

ENGAGING ABORIGINAL PEOPLES IN CANADA'S PLAN FOR THE LONG-TERM MANAGEMENT OF USED NUCLEAR FUEL

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ABSTRACT (AS PER TITLE)

The interests and concerns of Aboriginal peoples are integral to development and implementation of Canada's plans for the long-term management of used nuclear fuel. The Nuclear Waste Management Organization (NWMO) has an ongoing statutory obligation and a commitment to active and meaningful participation with Aboriginal peoples. The organization has worked with Aboriginal organizations and individuals to develop long-term engagement and dialogue processes that respect traditional Aboriginal practices, culture, protocols and approaches to decision-making. Aboriginal peoples were significant participants in the 2003-2005 study that resulted in the recommendation for Adaptive Phased Management (APM). After the Canadian government agreed to proceed with APM, Aboriginal peoples provided valuable input into development of the process for selecting a site for a deep geological repository (DGR) for the long-term management of Canada's used nuclear fuel. The involvement of Aboriginal stakeholders continues to be important as Canada moves into the siting process. Engagement of Aboriginal peoples is guided by principles that respond to the unique interests, perspectives and culture of Aboriginal peoples. These principles recognize and honour the special relationship that Aboriginal peoples have with the natural environment, their unique stewardship responsibilities, and the fact that Aboriginal peoples are holders of Aboriginal Traditional Knowledge (ATK), which brings value to planning processes. The NWMO has been working with Aboriginal Elders and others to learn about ATK and to interweave this knowledge into its work. ATK includes important knowledge about the land, ecology and intergenerational decision-making. The NWMO and Aboriginal peoples have given life to engagement principles and the wisdom of ATK by collaboratively developing a number of programs including agreements with national, regional and local Aboriginal organizations. Additionally, the NWMO has developed communication materials with Aboriginal stakeholders, with a view to building the capacity of Aboriginal peoples to remain engaged over time. Another key process has been the establishment of the Elders Forum. As Canada moves more deeply into the process of selecting an "informed and willing community", Aboriginal peoples and the NWMO continue to develop engagement mechanisms and to work to include ATK in plans and decision-making. The contributions of Aboriginal peoples and Elders have helped the NWMO develop its Aboriginal engagement program and have shaped broader engagement principles and strategies. Moving forward, the NWMO will continue to build on the approaches and activities for Aboriginal engagement that have brought so much value to its work and its collaboration with all Canadians.

1. INTRODUCTION

The mission of the Nuclear Waste Management Organization (NWMO) is to develop and implement, collaboratively with Canadians, a management approach for the long-term care of Canada's used nuclear fuel that is socially acceptable, technically sound, environmentally responsible and economically feasible.

Broad and ongoing stakeholder engagement is a core principle guiding fulfillment of this mission. Following its establishment in 2002 under the *Nuclear Fuel Waste Act (NFWA)*, the NWMO undertook a three-year national dialogue and study to evaluate options and recommend a management approach for used nuclear fuel. Through engagement of more than 18,000 citizens and specialists, and 2,500 Aboriginal people, Adaptive Phased Management (APM) emerged as the preferred Canadian approach.

In 2007, the Government of Canada accepted the NWMO recommendation to proceed with APM. The organization then began its second phase of engagement — involving Canadians and Aboriginal peoples in the design of a process to select a site for a deep geological repository (DGR) for used nuclear fuel. Dialogue with more than 7,000 people led to the 2010 publication of a process for selecting an “informed and willing” host community for the DGR.

Engagement of those potentially affected by NWMO's work will continue to be central as the focus shifts to implementing the site-selection process. This will involve engagement in communities expressing interest in potentially hosting the DGR, as well as with Canadians and Aboriginal peoples who could be affected in neighbouring communities, the larger region and along the transportation corridor for the used fuel. Engagement of Aboriginal peoples has been part of the NWMO's work throughout all phases and will continue to be critical moving forward.

2. FOUNDATIONS OF ABORIGINAL ENGAGEMENT

The Nuclear Waste Management Organization (NWMO) is committed to the active and meaningful participation of Aboriginal peoples in its work.

From its inception, the NWMO has sought to develop its processes and plans with the involvement of Aboriginal peoples — laying a foundation for ongoing consultations and engagement that are respectful of traditional practices and approaches to decision-making. The building of long-term relationships with Aboriginal peoples and the establishment of processes that will “stand the test of time” are critical aspects of this engagement work.

Aboriginal peoples were significant participants in the study phase from 2003-2005, and much of their valuable advice has been incorporated into NWMO's broader engagement approaches and activities. Following the federal government's decision to proceed with APM, the NWMO sought input from Aboriginal peoples in the four nuclear-fuel-cycle provinces (Saskatchewan, Ontario, Quebec and New Brunswick) on the *Proposed Process for Selecting a Site for Canada's Used Nuclear Fuel*. Participants provided valuable feedback that helped the NWMO to bring the site-selection document to its final form in 2010.

The NWMO acknowledges and respects the unique status and rights of Aboriginal peoples — Indian, Inuit and Métis peoples of Canada — as recognized and affirmed in s.35 of the *Constitution Act* (1982), and is committed to respecting the Aboriginal rights and treaties of Aboriginal communities potentially affected by its work. The NWMO also recognizes that there may be unresolved claims between Aboriginal communities and the Crown to be taken into account in relation to a proposed site.

Under the *Nuclear Fuel Waste Act* (NWFA), the NWMO has an ongoing statutory obligation to engage Aboriginal peoples as it implements Adaptive Phased Management (APM). The interests and concerns of Canada's Aboriginal peoples are integral to the planning and execution of this project. The roles of the federal Crown and the NWMO with respect to the “duty to consult” Aboriginal peoples in APM implementation were clarified in a Memorandum of Understanding signed in 2009. Aboriginal engagement will continue to be important to the work of the NWMO as it further develops and implements the site-selection process.

3. PRINCIPLES GUIDING ENGAGEMENT OF ABORIGINAL PEOPLES

NWMO adheres to the values of integrity, excellence, engagement, accountability and transparency in all its activities and in its relationships with all stakeholders — including, of course, Aboriginal peoples. In addition, the organization is guided by principles that are unique to Aboriginal engagement; these are principles that recognize the unique interests and viewpoint of Aboriginal peoples and their special role in providing advice to the NWMO. Many of these principles are expressed in the NWMO's Aboriginal Policy.

3.1 NWMO's Aboriginal Policy

While the formal Aboriginal Policy was finalized and adopted in 2010, it is rooted in approaches that the NWMO and Aboriginal peoples have developed together since they began their dialogue in 2003.

The policy is built on five principles that recognize and honour the special relationship Aboriginal peoples have with the natural environment, their unique stewardship responsibilities, and the fact that Aboriginal peoples are holders of Aboriginal Traditional Knowledge (ATK), which can bring value to decision-making processes. These principles are:

1. Good decision-making among Aboriginal peoples regarding the NWMO's work must be built on a foundation of knowledge to ensure that informed choices can be made by Aboriginal communities.
2. The NWMO recognizes and honours that Aboriginal peoples have a special relationship with the natural environment and have unique stewardship responsibilities that are part of this relationship.
3. Consideration for the safety and security of future generations is integral to the Aboriginal world view and fundamental to the decision-making processes of Aboriginal peoples.
4. Open and honest relationships are built on a foundation of trust and sharing of knowledge and information.
5. The NWMO acknowledges that Aboriginal peoples are holders of ATK and recognizes the value that ATK can bring to decision-making processes.

3.2 Interweaving of Aboriginal Traditional Knowledge with APM

As stated in its Aboriginal Policy, the NWMO recognizes the value that ATK can bring to the decision-making process and is striving to “interweave” this knowledge with its work as appropriate. Use of the term “interweave” is important; it makes it clear that the NWMO is not trying to usurp or integrate ATK of Aboriginal people potentially affected by APM, as ATK is held by Aboriginal peoples and its use must consider the protection of intellectual property. The NWMO is not attempting to reconcile two different world views in an arbitrary or abstract manner, but rather to build on the basis of both. To help achieve this interweaving of ATK with Adaptive Phased Management, the NWMO has undertaken a series of initiatives to increase its understanding of ATK.

3.2.1 Understanding Aboriginal Traditional Knowledge

The NWMO began the process of learning from Aboriginal Elders about Traditional Knowledge, when it sought the guidance of Aboriginal peoples and Elders in the design of the framework for studying approaches to the long-term management of used nuclear fuel. One of the first activities that the NWMO undertook after it was formed was to host an ATK workshop (2003) — to examine what is meant by “traditional knowledge” and how the NWMO and the study of options might best reflect traditional insights and learning. Elders, Traditional Knowledge holders, practitioners and academics participated in the workshop.

Since these early days, the NWMO has been following a process of continuous learning and adaptation — benefiting from the wisdom of Elders in communities and from the members of the Elders Forum and Niigani (See Section 4.2). The NWMO does not presume to have achieved complete understanding or believe that it has fully integrated ATK; however, the organization’s understanding and appreciation of Traditional Knowledge and Aboriginal world views have steadily grown.

The NWMO and Aboriginal peoples have collaborated on a number of initiatives and special projects to help increase NWMO understanding of ATK, as well as Aboriginal community life, culture, governance structures, protocols and spiritual life. Another focus of this work has been to bridge understandings between Traditional Knowledge, and Western science and other knowledge. For example, one project included the participation of NWMO staff in a fish camp with a traditional Aboriginal family in the Northwest Territories. The experience afforded a natural environment for sharing Traditional Knowledge and an opportunity for NWMO personnel to develop their skills in communicating scientific concepts to Aboriginal Elders and youth.

Another example: In 2010, the NWMO sought to learn directly from Aboriginal peoples how ATK is being applied in the economic development of an Aboriginal community. The NWMO was invited to visit with Dr. Dean Jacobs and tour Walpole Island First Nation, where community members provided an overview of programs developed to protect and maintain ATK in the economic development of this First Nation.

3.2.2 Learnings from Aboriginal Traditional Knowledge

The NWMO has learned that Traditional Knowledge is more than a simple compilation of facts drawn from local, and often remote, environments. It is a complex and sophisticated system of

knowledge that draws on centuries of wisdom and experience, and continually grows and changes with new information. It also encompasses beliefs, understanding and ways of doing things. The NWMO has worked to interweave all these facets of ATK into its work, including the ATK view of the world and its values, as well as the decision-making processes that flow from these perspectives.

ATK includes important knowledge about the land and ecology stemming from long contact with the land. Traditional Knowledge systems assume that people are part of the land, not owners of it, and are guardians of Mother Earth. ATK emphasizes the interrelationships between components of the environment, and the need to consider the biophysical, economic, social, cultural and spiritual aspects of environmental management decisions.

ATK also includes knowledge about developing and maintaining effective and meaningful relationships between generations, and within and between communities. One aspect is the “seven generation” teachings, which require decision-makers to consider the impact of decisions made today on seven generations into the future.

Aboriginal Elders and others have also shared insight into the kinds of dialogue-driven and consensus-building processes that arise from ATK's principles and values; these have been fundamental to NWMO's approach to Aboriginal engagement and in many ways, to its overall engagement and consultation philosophy. Relevant ATK principles include:

- Honour the wisdom that can be garnered from speaking to Elders in both the Aboriginal and non-Aboriginal communities.
- Respect opinions and suggestions of all who take the time to provide insight into this process.
- Conservation, particularly as it applies to the consumption of electricity, must be a major part of the solution, not just a footnote in the NWMO process.
- Transparency is essential to the process.
- Accountability must be part of any solution, so that those responsible (whether for the concept or the delivery) are held to high account by the public for their actions.

These principles are reflected in the NWMO values of integrity, transparency, accountability and engagement.

4. PROCESSES FOR ABORIGINAL ENGAGEMENT

The NWMO and Aboriginal peoples have given life to the principles described in the previous section through joint development of a number of programs. These have included agreements with and NWMO support for Aboriginal organizations to design, conduct and report on dialogues with their members. Each dialogue initiative was unique, reflecting the needs, concerns, value systems and/or decision-making process of the organization and people represented.

During the study phase, agreements with 15 national, regional and local Aboriginal organizations guided the engagement of several thousand Aboriginal peoples across Canada. Initially, the NWMO established agreements with national organizations as a means of achieving the broadest

exposure possible; as the study progressed, agreements involved regional and local organizations to strengthen direct contact at the local level.

Refinement of the proposed site-selection process in 2009 included agreements with provincial Aboriginal organizations, to collaboratively design and conduct regional dialogues to provide information and seek Aboriginal peoples' thoughts on *the Proposed Process for Selecting a Site for Canada's Used Nuclear Fuel* and their involvement in this process.

Aboriginal peoples were also involved in multi-party dialogues and other activities, when possible, to ensure their unique perspective influenced all discussions.

4.1 Communications and capacity-building to support engagement

As part of its approach to engagement of Aboriginal peoples, the NWMO has developed mechanisms for communicating with Aboriginal stakeholders on the issue of used nuclear-fuel management, the mandate and work of the NWMO, Adaptive Phased Management, and the process for site selection. These endeavours are based on the understanding that Aboriginal peoples need to have a comprehensive understanding of APM so that they can make informed decisions throughout all phases. They also reflect the need for long-term frameworks to build the capacity of Aboriginal peoples to remain informed and engaged over time.

Some examples of these initiatives are:

- Working with Aboriginal communications specialists and others, the NWMO has developed culturally appropriate communications materials for Aboriginal audiences. This work has included development of a brochure and adaptation of an NWMO DVD for Aboriginal peoples, with the DVD translated into several Aboriginal languages.
- The NWMO and the Assembly of First Nations (AFN) collaborated on a two-year project that included hiring a project coordinator to provide support to First Nations, and assist in communication between the NWMO and First Nation communities. A 2010 agreement with the AFN provides the opportunity for the organization to conduct independent research, provide advice to First Nations, and serve as a vehicle to provide communications material on used nuclear fuel storage to First Nation communities.
- The NWMO assisted the Native Women's Association Canada's work to involve Aboriginal women in their role as stewards of the environment through the development of an Environmental Toolkit, that is broadly available to provide Aboriginal women with information and the tools they may need to ensure their issues are being addressed and their perspectives are being heard, when looking to effectively participate in any environmental decision-making process.
- The NWMO has worked with provincial and national Aboriginal organizations to establish liaison-relationship agreements. Liaison-relationship agreements are designed to build on the ongoing relationships the NWMO established with organizations at the outset of its study in 2003. Their purpose is to ensure a regular means of liaison and to maintain the Aboriginal organizations' internal capacity to support their members seeking information or involved in the site-selection process.
- In 2009, the NWMO announced a contribution of \$105,000 over three years in support of the Chair in Indigenous Governance at Ryerson University. This initiative will considerably impact capacity-building and help strengthen governance in Aboriginal communities across Canada. Dr. Pam Palmater has been appointed as the Chair of Indigenous Governance at Ryerson University.

4.2 The Elders Forum and Niigani

Upon the advice of Aboriginal peoples who engaged in early dialogue, the NWMO established an Elders Forum to assist in bringing Aboriginal Elders and their knowledge into deliberations, and to continue work towards interweaving Aboriginal Traditional Knowledge and APM.

Local, regional and national Aboriginal organizations that had worked with the NWMO during the study phase were asked to recommend Traditional Knowledge holders to join the Forum. First convened in Ottawa in August 2005, the Elders Forum has since met at least once each year.

The Forum brings together Aboriginal Elders and youth. At the request of the Elders, the format of gatherings includes the Aboriginal tradition of a 'talking circle', and prayers and ceremonies. In 2006, the Elders Forum established a working group from among its membership. Niigani, as the working group was named through a traditional ceremony, has met several times a year. "Niigani" means "leading the way" and represents all people working together.

The Elders have provided the NWMO with advice on many issues and have significantly contributed to the building of relationships between Aboriginal communities and the NWMO for the long-term management of used nuclear fuel. The Elders advise the NWMO on the unique responsibility Aboriginal peoples have for the land and protection of Mother Earth, and the importance of this being recognized and reflected throughout implementation of APM. Elders provide important advice to the NWMO about the implementation of APM and engagement in site selection. The Elders Forum played an important role in the development of NWMO's Aboriginal Policy.

4.3 Aboriginal contributions to development of the site-selection process

The special relationship that Aboriginal peoples have with the natural environment allows them to bring a unique and valuable perspective to the process of selecting a site for long-term storage of Canada's used nuclear fuel. Aboriginal stakeholders made significant contributions during the NWMO's consultations on its *Proposed Process for Selecting a Site for Canada's Used Nuclear Fuel*. Their active participation will continue as APM moves into implementation of the siting process.

In 2009, the NWMO invited Aboriginal organizations in Saskatchewan, Ontario, Quebec and New Brunswick (the four provinces involved in the nuclear-fuel cycle) to collaboratively design, develop and coordinate a series of regional information and dialogue sessions on the proposal document.

Participants in the dialogues provided a range of insights that helped shape the final site-selection document and that will inform ongoing Aboriginal engagement as potential host communities come forward. Examples include:

- Safety and security are of paramount importance to the success of the project, as is the need to build broad confidence in those areas. Confidence will come from clearly understanding the potential impacts of a deep geological repository (DGR) on the health

and safety of workers, the public and the environment; how the transportation of used fuel might affect traditional territories; and how Aboriginal communities should prepare for this transportation.

- Reports from the dialogues underlined the importance of education in addressing and overcoming fears associated with hosting a DGR. This education is best led by Aboriginal peoples, independent of the NWMO and at a pace suitable to Aboriginal peoples. Youth engagement must be at the forefront of these efforts.
- Clear and understandable discussion of impacts and benefits for Aboriginal territories is needed. Concern was expressed about the effects of a repository on hunting and gathering practices, particularly in the event of an accident, and the mitigation and compensation that would be needed.
- Economic development is an important effect of the implementation of APM, and it has the potential to benefit communities if appropriately managed. However, there is strong concern that impoverished communities may come forward as potential host communities out of economic desperation alone, and measures to ensure the wellbeing of these communities need to be put in place. Benefits must extend to future generations.

These consultations also reinforced the critical need to include Aboriginal Traditional Knowledge in the site-selection process.

4.4 Future contributions of Aboriginal peoples to site selection

The NWMO will look to Aboriginal peoples as practitioners of Traditional Knowledge to be active participants in the site-selection process, and to share that knowledge with the NWMO to the extent they wish to—to help guide the decisions involved in site selection, and to ensure safety and the long-term well-being of the host community. This includes seeking the wisdom of Elders of affected Aboriginal communities and working with them to interweave their Traditional Knowledge with the NWMO's work—based on the recognition that the ATK of any area is unique and highly specialized to the Aboriginal peoples of that area.

The NWMO is committed to the early involvement of potentially affected Aboriginal peoples in the process for selecting a site. The NWMO will encourage any community interested in hosting this project to involve surrounding communities, regions and potentially affected Aboriginal governments as early as possible in conversations about the potential suitability of the community and site.

As potentially interested communities begin to come forward, full opportunity will also be provided to surrounding communities, including Aboriginal communities, to have their questions and concerns heard and taken into account in decision-making on a preferred site. In 2010, the NWMO began the communication process with Aboriginal communities neighbouring potentially interested host communities involved in the early steps of the site-selection process. The goal is to begin developing the long-term relationships that will be needed as site selection proceeds.

5. VALUE OF ABORIGINAL ENGAGEMENT TO THE NWMO'S WORK

Insights and advice from Aboriginal peoples and Elders have been very beneficial to the work of the NWMO. These contributions have clearly helped the NWMO to develop its program of Aboriginal engagement but the benefits extend much further.

In the study phase, direction from Aboriginal peoples was instrumental in shaping the design of APM on a number of levels. For instance, the values framework guiding the conduct of the study was designed to reflect the values shared by Aboriginal Traditional Knowledge holders in an early workshop.

The NWMO's general approach to engagement — one focused on dialogue and consensus-building — has been shaped by what it has learned from Aboriginal peoples — about concepts such as the need to take a holistic approach to assessing options, and the importance of long planning horizons and intergenerational responsibility. The NWMO engagement program is built on a number of understandings. Advice and direction from Aboriginal dialogues have informed and helped shape the program. This includes:

1. Judgments about acceptable risk and safety at each point in the process need to be made collaboratively with those most potentially affected.
2. Detailed implementation plans need to be developed in an iterative and collaborative manner with those most potentially affected. Also responsive to direction from Aboriginal peoples is the recognition that social, economic and cultural effects may be felt in areas far removed from the physical location of the new project or facility, and that the linked issues of fairness and justice lie at the centre of many socio-economic concerns.
3. Addressing the needs and concerns of affected site communities is a key goal of engagement. The internal cultural and social structure of Aboriginal communities may be vulnerable to pressures that arise from development activities.
4. Transparency and openness in decision-making will be facilitated through the design and implementation of the engagement program.
5. Continuous learning and adaptation are also important goals of the engagement program.
6. The engagement program should preserve and sustain a sense of urgency and momentum throughout implementation.
7. The conditions for educational outreach and the development of an informed citizenry as well as a culture of vigilance should be enhanced through the engagement process.
8. A special responsibility is owed to potentially affected Aboriginal peoples.
9. Consultation required by regulatory processes will be one among many components of the engagement program.

6. CONCLUSION: FUTURE ABORIGINAL ENGAGEMENT

The Nuclear Waste Management Organization (NWMO) will continue to build on the approaches and activities that have guided Aboriginal engagement to date. The NWMO Implementation Plan includes a number of commitments related to this engagement. In the period of 2011-2015, the organization will invest further in the building of sustainable relationships with Aboriginal peoples and collaborate with Aboriginal stakeholders, including Elders and Traditional Knowledge holders, in the ongoing development and implementation of

the site-selection process. An important goal is to ensure that this process recognizes the diversity of languages, practices and approaches among Aboriginal communities; the identification of sacred areas; understanding traditional laws, practices and use of land; and protection of species and culture to sustain community life.