

# NWMO Elders Forum 5 Report

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**nwmo**

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Report of  
*Elders' Forum 5*

Ontario Federation of  
Indian Friendship Centres

Toronto  
April 1, 2009

*Convened by*

**The Nuclear Waste Management Organization**

*Prepared by*  
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Forum Facilitator and  
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## *NWMO Elders' Forum 5*

# Background

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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 'Elder's Forum'. The 2009 Elder's Forum was the fifth meeting of this group which is composed of elders from across Canada, these elders are accompanied by youth of their choice (see Participant list – Appendix 1).

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. Niigani has prepared a Mission Statement, Principles, and Objectives that would provide clarity for the role of the Elder's Forum and Niigani in their work with the NWMO. Niigani also provided some guidance in the development of the draft NWMO Aboriginal policy which was presented at this Elders' Forum.

The Forum reflects a healthy diversity of views and beliefs and the necessity of exploring the many different viewpoints in discussions on difficult subjects. It reflects the process in discussions in which consensus is the preferred outcome 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. They are clearly committed to the Principles (Appendix 4) and Mission Statement.

# Elder's Forum Mission Statement

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## ***Mission Statement***

*"Protect and preserve all creation: air, land, water, plants, medicines, animals and human kind – guided by the seven universal teachings of love, trust, sharing, honesty, humility, respect and wisdom."*

## Opening Session

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Following the opening prayer and smudge lead by Toronto Elder, Joann Kakekayash, President Ken Nash welcomed Forum participants and thanked them for making the journey to Toronto. He highlighted Niigani's work since the last Elders' Forum in 2008, and its' assistance in developing the *Draft NWMO Aboriginal Policy*. He acknowledged the role Niigani has played with the NWMO, assisting in building relationships with Aboriginal organizations, conducting the summer project, development of a brochure and DVD, participating in a Traditional Knowledge Project and providing NWMO staff with cultural training. In addition, he outlined that the purpose of this Elders' Forum was to gather comments on the draft Aboriginal policy before it is released for public review.

He explained that NWMO has been busy preparing for the implementation of Adaptive Phased Management and is preparing to release the *Proposed Process for Selecting a Site* for a Deep Geological Repository (DGR).

Niigani Chair, Gordon Williams welcomed attendees and thanked them for their time and commitment to the process. He reported on the work of Niigani which highlighted their role as building relationships, cultural training for NWMO staff and Advisory Council, and the Traditional Knowledge Project 2008. He reiterated the fact that the draft NWMO Aboriginal Policy stemmed from previous Elders' Forum discussions and felt that the policy as written was a good result of the recommendations and guidance given.

### Opening remarks from Participants

A number of Elders commented on their understanding of their role and participation in the Elders Forum. They understand they were recommended to the Elders Forum by different Aboriginal organizations because they are recognized and well known among their people and they would be able to provide the advice and guidance needed by the NWMO. These Elders noted that they also advise Aboriginal leaders and encourage them to allow time for community people to understand nuclear waste management through effective information sharing and educational programs. This will enable whole communities to make well informed decisions when and if that time comes. They suggest that it is not necessary to take a particular position on nuclear waste management at this time as it is important to allow the time for learning first.

Forum members were clear that their primary role is to act and advise the NWMO in order to achieve their Mission for the protection of all creation now and for the future.

One elder explained the relationship as Native people and as "stewards of the land". In the language of English, he could identify himself as "aboriginal", "first nations", "indigenous", etc. In the Ojibwe language for example, he identifies himself to other Ojibwe language

holders as (loosely translated), “mother earth is a nation”. He felt this definition is more reflective of where he comes from; a more rooted way of affiliation to the land, Mother Earth, rather than just “stewards of the land”.

There was discussion regarding the role of the Forum and Niigani and many felt that the appropriate role is as advisors to the NWMO and they expressed a commitment to ensure protection of Aboriginal peoples’ rights as well as bring their perspectives, culture and traditions to the NWMO as it does its work. Members noted that they take their role and responsibilities very seriously and are aware of the importance of this for future generations.

Many commented that the NWMO approach to the building of relationships with Aboriginal peoples which ranges from working with political representatives, to actively involving elders and youth at every level, is sound and healthy. They would like it to be a model for other organizations and governments who deal with Aboriginal peoples. They suggested that the NWMO confirm the description of the model for participation in the Elders Forum at the next Forum meeting.

### **Forum Objectives**

The primary purpose of the April 2009 Forum was to provide advice regarding a formalized NWMO Aboriginal Policy and to prepare Forum members for discussion on a draft Site Selection Process in July 2009. Objectives included:

1. To consider and comment on the draft NWMO Aboriginal policy;
2. To comment on the draft Site Selection Process;
3. To review the regional dialogue program for 2009;
4. To provide feedback to participants on work the NWMO and Niigani have implemented on advice from the Elders’ Forum;
5. To fill youth vacancies on Niigani.

## **Aboriginal Policy for NWMO**

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Ken Nash and Pat Patton presented the *Draft NWMO Aboriginal Policy* and highlighted the need for the policy, key principles that will guide the NWMO and commitments for building and maintaining a respectful relationship with Aboriginal Peoples. They also explained the developmental nature of the policy and the openness to ensuring that it changes to reflect the evolving nature of this relationship.

They noted that the NWMO has received positive feedback from other industry and government organizations on the process of building healthy relationships with Aboriginal Peoples thus far.

Following the overview, there was an invitation for questions and comments about the draft.



Members discussed issues and provided further advice; the following summarizes the major themes heard from Elders' Forum members.

### **Concern for Future Generations**

Many of the elders noted their primary concern is for future generations and noted that this weighs heavily on their minds in providing their advice to the NWMO. They reiterated their focus as reflected in their Mission Statement and the Principle of protection of all creation. They expressed the view that these Principles provide a good foundation for decision-making and must be reflected in the policy.

### **Terminology**

Elders' Forum members made a number of comments regarding some of the words used and suggested additions or alternatives in the NWMO Draft Aboriginal Policy:

The use of the word *engagement* has arisen as a term that some Aboriginal people feel does not adequately reflect the *duty of the Crown to consult* as set out by the Supreme Court of Canada. Therefore, it was suggested that the word *consultation* be used where applicable and some also felt the term *accommodate* should be included in the policy as it is an important element of the Crown's duty to consult and it identifies that there could be specific benefits that arise from a project like the DGR.

There were different interpretations of the word *compensation*. For some it implies a 'giving up' of something, rather than a real long-term benefit to a community while for others it is meaningful and provides assurance in the policy and is a recognizable concept.

### **Negotiated Agreements**

Members asked how the NWMO would pursue agreements with communities and what would these agreements look like. The NWMO responded that as each community's needs will be different the NWMO will not predetermine or design templates for communities; rather they will be open to community needs as defined by communities themselves.

### **Why a policy?**

A question was asked regarding the assurance that the policy will be effective. One Elder expressed concern that it not be "swept under the rug" by industry and the federal government once the duty to consult comes into play. An elder pointed out that "policy is not law", but rather, the role of policy is to guide the behavior of governments or organizations. He noted there are differences between the court decisions, laws and policy that should be recognized and understood by Forum members.

### **General Comments**

Overall, while the draft NWMO Aboriginal Policy was received well and many felt that it reflects past advice, it was suggested that some of the important components described

above be considered for changes and inclusions in the Policy before it is released for public review. Ken Nash acknowledged that the draft will need some changes to reflect rights and responsibilities of the parties that are consistent with legal requirements. He noted that NWMO policies are reviewed every two years and that it is important to keep up the momentum achieved to date.

Members suggested that an additional policy might be developed or an overall policy be developed by the NWMO to address education and employment opportunities for Aboriginal Peoples. Such opportunities should include a commitment to a scholarship program for aboriginal students to encourage studies that are relevant to the implementation of the Adaptive Phased Management approach and an affirmative action plan that details hiring and professional development opportunities for aboriginal employees. NWMO should also establish guidelines for contracting with Aboriginal organizations or businesses.

## Site Selection Process

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Kathryn Shaver provided an update on NWMO's engagement activities and reviewed the results from the 2008 dialogues regarding important components in developing the draft site selection process. She also reviewed the next steps in preparing for the public review of the Draft Site Selection Process document. She noted that the Elders' Forum in July 2009 will focus on reviewing the draft document.

The Elders were invited to discuss Ms. Shaver's report and to comment on the development of the site selection process. Forum members stressed the overriding concern is for future generations and this must be kept in mind when potential sites are considered. The protection of water and possible downstream impacts are critical to site selection.

Communities will need time and resources to review in detail the draft Site Selection Process document. It is important that the definition of "community" be kept quite broad. In relation to aboriginal communities, it may mean several geographic communities as they share traditional territories and in some cases, work together to make decisions regarding developments on these traditional lands.

Ken Nash stressed that the host community must be willing and informed and that once a community comes forward the people in the region will need to be involved. When asked how transportation communities will be involved he noted that they will be included once the potential(s) site is known and potential routes can be identified. He also noted that these are important questions to which all the answers are not necessarily available at this time as we will need to hear what communities have to say.

In response to questions about the regulatory process, Kathryn Shaver noted that various levels of review and regulatory approvals are required such as from the Canadian Environmental Assessment Agency (CEAA) and Canadian Nuclear Safety Commission (CNSC). There will also be another independent level of review opportunity provided to communities interested who will be supported by NWMO to retain their own independent

experts.

One Elder asked if the Elders Forum will speak on behalf of Aboriginal people when negotiating takes place. The NWMO clarified that this would not be the case, that the affected Aboriginal people will negotiate for themselves and that the Crown retains its 'Duty to consult and accommodate'. This is separate to the statutory obligations NWMO has to consult as per the Nuclear Fuel Waste Act.

Elders Forum members stressed that it is important that scholarships and other preparedness programs be established soon for Aboriginal youth to prepare them for involvement and employment in the development of the DGR and APM.

One Elder noted that when Aboriginal communities are considering this project they will need to look at it in relation to the total development in their area. They will also be taking into consideration the impact on their Traditional lands including impacts on their traditional economy and such resources as medicine and wildlife. They also want to ensure that local and regional meetings include local youth, women and elders.

There were various comments regarding Traditional Knowledge and the spiritual component of the work of the Elders' Forum and the NWMO. One elder suggested separate resources be provided for their own research on Traditional Knowledge using a process that is fitting to their own beliefs and understanding. Another elder suggested at the time a site has been chosen for consideration, an appropriate ceremony be conducted prior to selection in order to confirm if the location is suitable.

A member asked if the NWMO will be able to apply what is being learned in the development of the DGR site at the Bruce site to APM. Ken Nash confirmed that this project provides the opportunity for the NWMO to learn and apply what it learns to APM.

One member requested an update on the international developments and on other approaches to managing nuclear waste. This suggestion stemmed from particular questions around Canada's membership with GNEP, and questions about import and export of nuclear waste from other countries. Nash explained that Canada does not import or export nuclear waste as a condition of membership with GNEP and keeps up to date with other management approaches.

Previous concerns regarding uranium mining were once again raised and Ken Nash noted that the government is aware of the work of the Elders Forum and Niigani and that we take these messages back to government, including concerns about other elements of the nuclear cycle.

# NWMO 2009 Regional Dialogues with Aboriginal Peoples

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Pat Patton reviewed the upcoming 2009 regional dialogues with Aboriginal people that will seek to build understanding of Adaptive Phased Management and the NWMO and to seek input on the *Draft Site Selection Process*.

Much interest was generated from Elders' Forum members in being involved with the dialogue sessions. They agreed with the approach of setting up of meetings with Aboriginal organizations and communities, on a more regional basis. One comment was that not all regional organizations represent all groups in an area, so NWMO would need to find a way to include these groups as well. Forum members noted in the future, when a site is selected, the NWMO will be working at a more community/regional level and that negotiations would take place at that time and with the appropriate groups.

Niigani members shared their experience so far, in assisting the NWMO with initiating dialogue with Aboriginal organizations in their provinces. In each province, the process is different depending on the groups in that province. For example, in Saskatchewan, there is a strong presence of both First Nations and Métis communities and an intertwining of both, with Métis communities that are under municipal laws. They stressed a need for resources to be made available to the organizations that the NWMO is working with to conduct dialogues that are fitting with the province and its' various dynamics. The need to include Youth in dialogues was also stressed.

The NWMO confirmed its' commitment to working with communities and will talk to whomever would like to learn more about the NWMO and its' work and acknowledged that it has an opportunity to do things differently than what has been done in the past.

## Organizational issues

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### **Elders Forum Youth Meeting**

Niigani youth members, Tasha Kaye and Mary Magiskan gave an overview of the activities planned for a youth meeting at the next Elders' Forum. They expressed that youth wish to be more active in the Elders' Forum discussions and would like to suggest ways for more interaction between youth and elders during the forum. Elders expressed their support for the youth and encouraged them in taking initiative to caucus.

## Youth Members on Niigani

Youth members of the Elders' Forum recommended three new members to the Niigani working group. Members recommended were Tanisha Augustine and Krista Peterson from New Brunswick and Flint Mattinas from Ontario. This brings the total youth members of Niigani to five along with five Elders.

## Public Education

Cynthia Jourdain introduced the NWMO DVD that was adapted at the end of 2008 for an Aboriginal audience with the assistance of an advisory group comprised of communications professionals with Aboriginal communications experience. One member commented regarding the Niigani mission statement that in the seven universal teachings "bravery" should be added and the element of "fire" needs to be added.

## Next Meeting

The **Elders' Forum 6** will be held in New Brunswick from July 28-30, 2009. The focus of this Forum will be a review of the Site Selection Process document. New Brunswick Niigani member Donna Augustine and Elders' Forum member, Gwen Bear will assist in organizing the meeting venue. The youth will meet for half a day on July 28<sup>th</sup>, which will include a social event.

# Closing

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Ken Nash thanked everyone for coming and wished everyone a safe journey home. Forum members expressed their appreciation to Mr. Nash for adjusting his schedule to spend the full day with the Forum. Gordon Williams thanked everyone for their commitment as well as the NWMO staff for their efforts in preparing the meeting.

The closing prayer was lead by Toronto Elder, Joann Kakekayash.

**Appendix 1**  
**NWMO ELDERS' FORUM 5**

<b>PARTICIPANTS</b>			
<b>FIRST NAME</b>	<b>LAST NAME</b>	<b>COMMUNITY</b>	<b>PROVINCE</b>
Eli	<b>Angiyou</b>	<b>Akulivik</b>	<b>QC</b>
<b>Donna</b>	<b>Augustine</b>	<b>Rexton</b>	<b>NB</b>
Tanisha	Augustine	Rexton	NB
<b>Gwen</b>	<b>Bear</b>	<b>Fredericton</b>	<b>NB</b>
Roy	Bois	Eabamet Lake	ON
<b>John</b>	<b>Boyce</b>	<b>Eabamet Lake</b>	<b>ON</b>
<b>Elmer</b>	<b>Courchene</b>	<b>Pine Falls</b>	<b>MB</b>
<b>Jim</b>	<b>Favel</b>	<b>Ile-a-la-Crosse</b>	<b>SK</b>
Jimmy	Favel	Ile-a-la-Crosse	SK
<b>Bill</b>	<b>Flett</b>	<b>Selkirk</b>	<b>MB</b>
<b>Angus</b>	<b>Gardiner</b>	<b>Ile-a-la-Crosse</b>	<b>SK</b>
Lance	Gardiner	Ile-a-la-Crosse	SK
Helen	Jacob	Eabamet Lake	ON
Tasha	Kaye	Winnipeg	MB
Chris	Lafontaine	Regina	SK
<b>Vianney</b>	<b>Laliberte</b>	<b>Ile-a-la-Crosse</b>	<b>SK</b>
Amber	Laliberte	Ile-a-la-Crosse	SK
Mary	Magiskan	Thunder Bay	ON
<b>Josephine</b>	<b>Mandamin</b>	<b>Thunder Bay</b>	<b>ON</b>
Flint	Mattinas	Thunder Bay	ON
<b>Tom</b>	<b>Mattinas, Sr.</b>	<b>Thunder Bay</b>	<b>ON</b>
<b>Micheal</b>	<b>McGuire</b>	<b>Thunder Bay</b>	<b>ON</b>
Veronica	McGuire	Thunder Bay	ON
<b>Madeline</b>	<b>Meeseetawageesic</b>	<b>Eabamet Lake</b>	<b>ON</b>
<b>Allan</b>	<b>Morin</b>	<b>Saskatoon</b>	<b>SK</b>
Anna	Novalinga	Puvirnitug	QC
Melanie	Nepinak	Winnipeg	MB
Krista	Peterson	Fredericton	NB
<b>Mary</b>	<b>Richard</b>	<b>Winnipeg</b>	<b>MB</b>
<b>Jim</b>	<b>Sinclair</b>	<b>Regina Beach</b>	<b>SK</b>
<b>Billy</b>	<b>Two Rivers</b>	<b>Kahnawake</b>	<b>QC</b>
<b>Gordon</b>	<b>Williams</b>	<b>Orleans</b>	<b>ON</b>
<b>NWMO</b>			
Ken	Nash	President, NWMO	
Kathryn	Shaver	Vice President, Public Engagement, Communications & APM Siting	
Pat	Patton	Director, Aboriginal Relations	
Jessica	Perritt	Aboriginal Relations	
Cynthia	Jourdain	Aboriginal Relations	
<b>Facilitator</b>			
Joanne	Barnaby		
<b>Guests</b>			
Jean	Courchene		

\*Elders' Names are in Bold

## Appendix 2

### Principles of Participation NWMO Elders' Forum 5

## ***Principles of Participation***

*The following principles of participation are offered as a guide to deliberations. They will be reviewed at the beginning of the meeting and modified if the meeting directs.*

### **Intent of the Dialogue**

1. To share experience and learn from dialogue among participants;
2. To understand and respect the diversity of perspectives brought to the table;
3. To build working relationships; and
4. To identify areas of common ground, of differences and the various underlying reasons.

### **Participation**

Participants in the discussion have been selected to reflect a range of values, interests and experience and to share these with other participants and the NWMO. They are invited in their personal capacity and not as representative of any organization or interest. There is no expectation that participants will report back to or seek approval from any organization of interest. Further, participation is not to be seen as an endorsement by any participant of NWMO decision-making or any specific outcome.

### **Report**

A summary report of the meeting will be prepared and distributed to participants for review before being finalized. The report will include a list of participants as well as these Principles of Participation.

No specific attribution of any comment made by any participant will be referenced in the report of the meeting, unless specifically requested by a participant.

## Appendix 3

## NWMO Elders' Forum 5

## Agenda

Toronto, ON

Time	Agenda Item	Speaker/Lead	Notes on Agenda Item
<b>DAY 1 – TUESDAY, MARCH 31<sup>ST</sup></b>			
<b>Arrival in afternoon</b>			
6:00 pm	Dinner	Carlyle Room Delta Chelsea Hotel	This is a casual evening of dinner followed by entertainment and an opportunity for members to reconnect with one another
8:00 pm	Entertainment Iroquois Dancers – Six Nations of the Grand River		
<b>DAY 2 – WEDNESDAY, APRIL 1<sup>ST</sup></b>			
<b>7:00 – 8:00</b>	<b>BREAKFAST IN HOTEL CARLYLE ROOM</b>		
<b>8:15</b>	<b>BUS PICK UP AT HOTEL FOR TRANSPORTATION TO FRIENDSHIP CENTRE – ELM ST. ENTRANCE</b>		
9:00 am	Opening Smudge	Joanne Kakekayash	
	Welcome	Ken Nash Gordon Williams	
	Introduction and review of Agenda	Joanne Barnaby	
9:30	Niigani update	Gordon Williams	Niigani members will update the Elders Forum on their activities since Elders Forum 4
<b>10:30</b>	<b>Break</b>		
10:45	NWMO Aboriginal Policy	Ken Nash Pat Patton	NWMO will present the Draft NWMO Aboriginal Policy and seek Elders Forum comments
<b>12:00</b>	<b>Lunch</b>		Niigani youth are asked to meet over lunch to recommend two additional members to join the Working Group, Niigani
1:00	Youth report back	Tasha Kaye Mary Magiskan	Youth report back with recommendation of two additional



Time	Agenda Item	Speaker/Lead	Notes on Agenda Item
			members to Niigani
1:15	NWMO DVD	Cynthia Jourdain	Presentation of NWMO DVD prepared with advice of Niigani and Aboriginal communications experts
1:45	NWMO Update	Kathryn Shaver	NWMO will update Elders Forum members on its work to date in development of the Draft Site Selection Process
<b>2:30</b>	<b>Break</b>		
2:45	NWMO 2009 Dialogue with Aboriginal peoples in Saskatchewan, Ontario, Quebec and New Brunswick	Pat Patton	NWMO will provide Elders Forum members information on the development of 2009 regional dialogues on the Draft Site Selection Process with Aboriginal peoples
4:00	Elders Forum Youth meeting	Tasha Kaye Mary Magiskan	Niigani members Tasha Kaye and Mary Magiskan will present to the Elders Forum the format for a meeting of youth during the next Elders Forum in 2009
4:30	Next Elders Forum date	Pat Patton	
4:45	Closing Ceremony		
<b>5:00</b>	<b>BUS PICK UP FOR TRAVEL TO AIRPORT FOR RETURN FLIGHTS</b>		

## Appendix 4

### NWMO Elders' Forum 5

#### Elders Forum Mission Statement & Principles

##### **Mission Statement**

*"Protect and preserve all creation: air, land, water, plants, medicines, animals and human kind – guided by the seven universal teachings of love, trust, sharing, honesty, humility, respect and wisdom."*

##### **Principles**

- 1) **Niigani will advise the NWMO on Aboriginal protocols to allow the NWMO to work with and consult Aboriginal communities.** Aboriginal rights and treaties are protected by section 35 of the *Constitution Act, 1982*. The Supreme Court of Canada has affirmed that the honour of the Crown requires consultation with Aboriginal people whenever any of the Crown's actions are likely to interfere with Aboriginal or Treaty rights.  
Niigani will advise the NWMO on Aboriginal protocols that will allow the NWMO to work with and consult with Aboriginal communities. The advice of Niigani will not be viewed by NWMO as meeting the requirement of the duty to consult\*. The NWMO will respect Aboriginal rights, treaties and land claims in its work with Aboriginal peoples.
- 2) **Work to develop long-term partnership.** The primary role of Niigani is to develop a process to assist the creation of a partnership between Aboriginal communities and the NWMO for the long-term management of nuclear fuel.
- 3) **Work is wholistic/holistic.** Niigani will follow a wholistic/holistic approach of respecting Aboriginal and non-Aboriginal protocols .
- 4) **Membership of Niigani is based on individual knowledge and experience; this relationship will work to develop the capacity of both the NWMO and the members of Niigani.** Niigani is a non-political group of people that speak as individuals bringing Aboriginal collective knowledge to the NWMO.
- 5) **Capacity building.** Niigani will function to benefit the work of NWMO and Aboriginal communities.

*\*It is understood that the interpretation of the duty to consult will evolve over time as a result of cases decided through the court system, for example, *Mikesev Cree Nation v Canada*, November 2005.*

##### **Objectives**

- 1) To assist NWMO and Aboriginal people's preparedness for the approach indicated in Adaptive Phased Management that was approved by the Federal Government
- 2) To enhance NWMO understanding and sensitivity to Aboriginal cultural ways of thinking and practices (world view) and to develop cross-cultural thinking between NWMO and Aboriginal communities in the long-term management of used nuclear fuel and to develop knowledge and understanding among members of Niigani of the long-term management of used nuclear fuel;
- 3) To enhance NWMO understanding of the goals and aspirations of Aboriginal peoples with respect to the long term management of used nuclear fuel;
- 4) To provide advice on interweaving and balancing Aboriginal Traditional Knowledge into NWMO's scientific reasoning and processes; and
- 5) To advise NWMO on how to communicate and engage with Aboriginal people at national, regional and community levels.
- 6) To advise the NWMO on promoting opportunities for Aboriginal youth to pursue careers that will make it possible to participate in the work of the NWMO.