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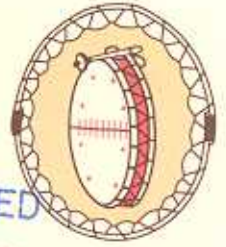
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Grand Council of the Crees (Eeyou Istchee)

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CREE REGIONAL AUTHORITY
ADMINISTRATION RÉGIONALE CRIE



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June 21, 2004

Ms. Donna Pawlowski
Nuclear Waste Management Organization
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Subject: Recent consultations on the future management of Canada's used nuclear fuel: aspects of the consultations relevant to First Nations and some general observations about the consultation process.

Dear Donna,

You may recall that I attended the public consultation sessions in Montréal about options for the future management of used nuclear fuel. When we spoke, I enquired about the relevance of my sending you a note with some observations about the process – partly in order to comment on some issues of relevance to aboriginal constituencies, but to some extent dealing with the process as a whole. I am responding to your suggestion that it would be worthwhile submitting my observations in writing.

This is one of the few cases which I have encountered which involves an assessment of the environmental (and societal) implications of a policy as distinct from a distinct project or undertaking. It is also an outgrowth of an impact assessment process about a design concept (deep geological burial) which did not yield a satisfactory conclusion – at least in societal terms. It would be more accurate, perhaps, to say that the process involves a critique of a range of policy issues – issues which perhaps were not defined as clearly as they might have been.

It strikes me that, unless one accepts on-site storage as currently practised as a legitimate permanent solution, the Government of Canada has to find some way of moving this public debate forwards. I do not believe, personally, that continuing on-site storage is a valid option in the longer term, and it is from this perspective that I conclude from these consultations that an alternative approach to decision-making is needed, and perhaps inevitable. As a citizen interested in the practice of environmental impact assessment, I found what I saw as the failure of the assessment of deep geological disposal to yield a clear conclusion particularly disturbing.

With that introduction, I would like to offer you some observations about the process as I saw it.

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1. Aboriginal interests

I found that, in the context of the public consultation, there was limited interest in or sympathy with aboriginal issues in general – and to the extent that interest was shown, it was part of a rather diffuse ideologically-based search for some common ethical ground for the debate about disposing of used nuclear fuel.

These consultations probably were not a very good forum for debates about aboriginal interests. The NWMO may find it useful to distinguish, and analyze, a number of different but plausible scenarios – and expose them to some public scrutiny.

I think that some geographical distinctions should be made. Large tracts of this country are covered by treaties which date back to the 19th century or the early years of the 20th century. The lands covered by these surrenders may, in a technical sense, be free of aboriginal claims; however, for complex reasons, both historical and contemporary, these treaty arrangements are seen as problematic, sometimes deeply problematic. As a result, it would be naïve to suppose that there is no aboriginal interest to be addressed – any proposal, especially a unilateral proposal, which might be interpreted as involving aboriginal lands or cultural concerns specific to aboriginal communities, will provide a focus for reaction. In that sense, any option which directly involves such treaty lands requires close consultation and collaboration, in my opinion, with the aboriginal or First Nations constituencies most directly concerned.

In other regions of Canada, territorial claims are unsettled and highly contentious. It is perhaps fortunate in this context that most of those regions appear to be geologically unsuitable at the outset for nuclear waste disposal – although there are some exceptions.

In the region in which I work, there is a contemporary settlement of aboriginal territorial claims. This situation may simplify matters somewhat, in the sense that contemporary land claim settlements were intended to include administrative structures, with close aboriginal participation, for making decisions about land use planning and for environmental assessment. Reality, as usual, is more complicated and, land claim settlements notwithstanding, the decision making process is contested and confused. This would not be the place to dwell on details, but I do suggest that the NWMO, if it indeed is contemplating, now or in the future, solutions in specific areas of the country (I am thinking here of the Canadian Shield) needs to examine quite carefully what land use and environmental assessment mechanisms are actually in place and how and to what extent aboriginal communities are involved in them.

2. Deep geological disposal

From all that I have heard and read, it appears that deep underground disposal in a geologically stable region is an option which should be taken very seriously. I am tempted, therefore, to ask whether the time may come when a decision should be taken about a specific proposal in a well defined and carefully researched geological setting.

The debate would still be there, but it would presumably be more tightly focussed. What has happened in the current process, it seems to me, is that the consultations have given rise to a generally loose and unconstrained debate on nuclear power in Canadian energy policy. The forum was not designed or intended to address energy policy issues, and I sensed that there was probably more than a little confusion about jurisdictional responsibilities. Federal responsibilities for the disposal of used nuclear fuel have become conflated with the problems of energy supply at a provincial level. (I was, as I noted at the time, concerned by what I saw as a tendency to treat the long-term watershed-level implications of large scale hydro-electric developments very lightly in relation to the issues of localized long-term storage of spent nuclear fuel.)

3. *Nuclear energy in future energy policy options*

The current NWMO consultation concentrates primarily on the disposal of existing bundles of spent fuel rods, and to some extent as well with the spent fuel which will be generated from the existing nuclear power generating plants.

I am concerned that this may prove to be a somewhat short-sighted perspective in the sense that the approach seems to involve an implicit assumption that there will be limited further investment in additional nuclear generating capacity.

There is diminishing scope for additional hydro-electric capacity in Canada, and there will be growing pressure to limit greenhouse gas production and release from the use of fossil fuels. This may impose significant constraints on additional fossil-fuel based capacity in North America. In these circumstances, it seems to me that whatever scenarios are considered as the NWMO moves forward, it should take into account the possibility that during the coming decades there may be significant new nuclear fuel based generating capacity.

4. *Importing and exporting spent nuclear fuel*

I was struck by the deeply rooted resistance to the idea that spent nuclear waste might be transported across international borders.

Although I think I understand the basis for this opposition, there are, on different geographical and time scales, important consequences for such a policy orientation. Options for disposal may well turn out to be limited, and influenced by geographical location, transportation facilities, and, above all, by geology. Insistence on no-export/ no import as if it were an appropriate international rule of conduct has serious and significant environmental consequences, and those consequences should be subject to closer examination. To the extent that the answer to long-term disposal lies in geologically-stable repositories (e.g. the Canadian Shield), Canada has an evident interest in this matter.

5. Recovery, re-utilisation and re-processing

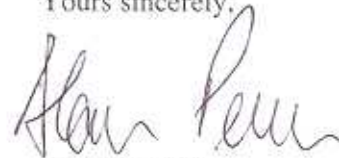
I will take this opportunity to expand upon a point I made during the consultation process. I sensed that there was a widespread assumption that it would be important to close off and seal any underground repositories of spent fuel. Indeed, one of the policy concerns seemed to be the assurance that any type of repository would be secure and remain essentially inaccessible.

My comment on this subject is that it seems to me presumptuous to argue that at this stage that we should preclude options for re-processing or recovery of materials used in nuclear fuels. We cannot look very far into the future, and we certainly are poorly placed to assess technological developments on time scales of decades or possibly centuries. It would be short-sighted to close out options which we simply are not in a position to evaluate in the first decade of the 21st century.

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I realize that this letter is being sent to you late in the consultation process, but I hope that these observations will nevertheless be helpful.

Yours sincerely,



ALAN PENN
Science Advisor
Cree Regional Authority

cc: W. Iserhoff
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B. Craik
G. Lajoie