

**Nuclear Waste Management Regional Forum  
Toronto, Ontario  
November 18, 2004**



Submitted to:  
Nuclear Waste Management Organization  
December 17, 2004



## EXECUTIVE SUMMARY

The major themes that arose from discussions at the Southern Ontario Nuclear Waste Management Regional Forum were: communication between government, the nuclear industry and First Nations; distrust in both the Nuclear Waste Management Organizations (NWMO) as well as the Assembly of First Nations' (AFN) current processes; consultation and First Nation involvement; responsibility in protecting traditional territories, source reduction of nuclear fuel waste and accountability of government and the nuclear industry to First Nations and the Canadian public for the management of nuclear fuel waste.

Participants felt that the Federal Government would not provide an adequate response to any concerns raised in the process being coordinated by the AFN. They felt that prior recommendations made during the Seaborn Panel and by the AFN during the drafting of the *Nuclear Fuel Waste Act* went unheeded and that this process was undertaken as a 'consultation'. Participants were unanimous in stating that their participation in the current process could not possibly be construed as legal 'consultation' in any way. Many felt that the industry-dominated structure of the NWMO precluded any meaningful discussion about the issues, and that the outcome of the current process was already decided upon; the deep geological disposal concept.

There was a general consensus that as First Nations, participants had a responsibility to protect their land (including their traditional territories). They felt strongly that the producers of nuclear fuel waste had the responsibility to manage it safely with accountability to First Nations and the public in general for the entire time it was hazardous.

Participants felt that their responsibilities towards the land and waters dictated that they look to alternatives to nuclear energy production as a means of halting the creation of more nuclear fuel waste. They felt strongly that no new nuclear reactors be built in Canada, and no refurbishments should be undertaken on existing nuclear reactors. There was agreement that so called 'green' or renewable sources of electricity should be pursued diligently instead.



## INTRODUCTION

The Southern Ontario Regional Forum was held on November 18, 2004 in Toronto, Ontario as part of the AFN's Dialogue on Nuclear Fuel Waste Management. The purpose of this and other Regional Forums was to bring together interested First Nations representatives to share information and have discussions on the current process being undertaken by the NWMO and other issues surrounding the management of nuclear fuel waste.

## OBJECTIVES

The objectives of the Southern Ontario Nuclear Waste Management Regional Forum were to bring together regional representatives with an interest in nuclear fuel waste and the environment to network and share information; to identify and articulate key issues surrounding nuclear fuel waste management; and to have participants provide suggestions and direction for the AFN dialogue on nuclear fuel waste. These suggestions will provide direction to the AFN in developing a draft strategy to protect the long-term social, environmental, legal and cultural interests of First Nations, as set out in AFN Resolution 51/2003.

## METHODOLOGY

There were a total of nineteen participants at the Southern Ontario Nuclear Waste Management Regional Forum. They included Chiefs, representatives of Provincial Territorial Organizations (PTOs) and Tribal Councils, youth representatives, post-secondary students, lawyers and environmental technicians. There was an equal distribution of female and male representation. Guidance was given to participants by an Elder at the beginning and closing of the day.

Initially, the AFN contacted Tribal Councils, the AFN Youth Council, Provincial/Territorial Organizations and independent/ unaffiliated First Nations in the Nuclear Waste Dialogue's Southern Ontario region (south of Mattagami First Nation). First Nations in close proximity to nuclear reactor sites, who had significant prior involvement in nuclear fuel cycle issues, or who had previously requested involvement in the Nuclear Fuel Waste Dialogue were also specifically approached. Subsequent efforts to approach participants were done through networking and postings at southern Ontario post-secondary Aboriginal student associations, Toronto's Native Canadian Centre and the Dodem K'nosha Elders lodge in Toronto.

Participants were provided with AFN's fact sheets on the Nuclear Fuel Waste Dialogue and Nuclear Fuel Waste Management, as well as a summary of the AFN's submissions to Bill C-27, the first First Nations Nuclear Fuel Waste Dialogue Working Group Report, copies of the *Nuclear Fuel Waste Act* and the Executive Summary of NWMO Research Paper 6-12, "Long-Term Used Nuclear Fuel Waste Management – Geoscientific Review





of the Sedimentary Sequence In Southern Ontario” as well as additional reference materials relating to nuclear waste management issues.

After a presentation by the AFN’s Regional Dialogue Coordinator for Southern Ontario, participants engaged in an introductory roundtable, and then an open discussion on what they felt should be key issues for further analysis. The Regional Coordinator facilitated the discussion and recorded key issues on a flipchart visible to all participants. Before breaking into smaller discussion groups, participants identified three theme areas for discussion based on the key issues identified.

In the afternoon breakout sessions, participants identified practical strategies that could be undertaken by the AFN and raised concerns and questions surrounding nuclear waste management issues and the current processes. Breakout sessions were each facilitated by an AFN Regional Nuclear Waste Dialogue Coordinator, and responses were recorded in the method described above.

The Southern Ontario Regional Coordinator compiled these findings and has summarized them in the following section. Participants were provided with a draft of this report for an opportunity to review and to ensure that messages were recorded accurately.

## RESULTS

There was a general distrust of the current process being undertaken by the Federal Government and the NWMO. Some participants expressed discomfort at the idea that the AFN was there to promote NWMO objectives and obtain ‘buy in’ to the current process. Many were suspicious that their involvement in the Regional Forum would be perceived as consultation. Currently, this word has serious legal implications in the Canadian legal system as a component of Aboriginal rights litigation (pursuant to the *Delgamuukw* and *Haida* decisions handed down by the Supreme Court of Canada). Participants left no doubt as to their position that their participation in the Southern Ontario Regional Forum could not possibly be perceived as a ‘consultation’ in any way.

There was a sense amongst many participants that the outcome of the current process was predetermined and there were numerous questions pertaining to the use of their feedback and its true impact and purpose. More specifically, participants were concerned that the feedback and recommendations contained within the Regional Forum report would be ignored or manipulated by those with real decision-making authority on nuclear waste management issues.

Many participants felt that the only cultural framework being seriously considered in the current process was Western (European) and science based and that traditional knowledge would not be given appropriate weighting. They had many questions as to the risks and safety of a deep geological repository. Many felt that this is the predetermined outcome of the current process given the governments long history and involvement with



this method. There were many concerns about water protection. The importance of internal emergency preparedness for First Nations was raised frequently.

There was an overarching feeling that the AFN should be thinking pro-actively; developing “toolkits” or other initiatives that are accessible and useful for First Nations to engage in nuclear waste management issues. Participants felt strongly about networking and building alliances: not just across Canada, but internationally with other Indigenous groups as well.

Capacity to meaningfully engage in the process was highlighted again and again. Independent research and data collection on the effects of the nuclear energy chain as well as prior experiences of First Nations with the nuclear fuel chain overall were given as examples of initiatives that could be undertaken by the AFN.

Participants felt strongly that a holistic approach to the nuclear energy chain was the only valid context to discuss nuclear waste issues. The issues of low and intermediate level waste, as well as future production of nuclear waste were emphasized. Participants raised renewable energy issues numerous times within the context of limiting future production of nuclear waste.

### **Environment/Stewardship**

First Nations have always felt a great responsibility to the land within their many diverse cultures and traditions. This extends to all components and systems of the lands within their traditional territories. Some participants expressed that as Ontario residents they were also consumers of electricity generated by nuclear power, therefore they had a responsibility to reduce their overall usage of energy and promote alternatives to nuclear generated electricity.

Renewable energy was a theme raised throughout the discussion, since participants felt that the first step in dealing with the management of nuclear fuel waste was to immediately stop its production. Participants were in consensus that no new nuclear reactors should be built, that no refurbishments of existing nuclear reactors be undertaken, and that renewable forms of electricity such as wind be pursued aggressively in the alternative. Participants felt that the development of renewable energy sources would be suppressed if a “solution” to the nuclear waste problem is found and deemed acceptable by the current NWMO process, because this would remove a significant barrier to the expansion of nuclear energy production.

It was suggested that the producers of nuclear fuel waste (Ontario Power Generation, New Brunswick Power and Hydro Quebec) take responsibility for the storage and management of the nuclear waste they produce. Echoing sentiments expressed in the Seaborn Panel, several participants felt that since their communities were not involved in the decision to pursue nuclear power as a source of energy back in the 1960’s, and in fact have suffered adversely from the nuclear fuel chain (such as the community of Serpent





River), that they should not have to bear the consequences of the waste generated by nuclear electricity.

### **Risk**

There was a general distrust of Western-based science and technology, and the sense that the current framework would not adequately incorporate traditional knowledge. Participants expressed an overall doubt in assumptions pertaining to risk, and felt that the management options, particularly deep geological disposal, are naïve in their whole-hearted acceptance of science, technology and in understanding the environment in which we all live.

In terms of a worst-case scenario occurring as a result of the inherent risks surrounding nuclear waste, it was pointed out that First Nations have a unique relationship to their lands- it is literally their 'homeland', and cultural, spiritual and ethical/legal systems are attached to First Nations' traditional territories. How would the contamination of their lands be compensated for the loss of a culture?

Participants expressed the most opposition to the deep geological disposal option; on or off the Canadian Shield. It was with this 'option' that the doubt in technology was the strongest. Concerns over the length of time nuclear waste will remain hazardous were paramount, with participants feeling that it was not possible to ensure the waste would be contained for the duration that it was hazardous to future generations. The inherent responsibility to protect lands within their traditional territories was a driving concern.

Nowhere was this more a concern than in the issue of protecting water. Many First Nations are already dealing with the contamination of their waters from other forms of industry, and the risk of any leakage of nuclear waste into groundwater systems was deemed a completely unacceptable risk.

### **Current Process**

Participants generally agreed that their input was not likely to affect the outcome of the current process being undertaken by the NWMO. It was felt that the structure of the NWMO (as comprised of industry representatives) precluded any meaningful discussion about nuclear waste and its future management. Given the long history of work done on the deep geological disposal in the Canadian Shield option by AECL, it also was perceived to be the 'industry favourite' and the management approach that would be chosen regardless of their concerns or input.

The reasons given for these sentiments were largely due to the lack of response to First Nation prior input in the Seaborn environmental assessment panel, prior protests, petitions and the 1999 Mixed Oxide (MOX) fuel blockade, as well as submissions put forward in the drafting of Bill C-27, now the *Nuclear Fuel Waste Act*. There was a



strong perception amongst participants that the *Act* was an invalid framework to operate within for the Dialogue process.

The issue of consultation was raised several times with trepidation. Again, participants repeatedly stressed that the current process could not be construed now, or at a later date, as “consultation” in the legal sense of Canadian Aboriginal rights jurisprudence. Participants were advised that the AFN’s position is that consultation must take place on a nation- to-nation basis and as a national advocacy organization, the AFN does not have the authority to consult on behalf of First Nations governments in Canada.

Instead, participants preferred a more ‘practical’ discussion on how to be proactive in defending their traditional territories and their Aboriginal and Treaty rights. Echoing the AFN’s submissions to the Parliamentary Standing Committee on Aboriginal Affairs, Northern Development and Natural Resources and the Standing Senate Committee on Energy, The Environment and Natural Resources in the drafting of Bill C-27, participants stressed that traditional territories are the only valid way to look at the lands for which they are responsible.

Given that participants felt the outcome was more or less predetermined, the focus of discussions shifted to a forward-looking approach to equipping First Nation communities that may be affected by the storage and transportation of nuclear waste in the future. It was felt that the producers of the waste had the sole responsibility for managing it, and that as First Nations people, they were usually in a position of reacting to environmental issues on their lands and traditional territories.

Some participants had prior interaction with low and intermediate level waste storage issues, given their communities’ proximity to nuclear power plants, and indicated that information provided to them by the nuclear industry was often inadequate. Furthermore, upon receiving this information, it was felt that industry perceived this as adequate ‘consultation’ or that First Nations somehow approved of it.

Education and awareness were identified as key activities that could be undertaken by the AFN. There was a strong sense that First Nations needed to be communicating with each other to present a ‘unified front’, as resources and capacity are often scarce. Independent data collection and scientific expertise was identified as a necessary complement to traditional ecological knowledge and stories of prior First Nation involvement with the nuclear fuel cycle across Canada and internationally.

It was suggested that a ‘toolkit’ be developed for First Nations which would be accessible to everyone. This toolkit could include template letters, visuals, fact sheets and contact lists to reach other groups (e.g.: environmental) that have raised similar concerns. Culturally appropriate materials are needed for First Nations to raise awareness about potential adverse affects of radiological contamination because they eat more fish and game and radiation cannot be detected like other contaminants.





## **Importation of Waste**

Participants expressed that importation of waste from other countries was not acceptable. Participants wanted to know why this was not explicit in the *Act*. There was concern that if Canada were to find a “solution” to the problem of “disposing” nuclear waste that this may open the door (e.g. under NAFTA) to accept other countries’ nuclear waste. Of specific concern was waste from the U.S.A.’s 103 nuclear reactors. Given the NWMO’s apparent predilection for “remote areas” for deep geological disposal, this added concern that Canada could become host to an international repository for nuclear fuel waste given its ‘sparsely’ populated land mass.

## **Transportation/ Security/ Technical Methods**

The key message from this breakout session was “prepared responsiveness internally”.

Again, participants felt that there was a huge communication gap between First Nations, the federal government and the nuclear industry. In 1999, many First Nations along the proposed transportation route for a shipment of MOX fuel from the USA to Chalk River, Ontario united in opposition. No one was told before or during the government’s plans to ship MOX fuel across their traditional territories, on major highways immediately adjacent to their communities, and proper consultation was requested and denied.

Participants expressed much concern that there would be an accident in the transportation of nuclear fuel waste. It was felt that if or when nuclear fuel waste is transported through their communities and traditional lands, they be informed well in advance and have sufficient internal capacity to address a possible accident or spill. Many dangerous substances are already being shipped through these lands, and it was pointed out there is currently insufficient capacity for many First Nations to respond adequately.

Participants suggested that the responsibility lay with the producers and transporters of nuclear fuel waste to train, equip and maintain emergency response capacity within communities along transportation routes. It was pointed out that First Nations often cannot rely on external groups to do this because of slow response times and jurisdictional issues. It was also noted that in the past, the Federal and Provincial government have had abysmal records in dealing with contamination and clean-up on First Nation lands.

## **Naturally Occurring Events**

Participants felt that there could be no plan for the storage or management of nuclear fuel waste that would be completely immune from naturally occurring events like earthquakes, flooding, tornadoes and hurricanes. This was a particularly strong concern in regards to the deep geological disposal option, but applied to all, pointing to the need for source reduction and elimination. Participants felt that the deep geologic disposal





option presented an unacceptable risk to human health and the environment, and to groundwater systems in particular.

### **Security**

There was some concern about security in transporting nuclear fuel waste, and again, communication was the key issue. Participants wanted to know the transportation routes before the waste was actually transported. It was felt that there was not enough awareness about transporting dangerous/ hazardous and nuclear materials. Participants also doubted that adequate funds would be made available to ensure security in the transportation of nuclear fuel waste, again leaving their communities vulnerable if located along a transportation route. Accidents, and the resultant contamination of land and water were definitely more of a concern than this issue, however.

### **Technical Methods**

There was a strong distrust in the safety and acceptability of the deep geological disposal method. Participants felt that the risks inherent in underground storage of nuclear waste far outweighed any perceived benefit of this 'option'. Most First Nations have long held the belief that everything is connected: humans and everything within their environments. Thus, there was strong opposition to the idea that nuclear fuel waste can be 'isolated' from the environment in this way.

There was the underlying perception that deep geological disposal is the preferred option amongst industry, the NWMO and government for the long-term management of nuclear fuel waste. This is due to the prior activities and research undertaken by these parties. It was also felt by many participants that First Nations lands are seen as 'remote' or 'sparsely populated' and thus the preferred location for wastes originating from heavily populated urban areas. Participants felt that First Nations would be asked to bear a disproportionate effect for any perceived benefit they have received through the production of nuclear power.

## **CONCLUSIONS**

In conclusion, participants expressed that proper and meaningful consultations with First Nations is paramount. In addition to open and respectful communications between governments (Federal and Provincial), the nuclear industry and First Nations; education, awareness and independent scientific and legal advice for First Nations is a necessary precursor to engagement in nuclear waste management issues.

The current process being undertaken was not seen as meaningful or respectful to First Nations. The timeframes and parameters for discussion as set out in the *Nuclear Fuel Waste Act*, as well as the close relationship between government and the nuclear industry precluded a full and open discussion of the issues surrounding nuclear fuel waste management.



Source reduction and elimination of nuclear waste was seen as crucial. Renewable forms of energy, along with intensive energy conservation programs should be pursued as an alternative to the refurbishment of aging nuclear reactors and the construction of new reactors. First Nations have a responsibility to protect and maintain the lands within their traditional territories, and this must be balanced with their role as users of nuclear-produced energy.

Deep geological disposal, on or off the Canadian Shield was deemed unacceptable in terms of risk to groundwater systems, which in turn impact the whole environment and the humans that depend on it. This 'option' was seen as the inevitable outcome of the current NWMO process, given its lengthy history of government and industry involvement.

A pro-active and forward-looking approach to address nuclear waste management issues is required to assist First Nations in responding to the outcome of the current NWMO process. More independent research and data collection is required on the effects of nuclear waste and on the nuclear fuel chain in general. Past First Nation experiences with the nuclear industry, both domestically and internationally, need to be disseminated to promote unity and awareness on these important issues.

## **NEXT STEPS**

The AFN will use the information contained within this Report, pursuant to AFN Resolution 51/2003, to "develop a draft Nuclear Waste Management Strategy that would protect the long-term social, environmental, legal and cultural interests of First Nations". This strategy will be put forward to Chiefs-in-Assembly at the AFN's 2005 Annual General Assembly (AGA) for approval, and will then be utilized to advocate for First Nations on these issues.

Participants requested a follow-up to this Regional Forum, which will likely be scheduled for spring of 2005, after the NWMO releases its final discussion document and prior to the AFN's AGA.

