

Report on Information Workshop on First Nations and Nuclear Waste Disposal – FSIN Project Status Report

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September 2009

Office of the Chief
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Federation of Saskatchewan Indians Lands and Resource Commission

nwmo

NUCLEAR WASTE
MANAGEMENT
ORGANIZATION

SOCIÉTÉ DE GESTION
DES DÉCHETS
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FSIN Project Status Report
Prepared for: FSIN Lands and Resources
Commission
Nuclear Waste Management
Organization (NWMO)



REPORT ON INFORMATION WORKSHOP ON FIRST NATIONS
AND NUCLEAR WASTE DISPOSAL
(September 22, 2008, Saskatoon, SK)

PREPARED BY: OFFICE OF THE CHIEF
MURRAY LONG, COORDINATOR

I. WORKSHOP SUMMARY, ANALYSIS AND HI-LITES

Background/Context

On September 22, 2008, the Federation of Saskatchewan Indian Nations (FSIN) in conjunction with the Nuclear Waste Management Organization (NWMO) organized a workshop for First Nations in Saskatchewan to examine issues around the disposal of used nuclear fuel. NWMO, whose mandate is to develop a strategy and implement and manage an approach for dealing with Canada's nuclear waste, is currently at a stage of designing the method and process to identify a site for a deep geological repository for used nuclear fuel.

Communities from Canada's four "nuclear" provinces (Quebec, New Brunswick, Ontario, and Saskatchewan) will be invited to indicate their desire to host this site. For First Nations in Saskatchewan there is a therefore a possibility that they will be either directly or indirectly impacted by these siting processes.

The FSIN has been in discussions with the Nuclear Waste Management Organization (NWMO) since the Fall of 2007 on developing relationships with First Nations in order to protect First Nations interests. At present, the Chief's Office is coordinating this matter and reporting on its activities to the Lands and Resources Commission (L&R Commission). While development of a more formal protocol between the FSIN and NWMO has been contemplated, at its May 22, 2008 meeting, the L&R Commission identified the need to address questions and concerns raised by Chiefs before making a decision to formally engage with NWMO on any kind of protocol. Among the suggestions made was need for an informed debate on the issue involving both NWMO representatives and organization(s) which oppose nuclear waste disposal. First Nations experts and Elders would also be invited to participate. Following this work, the L&R Commission would be in a better position to make a decision on whether FSIN should engage with NWMO through a formal protocol.

Summary of Workshop Proceedings

The September 22nd workshop was convened to act on the FSIN L&R Commission's direction. Close to 50 participants, including 25 leaders from various First Nations and Tribal Councils across Saskatchewan and 4 elders. A full list of participants is attached as Appendix IV. As well, the media was invited to attend and observe. An overview of media coverage is provided as Appendix V.

The agenda (Appendix I) began with opening comments from FSIN Chief Lawrence Joseph. The Chief emphasized the FSIN's Treaty Implementation Principles and specifically Principle Number One: *We, the First Nations come from Mother Earth, and this determines our relationship with nature, our role as stewards of this land, and all forms of life and our sovereignty.*

NWMO representatives made a presentation on the "Adaptive Phased Management" model which guides its work and also discussed plans in 2008/09 for design of a site selection process. Brian Scribe of the FSIN Lands and Resources Department gave a talk on First Nations values and relationship to the land. Opponents of nuclear development, led by Dr. Jim Harding, then had an opportunity to present their views. Dr. Harding put forward an alternate "Nuclear Guardianship Model" for dealing with existing nuclear waste.

Following these presentations, the balance of the afternoon was devoted to breakout sessions. Four breakout groups discussed the following questions:

1. *What First Nation's values must be safeguarded as we move forward?*
2. *What concerns (risks and opportunities) are there for your First Nation with*
 - *the nuclear industry in Saskatchewan, in general?*
 - *a deep geological repository (or deep earth storage) for the long-term management of used nuclear fuel, in particular?*
3. *Should there be a protocol to guide the relationship between NWMO and*
 - *First Nations*
 - *Tribal Councils*
 - *FSIN*

for NWMO's future work on locating a waste disposal site in Canada? If the FSIN were to enter into a protocol on behalf of First Nations in Saskatchewan, from your experience, what would you advise are some of the elements of a good protocol? (e.g. public education, analysis, facilitation, etc.)

Groups were also asked to provide two pieces of advice to pass on to the FSIN L&R Commission. Appendix III gives the raw data (i.e. flip chart notes) from the groups. This is compiled into an overview in section II of this report.

Analysis and Key Findings

Given an issue with the sensitivities and potential controversy of nuclear waste disposal, there was a risk that the workshop be overtaken by highly positional discussion and confrontation.

However, the agenda was organized to give all views an opportunity to present their case and then break into smaller groups to focus on First Nations' specific interests and concerns. More detailed notes from each of the groups are provided in the next section. A number of recurring themes arose across the breakout discussions.

First Nations Values

- First Nations' connection to the land—based on teachings of First Nation Natural Law, activity on the land to sustain livelihood, and the Principles of Treaty Implementation as adopted by the FSIN—is the most fundamental value that needs to be acknowledged, respected and upheld as dialogue proceeds on this issue.
- First Nations consistently demonstrate the strong sense of values they possess with respect to relationship to the land.
- Protecting the interests of future generations of First Nations must be addressed.
- Having good relationships is highly valued. This is achieved through honesty, transparency and respect. Establishing good relationships creates trust which makes relationships even stronger.
- There must be respect for the place of First Nations on this issue in terms of their standing in partnerships and nation-to-nation relationships.

First Nations Worries and Concerns regarding Nuclear Waste Disposal

The following are some of the messages and comments that arose in the breakout sessions:

- First Nations always end up being the “dumping ground” for toxic waste.
- There is a fear that somewhere on a secret list or document First Nations lands are already identified as the site.
- Burying the waste puts the land at risk, especially since the water is a “living entity” which travels through the rock everywhere.
- This waste will have to be transported across our lands and traditional hunting, trapping and gathering territories. What are the chances of our fish, animals, plants and berries being damaged?
- We want to make sure the information we receive is truthful and not driven by any one specific agenda.
- There tends to be a systemic inequality: First Nations lack the resources and capacity to uphold and protect our worldviews, yet industry has billions. This “David-Goliath” relationship with its built in inequalities must be addressed.
- With NWMO as a quasi-governmental agency with a legislated mandate but funded by industry, does it have a formal legal role in carrying out the Crown's Duty to Consult and Accommodate?

Moving Forward

As work on this issue proceeds, there need to be understandings in place that reflect First Nations values and address First Nations concerns. Work on a protocol between First Nations and NWMO may be able to achieve this. However, among the factors that need to be discussed and resolved within any protocol are the following:

- Demonstrating respect for the primacy of individual First Nations, including operationalizing the UN's principle of “Free, Prior and Informed Consent” (FPIC-as discussed further in Section II).

- Recognizing and ensuring individual First Nations respect the interests of other First Nations and non-First Nation communities.
- Identifying mechanisms for cross-community communication, coordination and dialogue.
- Accepting that the issue of nuclear waste cannot be isolated from the rest of the nuclear cycle (e.g. mining, processing, energy generation) which are also of concern/interest to First Nations both economically and environmentally.
- Clarifying the role of NWMO as a quasi-governmental body as representative of the Crown and carrying out the Crown's "Duty to Consult"
- In gathering, analyzing and communicating information, making certain that these activities are carried out independently to best serve First Nations interests, rather than external industry or environmental interests.
- Engaging communities at the grassroots level will require strategies for dialoguing with First Nations in their own languages.
- First Nations, both individually and collectively, must have access to sufficient resources to make informed decisions and be able to work cooperatively together and with external communities. How these needs are defined and resources set and allocated should be part of any protocol.

A discussion of suggested next steps to follow up from this workshop is provided in Section IV of this report.

II. SUMMARY OF RESPONSES TO BREAKOUT SESSION QUESTIONS

This section brings together the key points and recurring themes from the four breakout groups.

Q1: What FN values must be safeguarded as we move forward?

Culture-connection to land:

- ❖ Must maintain our connection to the land (inherent right)
- ❖ Must ensure that ensure that land is there for future generations;
- ❖ Traditional lifestyle – hunting, fishing, trapping, *askiwipimacihowascikewina* (setting into place arrangements for livelihood, living and evolving Treaty Rights);
- ❖ Our culture and teachings speak to the importance of taking care of the water and water streams
- ❖ Interdependence within watersheds

Culture – maintain languages/support:

- ❖ First Nation language must be respected and maintained
 - discussions with First Nations in own language
 - this includes interpreters to properly inform Elders
- ❖ Transliteration (addresses loss of meaning when translate from Cree to English)
- ❖ Language-need translations/plain language

Connection to Land – Stewardship

- ❖ Ensure well-being for future generations – including looking at any activities that may impact land/relationship to it – as stewards role;

- ❖ Impact on future generations
- ❖ Hunting, fishing, trapping & Treaties – *askiwipimacihowascikewina*
- ❖ Treaties as an agreement – Spirit and intent more valuable than written text

Respect, Unity, Harmony & Honesty:

- ❖ Respect for each other and for the Elders – *kwayaskitotamowin* (honesty and fairness, being respectful to all/to everything) & *minatsowin* (duty based on respect which requires person to see no harm comes to anyone or anything);
- ❖ Respect must be adhered to by industry/Crown and First Nations, including respecting FN's traditional values (as hunters/fishers/stewards/ecosystem/interconnectedness/burial sites);
- ❖ Respect for Mother Earth
- ❖ Unity – industry often divides us
- ❖ Live in harmony/keep intact – *miyo wicehtowin* (good relations/getting along), *witaskewin* (living together on the land in harmony), and *kwayaskitotamowin*;
- ❖ Honesty (Good information) – *tapwewin*

Free, Prior & Informed Consent (FPIC)

- ❖ Need to abide by international law principles in Doctrine of Free Prior and Informed Consent (FPIC);
- ❖ Consultations/discussions must be done in each FN community, to Elders, to youth – in order for indigenous Treaty citizens to make INFORMED decision;
- ❖ Discussions must be PRIOR to any development/activity on lands

Q2: What concerns/risks/opportunities are there for SK First Nations with

- nuclear industry in general?
- a deep geological repository for long-term management of used nuclear fuel, in particular?

General concerns reported in the discussion section included the following:

- First Nations role/responsibility as Stewards to land must be maintained
- past lessons of industry taking resources and leaving a mess (i.e. mine tailings)
- impacts on health; and ,
- needing to know the risks (provide reports and findings on studies of risks)

Specifically, three themes emerged from breakout groups with respect to worries or concerns with nuclear waste sites:

- Impact of the Site: The most important impact is on traditional users of the land through the impacts on their traditional territories. Healthy land is fundamental to our continued existence as Indigenous peoples. We need to have substance to our rights – healthy land with healthy animals and healthy water to sustain us. Therefore, we need to have Free, Prior and Informed Consent (FPIC) before any development occurs on our territories. Impact requires us to think about risks, why lack of information/lack of studies (pre/post site set-up), and as exporters will we be responsible to host a site if uranium is mined from our lands?

- **Technical:** The technical theme includes transportation, site location and technological concerns. In transporting nuclear waste to a new site, questions were raised as to safety of driver; to First Nation people and lands/environment/traditional territories. With respect to site location, where are they planning to store it in Saskatchewan? What about repository issues such as rock-shifting in the pre-cambrian shield? There is no guarantee these won't shift and release the waste into ecosystem. Regarding technology, there remains a lot of uncertainty with this new technology. It can't be guarantee to be safe, and it can't be guarantee to be not safe.
- **Other Concerns:** Has the Crown discharge its duty once a site is identified? Will the Crown still be liable in event of catastrophe? Also, there may be increased risk of terrorist attack if we store waste in our province. Lastly, the NIMBY Syndrome ("Not In My Backyard") is concerning. Why don't the proponents/supporters of a waste site put the waste site in their own backyard if it is such a good idea? (i.e. Supporters in Ontario – yet they aren't going to host a site there? Why not? Seems very hypocritical.)

Discussion within most groups also covered a wider range of issues that also merit reporting. Recurring themes included *First Nations' Worldview vs. Mainstream worldview; unfinished Treaty business; impact/contamination; FPIC (Free, Prior and Informed Consent); Crown obligations; bias/inequality; future benefit and transportation concerns.*

First Nations' worldview differs from mainstream – on many levels. For example, First Nations' generally are more concerned with role of stewards/protectors of the Earth, as opposed to profits. First Nations' worldview also includes guiding principles, such as respect – respect of First Nations' values, respect of First Nations' knowledge and or First Nations' Treaty relationship with the Crown. Industry is demonstrating lack of respect/knowledge to Treaty relationship by their actions or inactions. There was a prophecy that many of our people would be sick and dying – and they are right now! We need to look at the impact of current 'development' in our territories and what it has done to our environment, including the impact. We need to report these results to our people/First Nations people. These concerns highlight the need to have respect included in future work with NWMO.

The big issue of unfinished Treaty business needs to be looked at – UNDERLYING TITLE – this would demonstrate respect for the Treaty relationship, for starters. The old ways are gone – many of our rights we can't practice anymore due to environmental contamination to land, rivers, waterways, and animals/plants/fish – yet industry is still moving ahead. We need to look at what's been done (impact) already.

The Principle of **FPIC (Free, Prior and Informed Consent)** when applied, reduces many concerns. Fear-mongering may be based on founded/unfounded assumptions – yet with proper "*informed consent*" that includes providing information/education on nuclear waste/nuclear industry. By including risks to the benefits discussion – First Nations are better to balance environmental concerns with economic benefits – and thus make an '*informed decision.*' This also makes it more transparent – if they have nothing to hide, they will share industry knowledge on impacts to First Nations. Question was raised as to why NWMO is not letting First Nations know which territory they are considering (surely they must have identified a location at this

point). Also, sharing knowledge/truth (*tapwewin*) about industry is required in order to be informed – ie. impact to environment/Fort Chipewyan experience. Lastly, there were people who feel the current Environment Assessment Act's application in Saskatchewan is not protecting the environment as it should as new 'fast-track process' will bypass any Environment Assessment.

Future benefits have to be carefully weighed with the costs to the future generations, including to their rights protected by Treaty. Need to eliminate structural bias/procedural inequality in these sessions (resources & permanent body needed for First Nations). It is recommended that First Nations be provided adequate resources to provide proper information needed in each community, to make an informed decision. Crown obligation needs to be clear – that they do not reduce/lessen their obligation to First Nations ie. cannot delegate their responsibility to industry when dealing with First Nations.

OPPORTUNITIES

In General - Nuclear Industry

Specifically – Nuclear Waste Site

Askiwipimacihowascikewina (setting into place arrangements for livelihood – living & evolving Treaty rights) -

- ❖ *Pimachihowin* – ability to make a living, substance to our rights
- ❖ Jobs & training – industry tries to meet – but not enough – need good-paying/management jobs/not menial
- ❖ FSIN needs to take on role of educating people
 - **Need proper resources to do this**
- ❖ Communities have been discussing long-term benefits
- ❖ Employment = job creation
- ❖ Revenues – need to look at NRTA first/resolve underlying issue;
 - Impact benefit agreements (IBA's) not Treaty-based currently;
- ❖ To improve well-being (collectively): via Natural resources, think global

Legal/Treaty -

- ❖ To apply in a Treaty rights-based manner/ Constitutionally protected;
- ❖ To share (per Treaty): Resource revenue sharing
- ❖ To be respectful: Our peoples visions were never respected/understood – opportunity to correct that

Educate -

- ❖ To educate: Land users – elders, trappers – they also need to be informed
- ❖ To Educate, in general

Be Involved -

- ❖ To participate in these economic opportunities: If industry wants to build here, must spend money here too! Our culture built around economy
- ❖ To be involved: we have to be involved, whether they like it or not!

- ❖ To involve FN in Environmental Assessment Studies: FN should be involved in these environmental studies

Q3: If the FSIN were to enter into a protocol on behalf of FN's in SK to guide the relationship between FSIN (or Tribal Councils, or First Nations) and NWMO, from your experience, what would you advise are some of the key elements of a good protocol (e.g. public education, analysis, facilitation, etc.)?

The following components emerged when discussing a future protocol between First Nations and NWMO, they include: Nation-to-Nation, FPIC, Eliminating bias, and recognition that we (First Nations) now have the opportunity to change the way things have been done in the past.

Nation-to-Nation

The Nation-to-Nation relationship (per Treaty) needs to be respected. Currently, the Duty to Consult and Accommodate, regime has been enforced by Supreme Court of Canada in cases such as **Haida**, **Taku River**, and **Mikisew** within a s.35 domestic framework. This approach conflicts with the traditional understanding of Treaty – where this living agreement was made between two Nations (the First Nations & the Crown). The Crown in Right of Canada (in today's terms) has replaced the Crown in Right of United Kingdom in terms of responsibility to Treaty relationship. Treaty rights include more than what s.35 domestic framework protects – and is often ignored or diluted via 'practical outcomes' in domestic framework. We can no longer support process that short-changes our Treaty and the rights that it protects, as our Treaty relationship/obligations are paramount.

Accommodation to First Nations goes beyond s.35/domestic approach – our Treaty-based approach, requires a comprehensive framework, one based on Lands & Revenue-sharing that respects the Nation to Nation relationship. This requires addressing issues such as underlying title and NRTA.

We must work as Nation to Nation – Two Nations under Treaty:

1. First Nations – includes inter-governmental/tribal protocols, going to each and every community to provide information PRIOR to any decisions; FSIN will work as delegated representatives of collective First Nations – suggest a protocol between First Nations only & respected/honoured by the Crown. Support is needed from the First Nations (need resources for this) as information will have to be provided to each and every community/grassroots level.
2. Crown – includes not delegating its responsibility to industry and agencies; must make arrangements with industry on how they will work with First Nations.

Relationship must be based on HONOUR between Treaty Partners and any agreement that comes out of these discussions, must be based on accountability, First Nations autonomy and *Pimachihowin* (ability to make a living).

FPIC (Free, Prior and Informed Consent)

First Nations must be involved at beginning stages, not towards end – if so, it calls into question the accountability and transparency of industry. For example, industry is accountable to who? Shareholders only? Users of the land? Transparency – if industry does not have anything to hide, then they should be willing to involve First Nations at all levels – based on full and complete information. This concern was raised/stressed in all the group discussions.

Eliminate systemic bias

Systemic inequality/bias must be eliminated in current consultation framework. We need to avoid manipulation, coercion of agenda/coordination of meetings, by ensuring First Nations take lead (delegated to FSIN) in coordinating meetings in First Nations communities. This comprehensive process will include informing communities, Tribal Councils & FSIN; yet the ultimate decision rests with the First Nations.

Just beginning

There are only a few participants at today's session – this is just tip of iceberg – of providing information and creating awareness to First Nations. There are many more people in our communities who have fears about this type of 'development.' It is better to include First Nations at beginning (more inclusive/transparent) rather than later on (as had been done in past) or not at all. We have the opportunity to move forward, in a good way, guided by principles of respect, Nation-to-Nation relations, and looking to the future and protecting our future generations.

IV. RECOMMENDED NEXT STEPS

The September 22nd information workshop provided a valuable opportunity to put the issue of nuclear waste disposal before First Nations from across Saskatchewan in a way that allowed a range of different views to be aired. There was extensive discussion and input from participants on concerns and issues that need to be addressed. Now, Saskatchewan First Nations must consider whether they are prepared to move towards a more formal arrangement with NWMO and become engaged in NWMO's development and implementation of a site selection process for a nuclear waste disposal facility.

The following are specific recommended actions:

1. Brief Chief Joseph and the responsible Vice-Chief on this report. [Note: Subsequent to the September 22nd workshop, recently elected Vice Chief Delbert Wapass has been assigned the Lands and Resources portfolio, including Chairing the Lands and Resources Commission.]
2. Present the Report to the Lands and Resources Commission and seek direction on whether to proceed with development of a protocol between the FSIN and NWMO with a target completion date of mid-2009.

3. Distribute this report to First Nations and Tribal Councils. Coordinate with NWMO on arrangements to make presentations to Tribal Councils at their request on this report and the nuclear disposal issue in general.
4. Engage in further foundational research through the FSIN, as mandated by the Lands and Resources Commission, to support First Nations input into the design of and engagement in any processes for site selection of a nuclear waste disposal facility.

Prepared by: Murray Long

LIST OF APPENDICES RECOMMENDED NEXT STEPS

Appendix I	Workshop Agenda
Appendix II	Breakout Questions
Appendix III	Breakout Session Flip Chart Notes
Appendix IV	Workshop Participants
Appendix V	Media coverage of the Workshop

APPENDIX I - AGENDA



Federation of Saskatchewan Indian Nations

INFORMATION WORKSHOP ON FIRST NATIONS AND NUCLEAR WASTE DISPOSAL

Dakota Dunes Casino Meeting Room

September 22, 2008 - 9:00 a.m. to 5:00 p.m.

Saskatoon, Saskatchewan

The purpose of the workshop is to provide information regarding the Nuclear Waste Management Organization to the Chiefs and First Nations of Saskatchewan.

- | | |
|-----------------------|--|
| 9:00 AM | 1. Opening Prayer |
| 9:15 AM | 2. Chief Lawrence Joseph <ul style="list-style-type: none">• Welcoming Remarks• Role and intent of FSIN |
| 9:20 AM | 3. Updates – Murray Long <ul style="list-style-type: none">• Purpose of workshop |
| 9:30 AM | 4. NWMO Presenters <ul style="list-style-type: none">• Background information/Processes• Role and objectives |
| 10: 30- 10: 40 | Refreshment Break |
| 10:45 AM | NWMO continued (questions/discussion) |
| 11:40 AM | 5. Relationships between NWMO and First Nations <ul style="list-style-type: none">• Framework/Protocol (Murray Long/Malvina Iron) |
| 12:00 – 12:45 | Lunch Break |
| 12:45 PM | 6. Presentation- First Nations Values and Interests (Brian Scribe) |

- 1:15 PM** **7. Presentation- Health and Environmental Effects (Jim Harding)**
- 2:30 PM** **8. Breakout Sessions**
- **Discussions, concerns & questions regarding NWMO**
- 3:30** **Refreshment Break**
- 3:45** **9. Feedback/General Discussion**
- **From Chief, Tribal Chiefs, Technicians & Participants**
- 4:30** **10. Closing Comments**

APPENDIX II – Breakout Questions



Federation of Saskatchewan Indian Nations

INFORMATION WORKSHOP ON FIRST NATIONS AND NUCLEAR WASTE DISPOSAL

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Breakout Session – Discussion Questions

Today's workshop is intended to provide information to First Nations leadership so that they can begin developing a position on whether the FSIN should enter into a protocol agreement with NWMO to cooperate on protecting First Nations' interests. The FSIN's Lands and Resources Commission and ultimately Chiefs-in-Assembly will decide whether to enter into a protocol with NWMO.

As part of that work, both the FSIN and NWMO would like to hear workshop participant's concerns and views on these issues. Your group facilitator has been asked to focus your group's discussion on the following three questions.

1. What concerns (risks and opportunities) are there for your First Nation with
 - the nuclear industry in Saskatchewan, in general?
 - a nuclear waste disposal facility, in particular?
2. What First Nation's values must be safeguarded as we move forward?
3. Should there be a protocol to guide the relationship between NWMO and
 - First Nations
 - Tribal Councils
 - FSIN

for NWMO's future work on locating a waste disposal site in Canada? If the FSIN were to enter into a protocol on behalf of First Nations in Saskatchewan, what needs to be in that protocol? (e.g. public education, analysis, facilitation, etc.)

Please choose a person from your group who can report on your discussions. As part of your group's report, **please come up with two pieces of advice** that your group would pass on to the FSIN Lands and Resources Commission.

THANKS FOR YOUR PARTICIPATION!!

Appendix III: raw data from breakout sessions

NWMO Presentation to FSIN Chiefs – Sept 22/08 – Breakout sessions

Group “A” – Breakout Sessions Comments (Treena K. & Milt. M)

Question #1:

What First Nation values must be safeguarded, as we move forward?

Answers:

- Must maintain our connection to the land (inherent right) – must ensure land is there for future generations;
- Industry must RESPECT values of traditional users/owners of the land (hunters, fishers, indigenous peoples’)
 - Including our relationship/worldview to environment/ecosystem (land, animals, air, water etc...);
 - Including respecting our interconnectedness to all living things;
 - Respect for barrel site also;
- Language is important:
 - in order to maintain connection to land;
 - must ensure discussions/awareness is available through indigenous languages for those non-english speakers (elders) in order to properly INFORM us;
- must ensure well-being of future generations – including looking at any activities that may impact land/resources/relationship to land – in context of our traditional inherent right to be stewards to the land;
- consultations must be done in each First Nation community, to the Elders, to the youth
 - in order for our indigenous (a.k.a. Treaty) citizens to make INFORMED decision.

Question #2:

What concerns (risks/opportunities) are there for First Nations in Saskatchewan with

- ❖ *The nuclear industry in Saskatchewan, in general?*
- ❖ *A deep geological repository for long-term management of used nuclear fuel, in particular?*

Answers:

- Contaminating water (biggest concern); without water – there is no life (traditional teaching);
- Challenge of worldviews:
 - Elders/traditional – living off the land/steward of land v. Making money/profit/material
 - as we look to our future;
- scope/size of geographical location
- people need to know the risks – be properly INFORMED;

- need to question why if this is such a good opportunity – why aren't others 'jumping on it' ie. Ontario residents/ Ottawa/big city people? Why approach us, the First Nations?
- Impact – if we export (Mining) Uranium off our lands (with no benefits) – waste may come back to our territory (where it originated); Are we liable for this? It seems exporters are now being pressured to store the waste;
- Liability – scope of – if on FN territories? Does Crown discharge its liability?
- NIMB syndrome (Not In My Backyard) – supporters/proponents of nuclear waste don't want it near their home communities..... hypocritical actions; yet they want it in our home territories?
- No one will answer/attempt to deal with First Nation concerns/questions; how come no one will deal with us directly, in a TRANSPARENT manner?
- The damage of mines/mills (uranium) has been seen by First Nations in Wollaston Lake area, including wind carrying contamination;
- What about future of youth? Are they benefiting in way that protects their inherent and Treaty rights? Is there healthy land available so they can continue exercise traditional methods of living off the land – substance to their right? None so far.
- If we have a waste site – are we opening ourselves up to targets from terrorists?
- Systemic inequality:
 - First Nations lack RESOURCES to adequately reflect/support our worldviews, yet industry has billions – this 'David/Goliath' relationship – built-in/inherent inequality must be addressed, if we are to move forward; *Recommend FSIN get resources to create awareness and public education on this issue;*
 - Scope of consultations – need on-going/permanent independent body – established by and for First Nations (not Aboriginal, not Metis);
- Learn from brothers in south (U.S.)/tribes with experience dealing with nuclear industry; invite them to present their experience/challenges/concerns etc.

Question #3:

If the FSIN were to enter into a protocol on behalf of First Nations in Saskatchewan to guide the relationship between FSIN (or Tribal Councils, or First Nations) and NWMO, from your experience, what would you advise are some of the key elements of a good protocol (e.g. public education, analysis, facilitation, etc.)?

Answers:

- Protocol should honour Nation-to-Nation relationship, therefore should be between First Nations only (with FSIN delegated role of representative of collective First Nations):
 - First Nations should have protocol with each other – that respects Nation to Nation relationship; then this protocol must be honoured by Crown (and affected agencies/corporations);
 - Need to get support from First Nations (not tribal councils, not FSIN);
 - Need RESOURCES to do this;
 - Need 'consultations' at community level/grassroots level in order to be legitimate;

- First Nations need to be involved at beginning of process, not later – PRIOR (see FPIC principle in international law);
- Lack of resources for proper consultations in each First Nation community/Treaty Territory;
- First Nation interests must be protected at all levels
 - Based on informed/full & complete information in all steps – TRANSPARENCY;
- Systemic inequality must be eliminated in current set-up:
 - The way ‘consultations’ are being approached – can be called into question i.e. manipulation/coercion of agenda/coordination of meetings etc....
 - *Recommend First Nations/FSIN take lead in coordinating meetings*

2 Suggestions for L&R Commission to consider:

- 1). Environment concerns must be paramount:
 - Includes lands (*Askiy*), water (*Nippi*), animals, fish, air
 - Humans (health impact).
- 2). Land as source of livelihood (*pimachihowin*):
 - If destroy land – destroy self
 - Elder’s predicted this – that if we destroy or contaminate the land, then we are destroying life.

Group B – breakout sessions (Brian S. & Howard D.)

Question 1-

What First Nation’s values must be safeguarded as we move forward?

- Culture
- Trapping, hunting, fishing, treaties – traditional activities – *Askiwipimachihowascikewina* (setting into place arrangements for livelihood – living and evolving Treaty rights)
- Industry tries to separate FN, Metis and Inuit – contrary to FN value of Getting Along with Others (*miyo-wichetowin*),
- Industry tries to give jobs and training
- Industry does not know how to deal with groups
- Somebody from FSIN organization go out and talk to people to educate them
- Need proper resources
- If they (industry) proposing in our area, then money should be spent here! Our culture is built around economy
- Gov’t is not involved in process, but government should act to meet consultation requirements, rather than delegating responsibility to industry;
 - If gov’t should consult, where are they in all of this?
- Who did the Crown deal with on the treaties?
 - There is unfinished Treaty business
 - Section 35- have rights
 - Issue of Treaties & land occupation have to be addressed

- traditional lands concerns
- Provincial borders infringe on Treaty Territories
- Federal funding should not cease-their fiduciary obligation
- To live in harmony /to keep intact – *Witaskewin* (on the land)& *Kwayaskitotamowin* (honesty and fairness, being respectful to all-to everything)
- Spirit and Intent of Treaties is more valuable than the written text!

Question 2-

What concerns and risks

- Mother Earth
- Concept –Treaty based economy
- Fear and tactics-need more info or valid examples
- Need true consultation
- What is the truth around uranium???
- Will mother Earth always be protected
- Elders talked about people dying and getting sick-need to do more studies and measuring stick on impacts over 10-15 years
- are we interested in the \$ or the major impact on nuclear contamination
- Nations were never consulted to have uranium mines up north...outstanding issue;
- These groups knew about the treaties but never respected them
- Elders lived life on the river, everything was plentiful – they were able to make a living (*pimachihowin*),
- The Land users - Elders, trappers need to be talked/informed
- Fort Chip water is contaminated,, when will the Oil companies stop?
- Our people had Visions that were never respected or understood
- We have to be involved whether they like it or not!
- Buffalo River signed an agreement last year in oil and gas, yet gov't denied it
- Provincial Gov't has too much control – overstepping their boundaries
- Sites are being negotiated, where are they?
- Communities have been discussing long term benefits
- Logging companies in the past did environment studies and passed them
 - FN should be part of them (studies) – included in evaluation of sites etc....
- Risks and benefits- Economic verses environment
- FNs have different perspectives on our value system and protocols
- Our right to land has been impacted especially in hunting, fishing, trapping , & gathering

Question 3

Should there be a protocol to divide FNs, TCs and FSIN?

- Do not pass anyone – ensure everyone is aware and has information on this proposed waste site; ensure go through all levels of First Nations, including community and leadership.

Group C – breakout sessions (Gladys C.)

Question 1- Values

- Traditional lifestyle - hunting fishing and trapping
- Impact on future generations
- Respect for mother earth
- Challenges and opportunities
- Respect for each other and for the elders – *kwayastikitotamowin* & *minatsowin* (duty based on respect requires person to see no harm comes to anyone or anything)
- Treaties(Agreement)
- Honesty (information) - *tapwewin*
- Opportunities for equal partnerships

Question 2- Risks/concerns

- Mining Industry is avoiding Treaty-based responsibility and enforcement
 - Contamination(safety-health) – ie. leaks
 - Legacy of all mining activities (affluents, tailings, radiation etc)
 - Transportation of nuclear waste and currently yellow cake, slurry ore high grade
 - Risk to Water, air and soil
 - Tailings
 - Emissions
 - Repository issues – ie rock shifting
 - Increased health risks
 - Changes in mother earth
 - Social morals
 - Other chemicals that are unsafe to humanity, mother earth ie. Arsenic, plutonium
 - Transportation through all our territories
 - Causing catastrophes all over the world
- Opportunities
- Education
 - Need meaningful Jobs – not labour or “cheap” jobs, ie. Mid-level/management positions
 - Revenues
 - Impact benefit agreements are not enough. Our Treaty/inherent rights go beyond the DUTY to CONSULT, see Enbridge and Red Pheasant example
 - Resource revenue sharing
 - Natural resources, think global
 - Free prior and informed consent (FPIC) doctrine was stressed;
 - Protocol agreement (strong considerations including accountability, autonomy of each First Nation, economic well-being
 - Treaty relationship is primary (the car/vehicle for FNs) – industry/gov must respect;
 - NWMO- gov’t involved – see Environment Assessment Act requirements & “fast-track system” – where SK government has set up process to bypass this important step (that was meant to ensure that people and environment are safe/protected);
 - First Nations- as represented by FSIN
 - We are only a few here, many people in our communities are concerned – they must be informed as well – a long process – but needed to properly ensure consent

- This is just the beginning of the public information and awareness
- Where was FN involvement in the Uranium industry at the beginning? Opportunity now to change this old-approach and to involve First Nations;

3). Development of standard among First Nations Treaty holders – Chiefs must decide whether or not to have Nuclear waste disposal site on their lands.

Need to deal with **structural bias/procedural inequality** – this occurs where one individual First Nation says ‘yes’ – and neighbouring First Nation says ‘no’. YET the impacts will be felt on both First Nations, despite not agreeing. This is an example of systemic bias/inherent bias in these ‘consultation regimes set out by Supreme Court of Canada under S.35’.

Advise

1. We haven’t fixed what’s going on with the uranium industry/development-why would we be talking about nuclear waste disposal sites. We, First Nations haven’t been involved/consulted prior to and the development of uranium mines – contrary to us being part of the Universal family of people.
2. We have a treaty relationship with Crown - Where are we at? Have we, as FN, identified ourselves as Canadian/assimilated? ...Have they taken away our identity that we can no longer protect our lands & way of life?

How does mining affect Treaties?

What about *Declaration on the Rights of Indigenous Peoples*’?

- Article 10: “Indigenous Peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.
- Article 25: “Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.
- Article 26:
 1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
 2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
 3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.
- Article 29:
 1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.
 2. **States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories on indigenous peoples without their free, prior and informed consent.**

3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Group D – breakout sessions (Howard M. & Lisa A.)

Question 1

Values

- Transliteration – addresses loss of meaning when translate from Cree to English;
- Language(need translations/ plain language)
- Culture and Land
- Interdependence-watersheds
- Taking care of the water streams
- Discussions before anything happened/any development on land

Question 2

Concerns-Take care of mother earth

- A) nuclear industry
 - Taking resources and leaving a mess(tailings)
 - Public health impact
 - Risks talk of study and information
- B) Deep geological Nuclear Waste Repository
 - Transportation
 - Technology-uncertain
 - Technology always evolving
- Risks- A Concern 6 to 10 Workers –no studies done
- No information
- Where are you going to store it?

Treaty territories/Boundaries

- Trappers, fishermen, hunting: FPIC (free prior & informed consent)- Those impacted

Question 3

The Duty to Consult and Accommodate has been enforced by Supreme Court of Canada in cases such as **Haida**, **Taku River**, and **Mikisew** within a s.35 domestic framework. This approach conflicts with the traditional understanding of Treaty – where this living agreement was made between two Nations (the First Nations & the Crown). The Crown in Right of Canada (in today’s terms) has replaced the Crown in Right of United Kingdom in terms of responsibility to Treaty relationship. Treaty rights include more than what s.35 domestic framework protects – and is often ignored or diluted via ‘practical outcomes’ in domestic framework. We can no longer support process that short-changes our Treaty and the rights that it protects.

Accommodation to us First Nations goes beyond s.35/domestic approach – our Treaty-based approach, requires a comprehensive framework, one based on Lands & Revenue-sharing that

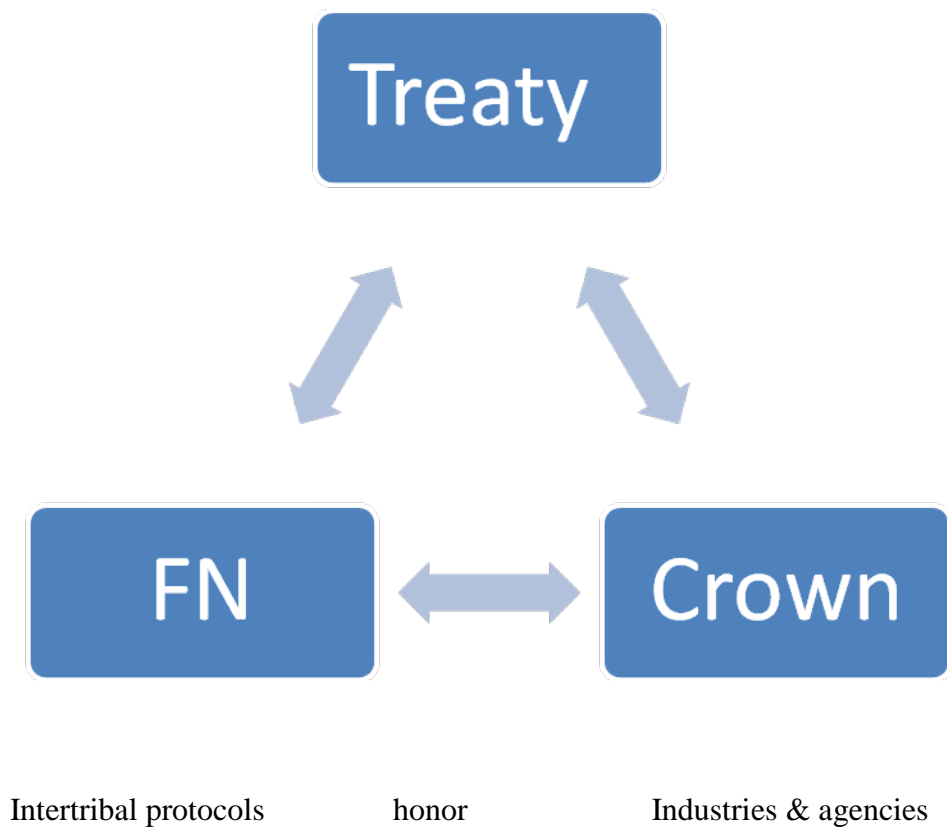
respects the Nation to Nation relationship. This requires addressing issues such as underlying title and NRTA.

Must work as Nation to Nation – Two Nations under Treaty:

3. First Nations – includes inter-governmental/tribal protocols

4. Crown – includes not delegating its responsibility to industry and agencies

Relationship based on HONOUR between Treaty Partners.



APPENDIX IV – list of participants

NUCLEAR WASTE DISPOSAL INFORMATION WORKSHOP	
Chief Gerald Whitehead	Peter Chapman Cree Nation
Councillor Elvis Henry	Ochapowace
Chief Cy Standing	Wahpeton Sioux Nation
Councillor Edwin Boneleye	Black Lake Dene Nation
Freddie Billette	Buffalo River Dene Nation
Lawrence Chanalquay, Senator	Buffalo River Dene Nation
Ken Dustyhorn	Kawacatoose
Dawn Pratt	Muskowpetung
Chief Guy Lariviere	Canoe Lake Cree Nation
Jim Sinclair	NIGAANI/George Gordon First Nation
Tom Whitecalf	Sweetgrass Cree Nation
Joe Iron – Elder	Canoe Lake
Julian Iron	Canoe Lake Travel
Paul Denechezhe	Hatchet Lake Travel
Phillip Joise – Elder	Hatchet Lake
George Tsannie	Hatchet Lake
Chief Alex Little Bear	Big Bear
Tribal Chief Gilbert Panipekeesik	Yorkton Tribal Council
Chief Irvin Starblanket	Starblanket First Nation
Chief Bev Bellegarde	Peepeekisis
Chief Norman Whitehawk	Cote
Vice Chief Ed Henderson	PAGC
Howard Morin	Big River
Roger Redman	Kawacatoose
Wes George	Ochapowace
Bill McKnight	Office of the Treaty Commissioner
Jim Penna	ICUC
Dave Geary	ICUC
Jim Harding	ICUC
Graham Simpson	SES/ICUC
Bryce Jardine	INAC
Ray Ahenakew	Chair
Bonita Beattie	Chair
Chief Lawrence Joseph	FSIN
Howard McMaster	FSIN
Brian Scribe	FSIN
Howie Desnomie	FSIN
Gary Arcand	FSIN
Lori Slater	FSIN
Treena Knight	FSIN
Gladys Christiansen	FSIN
Lisa Abbott	FSIN
Lorna Arcand	FSIN
Murray Long	FSIN
Melvina Iron	FSIN
Milton McKay	FSIN

Jackie Maurice	FSIN
Sheri Ebert	News Talk Radio
Cherish Francis	APTN
Kathy Fitzpatrick	CBC
Darla Read	MBC

APPENDIX V – WORKSHOP MEDIA COVERAGE



NewsTalk 650

Chief Joseph Wants First Nations Informed on Nuclear Waste as Sask is eyed as possible repository location

Reported By Sheri Ebert

September 22, 2008

An organization preparing to scout out a community in which to locate Canada's nuclear waste storage, is inviting Canadians to weigh-in on the process.

And Chief Lawrence Joseph of the Federation of Saskatchewan Indian Nations says First Nations people should be heard.

At an information session on nuclear waste management Monday, Joseph said all Saskatchewan people must receive fair and balanced information.

He admits even his own knowledge on the subject is limited to what he's seen and heard on the news.

Joseph says so far, First Nations have not been made a part of the discussions on nuclear waste in Saskatchewan. He says the uranium industry has had negative effects on First Nations people in places like Uranium City- a case where he says native leaders were not consulted.

The Nuclear Waste Management Organization is right now looking for a suitable site to designate as the place to isolate and store Canada's used nuclear fuel.

The site selection focus is so far in Ontario, Quebec, Saskatchewan and New Brunswick, since those provinces are already involved in the industry.

Canadians interested in putting forward their views may do so before December 15, 2008 at www.nwmo.ca.



FSIN holds information session on nuclear waste

By Jason Warick

TheStarPhoenix.com

Monday, September 22, 2008

SASKATOON - The Federation of Saskatchewan Indian Nations (FSIN) hosted a conference near Saskatoon today to educate its members about the controversial issue of nuclear waste storage.

The FSIN takes no opinion on the issue, said FSIN Chief Lawrence Joseph. Rather, the conference was held to educate First Nations about "the risks and the opportunities," he said. Individual communities can then make their own decisions.

"We're trying to facilitate discussion," Joseph said.

"Whether we like it or not, (the issue) is there."

No communities are signed up to host a waste site, he said.

The conference heard from nuclear waste storage advocates as well as critics.

Mike Krizanc of the nuclear industry organization Nuclear Waste Management Organization said it could take eight to 10 years before any potential sites are selected. He said the organization is committed to finding a "willing and informed community" to host a nuclear waste storage site.



Canwest News Service

Native conference mull nuclear waste.

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Mon 22 Sep 2008

Dateline: SASKATOON

Source: Canwest News Service

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Saskatoon StarPhoenix

Program: Provincial News

Date: 2008-Sep-22 5:33PM

Air Time: 5:30PM - 5:37PM

Station: CBC/CBK Radio 1 (Regina)

Network: Canadian Broadcasting Corporation

City: Regina

Subject: Saskatchewan's First Nations leaders are spending the day discussing nuclear waste storage

CBK: It's a tough choice for many communities - reap the money that may come from nuclear waste disposal that risk contaminating the air, water and soil for centuries to come. First Nations leaders were considering that choice today at a casino near Saskatoon. The CBC's Kathy Fitzpatrick has this report.

REPORTER: It might seem symbolic that First Nations leaders choose a casino as a venue for these talks, after all, First Nations seized the opportunities amid the hazards in the gambling industry and have cashed in nicely. But on the question of nuclear waste disposal, they are approaching cautiously. Today's talks were about how further talks might unfold. Mike Krizanc is with the Nuclear Waste Management Organization.

MIKE KRIZANC (NWMO): We're here to provide information so that FSIN and First Nation chiefs that are here can decide how they want to proceed.

REPORTER: Krizanc's organization will be searching for an underground disposal site with input from First Nations and other Canadians. However, another speaker, nuclear critic Jim Harding would rather see the industry wind down.

JIM HARDING (Nuclear critic): The responsible thing to do is phase out an industry that's producing such a long-live toxic waste stream because in fact there are cost effective alternatives now.

REPORTER: The Chief of the Federation of Saskatchewan Indian Nations, Lawrence Joseph, has yet to take a public stand.

LAWRENCE JOSEPH (Federation of Saskatchewan Indian Nations): Well I do have my personal information on that and it's very, very gray.

REPORTER: Joseph says there won't be any decisions coming out of today, except perhaps to talk more. Kathy Fitzpatrick, CBC News, Saskatoon.



Program: The CJME Afternoon Show Date: 2008-Sep-22 4:34PM Air Time: 4:00PM - 6:00PM
Station: CJME AM (NewsTalk 1300) Network: RAWLCO City: Regina

Subject: **SASKATCHEWAN COULD BECOME THE SITE OF CANADA'S NUCLEAR WASTE STORAGE.**

CJME: Saskatchewan could become the site of Canada's nuclear waste storage if one of four provinces that are the focus of the Nuclear Waste Management Organization's efforts try and find the best community to host a deep geological repository. The NWMO was present today at a First Nations information session on which FSIN chief Lawrence Joseph said was an important step.

LAWRENCE JOSEPH: We want to be part of the action. It's the path that you probably know that we have never been there - it's been after the fact we were considered as part of the discussion on this issue. In order to be part of that we need to prepare First Nations with proper information and that's what this is all about.

CJME: Joseph says at this point Aboriginal people have been left out of the nuclear waste discussion, something he says has to change. Canadians are requested to weigh in as the NWMO puts together their plan for deciding on a site. Their site is nwmo.ca.



Nuclear Waste Tops Agenda for Native Leaders

TUESDAY, 23 SEPTEMBER 2008

Native leaders in Saskatchewan held a conference yesterday to talk about nuclear waste.

The Nuclear Waste Management Organization is talking with communities in the hopes of finding a spot to put all of Canada's nuclear waste. They are only in the first stages; they want to consult with different communities, get feedback, and then select a site.

Saskatchewan was approached because of the uranium mining done here.

The FSIN says they are cautious about the idea; they aren't going to make any quick decisions.

Other sites considered are in Ontario, New Brunswick, and Quebec.
