IAEA recommended remedies for mitigation of potential impacts on the built environment of a facility host community (IAEA, 2002).
3. The purpose of such an agreement, usually referred to as a Property Value Protection Plan (PVP), is to provide confidence amongst members of the local community that compensation will be available should any demonstrable impacts be encountered during the future sale of a house or other agreed property. In addition, a PVP can often also include protection for loss of rental or costs associated with difficulties in remortgaging a property (Advokaat and Johnson, 2008). Whilst not a guaranteed benefit in terms of specific value, conditions are normally laid down in the agreement specifying how amounts would be calculated in the event of a demonstrated impact.
4. Several academic studies have been undertaken in recent years, mostly in the United States, to examine whether the presence in a community of a nuclear facility (reactor, storage site or disposal facility) has had a demonstrable effect on property values. The evidence appears to suggest that most impacts are in fact beneficial, due in part to the influx of skilled and high-income workers seeking property, and the fact that in general, those who do not wish to live near the facility will tend to move away, and be replaced by those who are not as concerned (Bezdek, 2006).
5. In the UK the Royal Institute of Chartered Surveyors reported a study into the impact of windfarms on property values. The results were deemed to be inconclusive, suggesting that other factors were equally if not more important in affecting values. One conclusion was that *'the threat of a windfarm may have a more significant impact than the presence of one'* (FiBRE, 2007). This may have some relevance to potential impacts in MRWS Stage 4 (see below). However, we should point out that we have no details of a comprehensive PVP that has been operated during the initial stages of a siting process for any contentious facility. The detailed examples described here are associated with planned or operating facilities where a site has already been identified.
6. In Canada, Nova Scotia Lands Inc. has undertaken a biennial review of impacts on property prices resulting from the remediation and cleanup of the Sydney Tar Ponds and Coke Ovens sites. This was in response to local concerns that there would be negative impacts. No such impacts have been demonstrated in the last 5 years (Nova Scotia Lands Inc. 2009).

2. Where are they in use?

7. The best examples of the use of PVPs are in Canada. The two for which we have the most comprehensive information are those in place as part of the Port Hope Area Agreement, covering the Port Hope Area Initiative (PHAI), involving cleanup of an area of land contaminated by past industrial activity, and as part of the Kincardine Agreement which exists between Ontario Power Generation (OPG) and the communities around their proposed geological disposal facility (GDF) for long-lived low and intermediate level waste.
8. We are also aware of examples of the usage of PVPs in connection with other energy-related facilities in the United States, including wind turbines. Again, the intention is to provide confidence that any demonstrated impacts will be compensated for. In these cases it is normal for a maximum radius of potential impact to be specified in the terms of the PVP.
9. Also in the United States, plans by BP Amoco in Kansas earlier this decade to cleanup a former refinery site included a PVP. Under this programme, residents in the offsite plume area could sell their home to BP for 100 percent of its appraised value and receive a moving allowance. In addition, BP offered home improvement grants for those who chose not to sell their property (US EPA, 2005).
10. Finally, for completeness, we are aware of one example of compensation being paid in the UK for property depreciation associated with a mobile phone mast in the UK, although this was only paid due to a failure by the developer to inform nearby residents of the plans within the statutory period. According to the website www.planningsanity.co.uk the average property is likely to drop by between 20% to 25% where the property is within 100 metres of a telecommunication installation, or of a high powered cable network installation.

3. How does a PVP work?

11. As already mentioned, one of the most important aspects of a PVP is that there is no specific sum guaranteed. It is necessary to demonstrate that an impact on the resale price of a house or other property has been reduced due to the presence of a facility or the activity being undertaken. A PVP may also include provision for compensation if problems are encountered during remortgaging or for loss of rental income.
12. In order to demonstrate how a PVP works, it is informative to examine the example of the Port Hope Agreement, which has been in operation in Canada for almost 10 years, having been signed in 2001, and the conditions laid down in the Kincardine Agreement for a PVP which will only come into operation when a construction licence is issued for the proposed facility.
13. **The Port Hope PVP** was a deliberate response to expressed local concerns regarding potential impacts of the cleanup of around 1.7 million m³ of contaminated soil and uranium refinery wastes. There are few precedents that equal the PHAI AVP in terms of its comprehensiveness (Herod, 2011). The AVP covers properties within a 90 km² area known as the PVP Zone, the extent of which can be seen on the AVP website (see below). There are around 5,800 properties within the Zone.

14. The PHAI PVP is funded by the Canadian government in the form of a grant appropriation and is subject to external audit. It comprises three main components: a claims process, an appeals process and appointment of independent Citizen Compensation Officers (local citizens with a history of civic involvement of real estate or legal experience). When a claim is submitted, it is first screened against a number of specific criteria, including confirmation that the property is within the AVP Zone, that the sale took place within the relevant time period (Dec 2000 to 2 years after project completion) and that the sale was the result of an *'arm's length transaction'* conducted in good faith. If these are met, the claim is further screened to determine whether the diminished sale price can be attributed to the effects of the project, whether the property has been adequately advertised on the open market and confirmation that the sale price was below a fair market value based on comparison with similar properties elsewhere (Herod, 2011). Further details of these criteria are available if required.
15. The AVP Zone was established by identifying those properties that lie within the potential *'zone of influence'* of the project as defined in the Environmental Impact Assessment. The Zone thus contains a number of *'potentially affected neighbourhoods'* due to excavation of spoil, transport activities and disposal in the designated facilities.
16. Initially the intention was for the AVP to be available only following a sale. Early experience demonstrated that it was also necessary to take account of the project's influence on actually making a sale. This led to the introduction of a service known as a *'pre-sale appraisal'*. This service is available to property owners who can demonstrate that efforts have been made to sell, and have undertaken all reasonable efforts to encourage a sale. Compensation under the AVP is then determined related to the selling price of a similar property in an unaffected area of the community.
17. There were very few claims under the AVP during the first seven years, with 8 of 14 accepted and paid, totalling some C\$145,000 (£90,000). Since 2007 there was a marked increase in media stories about the project, and this impacted on sales and therefore claims. As of the end of March 2011, a total of 37 claims had been processed, with compensation approaching C\$1.4 million (£925,000) paid to 27 successful claimants.
18. The PHAI is about to enter the cleanup and disposal phase, and other claims are therefore anticipated.
19. **The Kincardine Agreement** was signed in 2005 between OPG and the Municipality of Kincardine and three adjoining municipalities, in Ontario, Canada, where OPG wish to site a GDF for L/ILW. The Agreement includes details of a comprehensive PVP Programme that will come into operation from the date that OPG receives an operating licence for the GDF. The Canadian authorities are currently examining the construction licence application and Environmental Impact Assessment that was submitted by OPG in 2011, and a decision is not expected until around 2015, following a public hearing process. The Agreement lays down a specific process which an applicant for compensation must follow, as detailed below:
 - *'All claims for compensation must be accompanied by a letter or written report of a qualified local realtor or appraiser.'*

- *In establishing diminution of property value, the property owner must first prove the fair market value of the property on a relevant day such as any of the following days:*
 - (a). *October 5, 2000*
 - (b). *The day before the date of Canada's signature of this Agreement;*
 - (c). *The day before the earliest relevant environmental determination or regulatory approval for the Facility;*
 - (d). *The day before the announcement of the making of an application to the CNSC for a construction licence for the relevant Facility;*
 - (e). *The day before the commencement of construction of a particular Facility; or*
 - (f). *The day before the commencement of implementation of a particular Element of the Project.'*

4. What could be done if the MRWS process continues to proceed into Stage 4?

20. As mentioned previously, the most comprehensive details of PVP implementation that we have (the PHAI and that as part of the Kincardine Agreement), relate to situations where a site has already been agreed, and in the latter case only come into effect when a construction licence has been granted. However, the discussion below raises some issues that could be relevant to any discussion concerning development of some form of PVP during MRWS Stage 4, should the Partnership recommend the councils to proceed.
21. Examination of the most prominent AVP example (the PHAI PVP) illustrates that it is important to agree the zone of potential impact for which an AVP is appropriate from the very beginning. In the case of the MRWS process, Stage 4 only involves non-intrusive examination of a number of potential candidate sites. This means that it will be necessary to include the whole of West Cumbria (assuming all three Local Authorities agree to participate) within an initial PVP 'zone of influence', apart from those areas excluded by the BGS screening exercise. It will therefore be necessary to agree at an early point the form of the potential impact upon property prices etc. that that might be included in any proposed Stage 4 PVP, as unlike the Canadian examples, where a specific site already existed, this is likely to include planning blight and concerns amongst those considering purchasing or renting properties within the whole of the potential siting area. Only when and if a final site is selected will it be possible to agree a more focussed AVP Zone.
22. In Stage 5 additional potential impacts due to drilling and other surveying activities are likely, but these will tend to be relatively short-lived. Only in subsequent Stages of the MRWS process will longer-lasting impacts be possible, culminating in impacts due to construction of surface and ultimately underground facilities, including potential transport-related impacts.
23. Any PVP should therefore be a staged Plan, with agreement between the local communities and NDA (RWMD) as to what constitutes an impact and which should be included in the PVP. This should be negotiated in good faith and revisited as the Process continues from one Stage to the next. The initial Plan should however recognise that the general perception of a property being within even a potential

repository area could be deleterious to property values and lead to difficulties in realising a sale.

24. It will be necessary to identify similar properties in areas excluded by the BGS survey in order to provide a baseline for agreement of a fair market value in the case of any claim being made. Scrutiny of such claims should be carried out by independent Compensation Officers appointed by the relevant local authorities and funded by NDA (RWMD), but subject to audit.
25. As in the case of the PHAI PVP, an independent consultant should be engaged to develop operational details, staffing requirements and to estimate initial costs. The PHAI PVP was launched by a small staff with relevant expertise, with the citizen Compensation Officers operating independently of the Programme.

5. References

Advokaat E and C Johnson (2008). THE PORT HOPE AREA INITIATIVE: ADDRESSING THE SOCIO-ECONOMIC IMPACTS OF A LARGE LOW-LEVEL RADIOACTIVE WASTE CLEAN-UP PROJECT IN CANADA. In: Proceedings of the 28th Annual Conference of the International Association for Impact Assessment, 4–10 May 2008, Perth, Australia.

Bezdek, RG and RM Wendling (2006). The impacts of nuclear facilities on property values and other factors in the surrounding communities. *Int. J. Nuclear Governance, Economy and Ecology*, Vol. 1, No. 1, 2006

Findings in Built and Rural Environments [FiBRE]. (2007). What is the impact of wind farms on house prices? Published by RICS Research

Herod, J (2011). Evolution of the Property Value Protection Program – A Study of How a Compensation Plan to Address Project-Related Diminution Has Evolved to Meet Changing Needs. In: Proceedings of Waste Management, Decommissioning and Environmental Restoration for Canada's Nuclear Activities, Toronto, Canada, Sept 11- 14 2011.

International Atomic Energy Agency (2002). Socio-economic and other non-radiological impacts of the near surface disposal of radioactive waste. TecDoc 1308

Nova Scotia Lands Inc. (2009). Property Value Protection Program. Sydney Tar Ponds and Coke Ovens Cleanup. March 2009.

US Environmental Protection Agency (2005). LAND REVITALIZATION RCRA – Former Amoco Refinery, Sugar Creek, Missouri. June 2005

Web Pages for Further Information**Port Hope Area Initiative (PHAI):**

Port Hope Area Initiative (PHAI): Details of the PVP and a video explanation
<http://www.phai.ca/en/property-value-protection>

Port Hope Area Initiative (PHAI): PVP FAQ's
<http://www.phai.ca/en/Property-Value-Protection-Program-FAQs>

Port Hope Area Initiative (PHAI): Overview
http://www.phai.ca/userfiles/file/PVP%20FACT%20SHEETS/1_PVP%20OVERVIEW%20March%202029.pdf

Port Hope Area Initiative (PHAI): Eligibility Details
http://www.phai.ca/userfiles/file/PVP%20FACT%20SHEETS/2_PVP%20ELIGIBILITY%20March%202029.pdf

Port Hope Area Initiative (PHAI): PVP Compensation Process (loss on sale)
http://www.phai.ca/userfiles/file/PVP%20FACT%20SHEETS/3%20PVP%20COMP%20PROCESS_LOSS%20ON%20SALE%20March%202029.pdf

Port Hope Area Initiative (PHAI): PVP Compensation Process (delayed sale)
http://www.phai.ca/userfiles/file/PVP%20FACT%20SHEETS/4%20PVP%20COMP%20PROCESS_DELAYED%20SALE%20March%202029.pdf

Port Hope Area Initiative (PHAI): PVP Special Services
http://www.phai.ca/userfiles/file/PVP%20FACT%20SHEETS/5_PVP%20SPECIAL%20SERVICES%20March%202024.pdf

Port Hope Area Initiative (PHAI): PVP Appeals Process
<http://www.phai.ca/userfiles/file/PVP%20FACT%20SHEETS/6%20PVP%20APPEALS%20PROCESS%20march%202028%20202011.pdf>

The Kincardine Agreement

http://www.nwmo.ca/publications?media_file_id=537&action=downloadfile

The Town of Hammond (New York State) PVP Agreement (2010)

<http://www.windaction.org/documents/30293>



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