

NWMO Elders Forum 6 Report

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July 2009

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nwmo

NUCLEAR WASTE
MANAGEMENT
ORGANIZATION

SOCIÉTÉ DE GESTION
DES DÉCHETS
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NWMO ELDERS FORUM 6

July 28-30, 2009

Oromocto, New Brunswick

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Background

The NWMO Aboriginal dialogue regarding the long-term care of Canada's used nuclear fuel began in 2003. Since then NWMO has hosted a series of meetings and dialogues with Aboriginal people at various levels and supported the development of an 'Elders Forum' These elders are accompanied by Aboriginal youth of their choice (see Participant list – Appendix 1) who play an active role in the Forum.

Following the selection in June 2007 by the Government of Canada of the NWMO recommendation, Adaptive Phased Management, the Elders Forum and their Working Group, Niigani, have focused their efforts on advice to the NWMO as it lays the foundation for implementing the approach. Due to the need to address a number of complex issues, this was the second meeting of the Forum in 2009 and was their sixth meeting since its inception. The Forum reflects a healthy diversity of views and the necessity of exploring the many different viewpoints in discussions on difficult subjects. It reflects the desire for consensus and it is clear that Elders Forum members remain respectful of their differences and their commitment to work together along with the NWMO. Members often grapple with difficult issues and work hard to apply their traditional knowledge, worldview and values to modern and highly technical challenges.

Introduction

The NWMO is currently considering the process to use in selecting a site in implementing Adaptive Phased Management, the approach accepted by Canada. This meeting of the Forum was designed to provide participants with the opportunity to identify the strengths and any problems or gaps with the proposed process as part of a National initiative to consider this important building block.

The proposed siting process is admittedly complex. By necessity, it is abstract with a whole series of scenarios that make it difficult for people especially from a different cultural background who may not speak English well to follow. For some participants it raised questions about their roles and responsibilities, for others it was clear that they needed more time to digest and consider the information presented.

The Forum provided an opportunity for Youth delegates to workshop ideas on how they might participate more effectively in the Forum and in their own communities. Their goal was to take the first step in building a strategy to empower Youth within the Elders Forum.

Building on previous advice provided, the Forum also reviewed a draft policy designed to guide NWMOs' work with Aboriginal peoples. Members discussed their additional thoughts on this policy and options for how to move this policy forward in a positive manner.

Elders raised many questions about nuclear waste management in order to continue to build their understanding of the subject and the NWMO's work. They also discussed the important role that the Elders Forum plays in providing advice to the NWMO while confirming that the advice that the Forum provides is not the same as the consultation process that will take place with the community where the deep geological repository facility will be built. The importance of conducting discussion in a manner appropriate to the Aboriginal viewpoint and processes was stressed by Elders as this will need to be done when working with Aboriginal communities.

While there were few conclusions reached, this report reflects an attempt to transmit the issues and concerns that arose. It is organized under themes that might better serve to understand the issues.

Major Themes

The Role of Aboriginal Peoples in the NWMO

Participants discussed the role of the Elders Forum and how that might evolve over time as the site selection process proceeds. Some felt that the role would diminish once specific communities came forward and brought with them their own elders and representatives. Others felt that their role was to 'pave the way' for these communities and help ensure that the supports they will need will be put in place with the help of the Forum. Still others felt that the Forum should not be a 'go between' the NWMO and communities, it cannot replace the work that NWMO must do to educate and consult with local and regional aboriginal communities. Nor should it displace the need for NWMO to consult with National and Provincial Aboriginal governments. One person suggested that NWMO should negotiate 'protocol agreements'

with specific communities, regional and national Aboriginal governments. This would ensure that proper consultations are held and are conducted in a manner that is appropriate for each. It was further clarified that the advice from the Forum is not intended to fulfill or replace the 'duty to consult' as prescribed by the Supreme Court of Canada and that NWMO will have to negotiate directly with the people of an affected area.

Some Forum members felt that the meetings of the Forum should focus on the issues of nuclear waste management and the implications for Aboriginal peoples while others see the value of continuing the cultural education work for the benefit of both the Youth and the NWMO.

Many members noted that the NWMO process of dialogue with Aboriginal peoples continues to be unique in Canada. They noted that the site selection process reflects that the NWMO has been listening to Aboriginal people and that it recognizes that work will need to continue in order to ensure that Aboriginal people are making decisions for themselves.

Regarding future membership in the Forum, NWMO representatives explained it recognizes the value of continuity over time and the idea is to invite additional members from a community or region that comes forward with an interest in the project. This will ensure both a national perspective continues to be available while allowing more local people the opportunity to work directly with and benefit from the knowledge and experience of the Forum.

Elders Forum members reiterated that their primary focus is the safety, security and protection of Mother Earth and this protection also extends to future generations.

Considering the Site Selection Process

The most frequently expressed concern about the proposed site selection process presentation was that it would take time to digest and significantly more discussion to understand all of the possible scenarios. Members noted that they are still learning about this subject and more time will be needed to fully understand and continue to provide advice to the NWMO in order that future generations will be able to know what advice was given.

Suggestions included removing duplication from the presentation while maintaining clarity regarding the decision making process to be used. Plain language material along with interactive audio visual aids would help people comprehend the complex issues that need to be understood.

Members discussed at length their understanding that an Aboriginal 'community' has a different and significantly greater legal standing than municipalities as a result of S. 35 of the Constitution Act (1982). Aboriginal peoples have rights that go beyond the boundaries of

geographic communities and beyond the jurisdiction of municipal or provincial governments. NWMO must define 'community' and distinguish between 'right bearing' communities and geographic communities. In doing so, NWMO must recognize that Aboriginal peoples have a great sense of responsibility for each other, regardless of distances and language or cultural differences. This broader sense of community must be respected.

Regarding the process by which the NWMO can engage Aboriginal people in communities during site selection, participants emphasized the importance of doing comprehensive community education regarding the site selection process itself, the nuclear cycle and waste management challenges. Aboriginal communities need to know that they have very significant say over whether this project gets built on or adjacent to their traditional lands. Participants stressed that Aboriginal communities will need to hire people from the community or for the community who will organize and get people information on nuclear waste. They must gain the trust of the community and will have to learn the culture of both the community and of NWMO. The role of leadership will not be to convince people to do anything - they are there to give information and get the ideas from the people in the community. It was suggested that a community development or empowerment process be used to do the ground work needed in Aboriginal communities.

Concerns regarding the safety of transportation of waste and the need to protect communities along transportation routes were expressed, clarification over how much say these 'transportation communities' would have over the location of a site will be needed.

Specific reference should be added to how NWMO and the regulatory process would respond to an interest from a private land owner to host a repository.

Elders reminded NWMO of the importance and relevance of prophecies to Aboriginal Peoples and cautioned that many Aboriginal communities will have serious reservations about waste disposal on their traditional lands because of the warnings these prophecies include.

Within these concerns however, participants also noted that the site selection process recognizes the importance of Aboriginal people and the NWMO working together jointly on finding solutions and making decisions together.

In regards to agreements which will eventually be made with communities, members of the Elders Forum noted that the agreements need to include recognition that benefits must also flow to future generations and emphasized the importance of future generations knowing that their protection and safety was most important to people of the current generation in giving advice to the NWMO. They emphasized the importance of taking time to get this right.

Questions about how matters of resource revenue sharing from the project will be addressed as well as economic benefits were raised. One suggestion was to have a trust fund established drawing from uranium mining profits and from nuclear energy production to ensure that Aboriginal communities can access resources to heal themselves and the land from impacts. Members felt that there is a role for NWMO in these matters and would like to begin addressing them.

Aboriginal Policy

Many participants expressed the view that while this draft policy has been guided by the direction given by the Elders Forum and Niigani, it should be distributed more broadly to aboriginal communities and political organizations before being formally adopted by the NWMO. This would also provide an opportunity for NWMO to negotiate the protocol agreements needed and to begin the work of doing community based education, capacity building and traditional knowledge research.

NWMO representatives noted that the draft policy had already been distributed to national and provincial aboriginal organizations requesting their input and further recognized that there are other matters such as aboriginal employment and preferential contracting that are not addressed in this document but may be addressed elsewhere. Ken Nash, President explained that the policy is designed to describe how the organization (NWMO) relates to aboriginal peoples and outline its commitment to that relationship. It is intended to guide new and future representatives and staff of the NWMO in its ongoing work and is a first iteration of something that will evolve constantly over the next 100 years.

Elders suggested the development of an implementation plan to go with the policy that would clearly set out time frames and stages to the interaction between NWMO and Aboriginal Peoples.

Concern was expressed that the consistent advice provided by the Forum to establish a NWMO commitment to supporting independent research support for Aboriginal peoples was not reflected in the policy. NWMO indicated they would welcome proposals for such research.

A guest from the Assembly of First Nations indicated that they have received the policy from the NWMO and will provide comments on the draft policy and suggestions on language that will reflect concepts used to respect aboriginal rights and interests.

It was also suggested that the policy should make reference to the role of the Elders Forum and Niigani in relation to NWMO.

Youth Participation

The Youth members reported to the Elders Forum on the half day workshop that they held the day before the Forum started to explore ways to increase their effectiveness. They identified barriers and opportunities while sharing with each other the nature of their involvement in their communities. They brainstormed ideas and began to outline their plan for moving forward. Youth members of Niigani will draft a goal statement building on key words identified to help establish commitment and responsibility. Other plans they would like to consider include holding regular Youth meetings within the Elders Forum to effectively prepare, actively seek support and guidance from Elders and using modern technology for increasing understanding of the technical challenges of nuclear waste management and understanding of the subject itself and establishing a method of communication among the youth between Forums.

Elders offered Youth members a range of support, from traditional teaching to encouragement in the participation in the Forum and in their communities acknowledging their future role as leaders. An Elder suggested that the role of Youth also needs to be addressed in the Aboriginal policy.

The youth and Elders made a point of thanking the NWMO for including youth in the Forum.

Conclusions

The Forum remains committed, despite the complexity of the subject and processes, to providing ongoing advice based on their traditional knowledge and values. Members continue to stress their overarching concern for future generations and their sense of responsibility to ensure their safety including that of the natural environment. The work and direction provided on the Aboriginal Policy and the site selection process together with the recognition that their roles and responsibilities will evolve over time, are indicative of this commitment.

Appendix 1

Participant List

NWMO ELDERS' FORUM 6

PARTICIPANTS			
FIRST NAME	LAST NAME	COMMUNITY	PROVINCE
Lindsay	Amahoose	Bonnyville	AB
Eli	Angiyou	Akulivik	QC
Donna	Augustine	Rexton	NB
Tanisha	Augustine	Rexton	NB
Gwen	Bear	Fredericton	NB
Roy	Bois	Eabamet Lake	ON
John	Boyce	Eabamet Lake	ON
Elmer	Courchene	Pine Falls	MB
Jean	Courchene	Pine Falls	MB
Jim	Favel	Ile-a-la-Crosse	SK
Bill	Flett	Selkirk	MB
Angus	Gardiner	Ile-a-la-Crosse	SK
Lance	Gardiner	Ile-a-la-Crosse	SK
Helen	Jacob	Eabamet Lake	ON
Tasha	Kaye	Winnipeg	MB
Chris	Lafontaine	Regina	SK
Vianney	Laliberte	Ile-a-la-Crosse	SK
Amber	Laliberte	Ile-a-la-Crosse	SK
Mary	Magiskan	Thunder Bay	ON
Flint	Mattinas	Thunder Bay	ON
Tom	Mattinas, Sr.	Thunder Bay	ON
Micheal	McGuire	Thunder Bay	ON
Veronica	McGuire	Thunder Bay	ON
Madeline	Meeseetawageesic	Eabamet Lake	ON
Allan	Morin	Saskatoon	SK
Melanie	Nepinak	Winnipeg	MB
Anna	Novalinga	Puvirnitug	QC
Krista	Peterson	Fredericton	NB
Joseph	Poitras	Scarborough	ON
Jennifer	Prisciak	Barrie	ON
Mary	Richard	Winnipeg	MB
Jim	Sinclair	Regina Beach	SK
Roland	St. Germain	Owen Sound	ON
Billy	Two Rivers	Kahnawake	QC
Gordon	Williams	Orleans	ON
Bekki	Wilson	Markdale	ON
NWMO			
Ben	Belfadhel	Director, Used Fuel Geoscience	
Marlyn	Cook	NWMO Advisory Council	
Alex	Covarrubias	Multi-Media Coordinator	

Jo-Ann	Facella	Director, Social Research & Dialogue	
Jessica	Gosbee	Senior Advisor Stakeholder Relations	
Ron	Jamieson	NWMO Board of Directors	
Cynthia	Jourdain	Aboriginal Relations	
Gary	Kugler	Chair, NWMO Board of Directors	
Derek	Lister	NWMO Advisory Council	
Sharon	MacFarlane	NWMO Board of Directors	
Pat	Moran	General Counsel & Corporate Secretary	
Ken	Nash	President, NWMO	
Donald	Obonsawin	NWMO Advisory Council	
Pat	Patton	Director, Aboriginal Relations	
Jessica	Perritt	Aboriginal Relations	
Kathryn	Shaver	Vice President, Public Engagement, Communications & APM Siting	
Facilitator			
Joanne	Barnaby		
Guests			
Diane	Adams	NWMO Youth Round Table Member	
Stuart	Wuttke	AFN, Acting Director of Environment	
Jerret	Leaman	NWMO Youth Round Table Member	
Paul	Therriault	NB Power, Vice President, Human Resources	
Pam	Rice	NWMO Youth Round Table Member	
Local Elders			
Maggie	Paul	St. Mary's First Nation	NB
Esther	Ward	Burnt Church First Nation	NB

Elders' names are in bold

Appendix 2

Presentation

Site Selection Process



Adaptive Phased Management - Proposed Process for Selecting a Site



Elders Forum 6
July 29, 2009

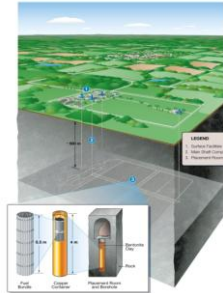
Jo-Ann Facella,
Director, Social Research & Dialogue

Mahrez Ben Belfadhel,
Director, Used Fuel Geoscience



Project Description

- › Federally mandated project.
- › Investment of \$16 to \$24 billion
- › Implemented locally in an informed, willing community host
- › High technology project, skilled employment for hundreds over many decades
- › Vision to operate as a centre of excellence
- › Long-term partnership between NWMO and community
- › Foster community well-being
- › Drawing on national research networks and international research collaboration
- › Highly regulated – strict scientific, and technical criteria assure safety



Implementing Adaptive Phased Management – Where are We in the Process?

- 2008**
- Dialogue about principles & key elements for a site selection process
- May 2009**
- Took input and developed and published *Proposed Process for Selecting a Site*
- Now**
- Seeking comments from Canadians and Aboriginal people on the proposed process
- Late 2009**
- Refine Site Selection Process in light of comments received
- Post 2009**
- Siting process is initiated



How Aboriginal peoples have influenced the development of the process

INVOLVEMENT

- Meaningful involvement of affected First Nation, Métis and Inuit and respect for Aboriginal Treaties and Rights in assessment of suitability of a potential site
- Partnership of Traditional Knowledge and western knowledge
- Involvement of communities along the potential transportation route

SUPPORT FOR COMMUNITY AND CAPACITY BUILDING

- Resources for capacity building
- Learn about the nuclear fuel cycle and the long-term management of used nuclear fuel
- Community visioning exercise – the long-term vision of the community for itself
- Resources to seek independent expert advice
- Resources to engage community members in decision-making
- Understanding of the long-term nature of the project and how it evolves over time

How Aboriginal peoples have influenced the development of the process

PARTNERSHIP AND INDEPENDENCE IN DECISION-MAKING

- Shared decision-making with respect for Aboriginal culture and decision-making processes
- Inclusion of First Nation, Métis and Inuit
- Respect and honour Aboriginal rights and treaties
- Opportunities for communities to conduct independent research and seek independent review
- Involvement of Aboriginal people in the learning and decision-making process; community must be willing; communities will need to understand the site selection process; allow time for people to learn and understand

How Aboriginal peoples have influenced the development of the process

LONG TERM SUSTAINABILITY OF THE COMMUNITY

- Ensuring community well-being - economic development of communities and how the community would prepare for the changes that it might experience
- Respect for current and future generations
- Establishment of a "centre of expertise" at the site
- Development of opportunities for Aboriginal youth to learn and remain involved in the process

SAFETY

- Concern for future generations
- Safety for people and the environment
- Protect and preserve all creation
- Understand how safety is achieved
- Build capacity about safety in order to make informed decisions
- Continue research on productive re-use of used fuel

What does the document cover?

1. The Project

- Description
- Information that communities need to know

2. The proposed decision-making steps and process

3. Criteria

- For ensuring site selected is safe
- For fostering community well-being throughout

4. The way in which a partnership approach will be built and support for the community provided

5. Role of independent, third-party review; regulatory review



Moving Forward Together:
Designing the Process for
Selecting a Site



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What will the proposed process achieve?

• Host community has the opportunity to learn about nuclear waste and the project

• Safe containment and isolation of used nuclear fuel, and ability to retrieve the used fuel

• Community is willing to be host

• Acceptable transportation

• Community is supported and assisted throughout the process

• Surrounding communities, regions, transportation communities and others are involved & have their concerns taken into account

• First Nations, Métis and Inuit are involved

• Ongoing public involvement

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Key Definitions

Interested community

- » A political entity interested in the siting process
 - such as a city, town, village, municipality, region or other municipal structures or a combination of these
- » Includes Aboriginal governments
- » For Crown land and unorganized territory, the provincial government would be considered as an "interested community" in consultation with potentially affected Aboriginal peoples

Willingness

- » In initial steps, accountable political authority expresses interest on behalf of the community
- » Ultimately, a compelling demonstration of willingness is required, including residents



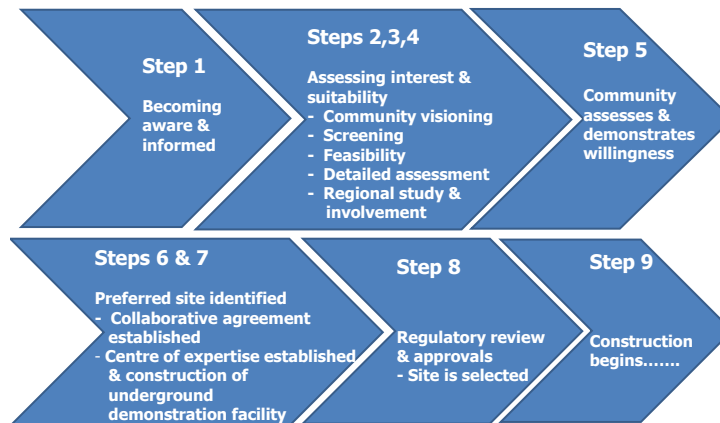
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Key Principles that guide the process

- » **Safety**
- » **Informed, willing** community; Focus on 4 nuclear provinces
- » Communities **choose to participate**
- » **Respects Aboriginal rights and treaties**; will take into account unresolved claims between Aboriginal peoples and the Crown
- » Recognizes **unique status of Aboriginal peoples** under S. 35 of the Constitution Act (1982)
- » Recognizes **unique stewardship responsibilities and the value of Traditional Knowledge**
- » Recognizes the **long-term nature** of the project
- » **Inclusiveness** of the views of others, including those along possible transportation routes
- » **Partnership-based** approach
- » Foster long-term **community well-being** in the host community
- » **Shared decision-making** with potential host community

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What is the process?



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Proposed Site Selection Criteria

» Ensure technical safety- to protect humans and the environment, now and in the future:

- ♦ Progressive and thorough site evaluation process
- ♦ Comprehensive technical site evaluation criteria



» Beyond technical safety – to foster the well being of the community:

- ♦ Socio-economic criteria to assess the potential effects of the project on the community



» Include factors identified by Traditional Knowledge

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Aboriginal Traditional Knowledge

- » Engagement of Aboriginal peoples will take place supported by agreements which will include resources to:
 - support capacity to participate
 - conduct independent research which builds on Traditional Knowledge
 - develop culturally appropriate communication materials
- » Process is designed to recognize importance of Traditional Knowledge that stems from long contact with the land and developing and maintaining meaningful relationships between generations and within and between communities
- » NWMO will ensure that Aboriginal intellectual property is protected, as agreed



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Technical Safety Evaluation Steps

- » **Initial Screening (several months)**
 - Assess whether the site meets a minimum set of criteria in order to enter the siting process (initial screening criteria)
 - Use of readily available information
- » **Preliminary assessment (1-2 years)**
 - Assess potential suitability of the site to safely host the repository
 - Review and analyze available technical information
 - Possibility of limited field investigations
- » **Detailed Site Characterization (~ 5 years)**
 - Conduct detailed site investigations to confirm suitability of the site
 - Geophysical studies; Boreholes drilling and testing, laboratory testing
 - Safety analysis etc.

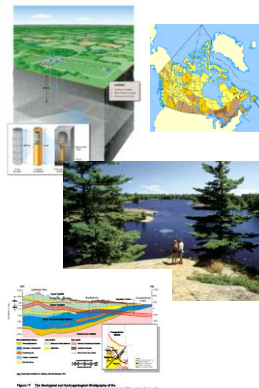


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Proposed Initial Screening Criteria

Initial Screening Criteria:

- » Enough land to accommodate surface and underground facilities
- » Outside protected areas, heritage sites, provincial/national parks
- » Land must not contain groundwater resources at repository depth
- » Land must not contain known economically exploitable natural resources
- » Land must not be located in areas with known geological and hydrogeological features that prevent site from being safe



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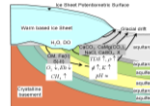
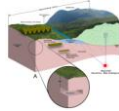
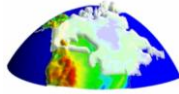
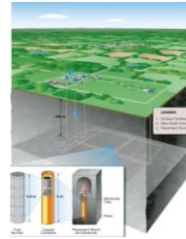
Proposed Technical Site Evaluation Criteria

» Containment and isolation characteristics of the host rock

- Sufficient depth to isolate the repository from surface events
- Low groundwater movement
- Favourable chemical composition of the rock and water at depth
- Favourable thermal properties

» Long-term resilience of the site to future geological processes and climate change

- Resilience to earthquakes and other geological processes
- Resilience to climate change effects (e.g. Glaciation)
- Stable characteristics of the rock and groundwater



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Proposed Technical Site Evaluation Criteria

» Isolation from future human activities- Prevent human intrusion

- Avoid areas containing economically exploitable natural resources
- Avoid areas containing exploitable groundwater resources at repository depth

» Site amenable to characterization and data interpretation activities

- Simple and predictable rock geometry and structure

» Safe construction, operation and closure of the repository

- Rock has sufficient strength to ensure stability of underground openings
- Soil cover depth should not impact repository construction
- Sufficient area to accommodate surface infrastructure

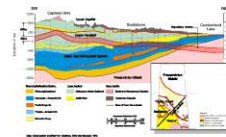


Figure 17 The Geological and Hydrogeological Stratigraphy of the Western Canada Basin, Saskatchewan, suitable for a "Repository Host"



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Proposed Technical Site Evaluation Criteria

» Safe and secure transportation routes

- Transportation route exists or can be constructed to safely transport used nuclear fuel from storage sites to the central repository site
- Routes allows for security and emergency response measures to be implemented



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Foster the well-being of the community

» Evaluate the site against positive and negative social, economic, and cultural effects on host community

» Evaluate existing and potential physical and social infrastructure to implement the project

» Evaluate potential to avoid ecologically sensitive areas and locally significant features

» Evaluate potential to avoid or minimize effects of transportation



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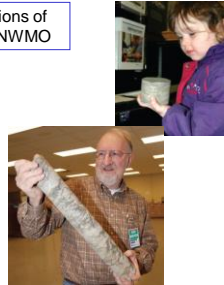
Partnership & Community support

» Communities choose to enter the process and proceed through steps

» Joint development of terms & conditions of participation between community & NWMO

» Resources provided to support decision-making

- Conduct a community visioning exercise – identify a long-term plan for well-being and sustainability
- Seek independent expert advice about the project and the evaluation results
- Inform residents, assess interest, demonstrate willingness



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Partnership & Community support

» Involve surrounding communities, region and affected Aboriginal governments as early as possible

» Involve community members as early as possible

» The siting process will respect Aboriginal rights, support Aboriginal engagement, and include Aboriginal Traditional Knowledge shared with the NWMO

» The NWMO will continue to foster ongoing public discussion

» Transportation route communities invited to raise questions/concerns



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Third-party Review

- » Third-party review and advice ensures NWMO process is thorough and incorporates the best knowledge
- » Review group to review initial screening, preliminary assessment and detailed assessment of the site
- » Review by Advisory Council
- » Followed by regulatory review to ensure safety of the site and the project overall
- » NWMO provides resources to communities to seek their own expert advice

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Summary

- » In 2009, NWMO is continuing work on the *design of the process* for site selection.
- » NWMO is developing the site selection process in a collaborative way, with interested individuals and organizations.
 - ♦ Public engagement in 2009 will invite discussion and comments on a *proposed (draft)* site selection process.
 - ♦ Dialogues in 2009 will continue the collaborative discussion that was initiated in 2008.
- » NWMO has **not** begun the site selection process.
- » The site selection process will only commence after such time as the process for site selection has been confirmed and finalized (after 2009)

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Discussion

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Aboriginal peoples involvement in the process

- » Are the proposed siting principles fair and appropriate?
- » Are the proposed decision-making steps consistent with selecting a site and making a fair decision?
- » Do the proposed decision-making criteria address all the factors that are important? Are there others that should be added?
- » Does the proposed process provide for the kinds of information and tools that are needed to support the participation of communities?
- » Are there important questions that should be answered by this document but are not? What needs to be added? What changes, if any, should be made?