

Council of Elders

Record of Discussion #3

APM-REP-00676-0003

March 2013



nwmo

NUCLEAR WASTE
MANAGEMENT
ORGANIZATION

SOCIÉTÉ DE GESTION
DES DÉCHETS
NUCLÉAIRES



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Record of Discussion

NWMO Council of Elders

Kingsbridge Conference Centre and Institute, King City, Ontario

March 4th-6th, 2013

Attendees:

Elders:

Chair: Donna Augustine

Members: Angus Gardiner, Leslie Perley, Joseph Poitras, Billie Schibler, Roland St. Germain, Billy Two Rivers, Gordon Williams

NWMO:

Board of Directors: Ron Jamieson

Advisory Council: Eva Ligeti

Staff: Ken Nash, Kathryn Shaver, Sean Russell, Ben Belfadhel, Jo-Ann Facella, Pat Patton, Bob Watts, Raymond Hatfield, Fred Kelly, Cynthia Jourdain, Jamie Matear, Lawrence Joseph, Jessica Perritt, Dawn Pratt, Isaac Werner

Purpose of Meeting: The first of 2013 Council of Elders meetings.

Monday March 4th, 2013

To begin the week's proceedings Elder Fred Kelly opened with a prayer and with the assistance from Elder Donna Augustine, they led a smudging ceremony.

Once the morning ceremonies were completed, NWMO staff members left the meeting room in order for the Elders to meet in-camera.

Jo-Ann Facella – 2013 NWMO Work Plan

Jo-Ann provided the group with an update on the status of the communities currently in the siting process; 21 communities engaged of which 18 of them are now in Step 3 of the Preliminary Assessment and three are considering moving on to Step 3. She noted that the official "Expressions of Interest" from communities closed in September 2012. She continued

on to outline the various stages of assessment and dialogue as well as the ongoing activities which will span many years. A number of questions arose from the presentation:

- There will be a huge payload of material excavated from the proposed DGR, what would be done with this material?
- Why is the DGR located at 500 meters depth?
- By stating the process ensures governance and accountability, does it mean the DGR will be autonomous from the NWMO?
- Is having a 5 year rolling implementation plan the “adaptive” in APM?
- Is there an outside body holding to NWMO to its work plan?
- Have any communities been screened out?
- Pinehouse recently reached an agreement with a private firm, is this of consequence to NWMO?
- What happens if a site is not selected?
- What communities in the Bruce region are in Step 3? Stated that people in the region understand that used fuel is a problem and a solution is necessary. Many think the Bruce area is smart location because less travel and transportation is required.
- Have you considered the many cottagers in the Bruce area?
- Can you elaborate on the international experience?

Ben Belfadhel – What does the NWMO mean by suitable geology?

Ben began the presentation by stating that the NWMO wishes to include Aboriginal Traditional Knowledge to ensure safety now and in the future. NWMO cannot predict everything that could occur, so the best plan is to minimize risks. He highlighted the technical site evaluation process that could take between seven to ten years as well as the comprehensive technical site evaluation criteria. A number of questions arose from the discussion:

- How far below ground would an earthquake affect a repository?
- Can you predict where the faults are in both provinces?
- Mother Earth cannot be predicted and there are examples across history of incidents that were never predicted, so be careful not to assert confidence in testing
- Is there different geology in siting areas?
- Is it shale?
- Will the number of people in a given region be accounted for in the site selection process?
- Would the DGR be affected by the surrounding gravel pits?
- What venting system will the repository have?

- Has the NWMO ever considered placing the used fuel under the TransCanada highway? It would save on road maintenance (warmth would mean no freezing and thawing and therefore less potholes)
- Can you speak about Yucca Mountain and its geology?
- What do the nuclear producers do with the L&ILW?
- How do you ensure that there is no pressure build up once a container is placed in the repository?
- Are the Elders able to view a map of known fault lines?
- Do the members of the Council of Elders see an opportunity to incorporate Aboriginal Traditional Knowledge? What considerations have been made for hunting and fishing, as well as, various land claims?

Sean Russell – Assurance of Safety in Adaptive Phased Management

Sean Russell provided the group with a document on safety assurance for the group to review and comment, specifically to the application of Aboriginal Traditional Knowledge. He noted that safety is the key feature of Adaptive Phased Management. In brief, he outlined the safety measures that will be put in place in the design and build of a deep geological repository as well as safety cases being studied now considering the environment around a potential site. A number of questions followed:

- What is NWMO's knowledge of steel and copper containers?
- Is there a risk assessment done for human error? What about case studies such as Fukushima?
- Would it be cheaper to send Canada's waste to Finland or Sweden?
- Why are other provinces not in the loop on the siting process?
- What if there is a new nuclear build elsewhere in Canada? Is the inventory specified for repository?

The members requested more time to review the document and discuss at a later time.

Tuesday, March 5th, 2013

Elder Billy Two Rivers began the second day of proceedings with an offering of thanks while Elder Billie Schibler led the smudging ceremony. The morning agenda was modified, to allow Stuart Wuttke, General Counsel at the Assembly of First Nations to present first.

Stuart Wuttke – Review of Omnibus Bills C-38 and C-45

Stuart offered a short overview of Bills C-38 and C-45. The bills changed 70 pieces of legislation with no consultation or input by Aboriginal peoples. Noted changes occurred to the Fisheries Act, the Environmental Assessment Act and the Indian Act.

Regarding the Environmental Assessment Act the types of projects that require an EA are largely reduced and the scope and depth of the EA are also reduced. Due to this reduction in EA process, there will be fewer opportunities for First Nation people and the public to discuss with decision makers regarding projects.

Regarding changes to the Fisheries Act, it is now an offense if harm occurs to fish species, whereas prior to changes it was an offense to commit harm to fish as well as fish habitat. This change will make it more difficult to argue that Aboriginal rights have been impacted.

Stuart highlighted the various court challenges that have been filed by First Nations in Canada. The cases of topic both relate to lack of consultation performed by the Federal government.

Questions referred to Stuart include:

- Can you clarify the First Nations Private Property Ownership Act? Has it been passed? LJ mentioned the language used in the act remind him of prophecies made by Elders that reservations would be removed and ghettos would be created. LJ questioned if there was a way to be proactive regarding this Act?
- The Navigable Waters Act states that a local authority can request a specific waterway to be added to the protected list. Would a First Nation community be considered a local authority?
- Are ceremonial aspects of native fisheries considered?
- What are the 62 rivers and 97 lakes protected under the act?
- Can you speak to the Safe Drinking Water for First Nations Act?

Pat Moran, legal counsel for NWMO spoke on what the various changes in the omnibus bill mean to the NWMO. Specifically, the new act makes it clear that nuclear related projects must undergo an EA, regardless of the minister's direction. CNSC has its own obligations under its legislation to ensure all aspects of the project are safe for humans and the environment. Pat also mentioned that changes to the Indian Act and land ownership will have no impact on the NWMOs project since our process is based on the willingness of a given community. Regardless of where the project is sited, the NWMO will not be 'chasing' reserve land.

- Would there be a band council resolution to allow project?

Ken Nash and Kathryn Shaver

Ken and Kathryn offered their gratitude for the morning's ceremony and for the Elder's efforts. Ken mentioned that it is helpful to understand harms and injustices committed against Aboriginal peoples, but that solving them is outside of the NWMOs mandate. He suggested that together we find a new way to implement a project with the participation and support of Indigenous peoples.

Kathryn provided a brief overview of some of the international work the NWMO has been involved in. Kathryn mentioned that Canada has been asked to be the feature country at a Radioactive Waste Management Conference. As well, she mentioned Elena Mantagaris' trip to Tokyo to share NWMOs experience.

- Were there any Elders present at the conference in Phoenix? Members of the Council of Elders would like to dialogue with other Elders involved in DGRs and nuclear
- Council of Elders have asked continuously to meet with other Elders from other countries
- Is there American interest in the NWMO and Canada? Interest in the process or in using Canada's site?

Donna Augustine – Report on in-camera meeting

Chair Donna Augustine shared with the participants the various discussions and actions that came from the previous day's in-camera session. Included are:

- Elders request that the NWMO avoid surprise announcements, such as Lawrence Joseph's resignation and subsequent hiring. The NWMO should take responsibility for improperly communicating to the Elders and in the future should provide advance notice.
- There should be a ceremony for Jim Sinclair and a blessing of the Niigani Shield
- Elders requested that conference calls be discontinued
- Elders requested that more liaison positions be created regarding transportation
- Referred to the Terms of Reference stating that the Council of Elders are an independent body
 - Donna used the illustration of the wampum belt. The individuals and knowledge (NWMO and Elders, ATK and western Science) move together, but separate.
- Elders expressed a desire to be present at community meetings
- Elders requested clarification on the budget; either have their own or have input
- Questioned whether the NWMO's Aboriginal Policy has been reviewed and approved by the Council of Elders
- Requested that action be taken immediately to have youth included on the Council

- It was agreed that Donna Augustine would replace Lawrence Joseph on working group
- Elders expressed need for balance in gender on Elders membership
- There was discussion on how Lawrence moved from Council of Elders to paid position at NWMO. Requested clarification on terms of reference
 - in this discussion, Elder Augustine offered advice that ‘we need to be hard on issues, but soft on people’
- Gordon Williams requested that when new members are appointed the Council of Elders, the members should meet for two days alone in a retreat like setting. This will allow for the group to come together as one and learn issues. This will allow for future meetings to be more productive since everyone will understand their roles and responsibilities as well as the project details.
- Fred Kelly requested that the NWMO ensure blueberries are provided for ceremony

Bob Watts and Pat Patton – 2013 Aboriginal Work Plan

Aboriginal peoples have been engaged in the design of Adaptive Phased Management and the process of implementation since 2002; the principles learned have influenced NWMO’s values all of our work. Bob and Pat discussed the NWMO Aboriginal Policy, the past, present and future of the Aboriginal engagement program, the Council of Elders going forward, the role of youth, an Aboriginal procurement strategy, and the engagement work around potential siting communities. Questions and comments are as follows:

- One member questioned the use of the word “consultation” used on one power point slide. The term was used to clarify an issue, by detailing statutory obligation and fiduciary obligation. It was agreed that slide would be amended.
- It is important to not only have an archeological survey but also to include a cultural monitor (this is important distinction because only Aboriginal people can determine what is sacred)
- Continually asked about regional elements including transportation. Mentioned the possibility of a liaison position in the east to deal with transportation.
- Expressed confidence in the 2013 work plan. She is comforted by the fact that engagement is not only in siting communities but regional and beyond. This is important because Turtle Island is their land. She reiterated safety of temporary storage facility and how it eased her mind. She thinks if others had this opportunity it may relieve some of their questions and concerns.

- There was caution on the Aboriginal procurement policy. It was noted that just because a company represent themselves as Aboriginal, doesn't mean they practice traditional ways or work.
 - Suggested having an Elder help with tendering process
- Pat Patton requested recommendations on specific Aboriginal companies that people may know
- Request for a liaison position and its importance in New Brunswick regarding the dissemination of information. There is potential resistance in New Brunswick because nuclear power was introduced in the province without consultation.
 - Ken Nash clarified roles in Saskatchewan and Ontario and East. Ken also mentioned that New Brunswick fuel would not be transported until 2050, after Ontario's fuel has been managed. This means that liaising in New Brunswick does not have to occur in near future.

Bob Watts, Pat Patton, Lawrence Joseph and Ray Hatfield – Update on Regional Work

- Elder from Manitoba asked about level of engagement with Aboriginal communities in Manitoba
 - Has NWMO identified Manitoba First Nations?
 - NWMO is having preliminary discussions with Manitoba government
 - Pat mentioned that the NWMO may request help from the Council of Elders members in that province when engagement occurs in Manitoba so that it will be done properly

Wednesday March 6th, 2013

Angus Gardiner offered the morning prayer, while Cynthia Jourdain conducted the smudging ceremony. Fred Kelly spoke of the Seven Laws of Creation: love, kindness, sharing, respect, truth, courage, and humility.

Upon completing morning ceremony Ray Hatfield continued previous day's discussion regarding his engagement work. He highlighted the approach to engagement, stages of communities in the process, historical relationships of siting communities and First Nation communities, and the various activities of stated First Nation communities. Many questions/comments were raised:

- do you look at the ranging socio-economic relationship between the First Nation communities and siting communities? What about past working relationships? In order to build relationships you must first understand the dynamics.

- It is important to learn the history from the mouths of individuals because newspapers may be inaccurate.
- Suggestion on the importance of including Métis Elders and stated that Roland and Joseph should be relied upon
- Lawrence Joseph requested to bring various Elders from outside of Saskatchewan to his territory
- Fred Kelly mentioned profound statement that was made in a previous meeting, “Rivers don’t recognize political or provincial boundaries”...and continued to state that “if rivers don’t recognize boundaries neither do rocks since it is all once earth”
 - Fred relates this to the knowledge and experience every Elder holds. If an Elder is invited to another community they should be allowed to go because we are all in this together
- Reiteration that it is highly desirable to have Elder’s in other areas. Before Elders learn about international nuclear scene they should be grounded in the national scene. Mentioned that Elders have an opportunity to learn from each other since everyone is from across Canada.
- Feels that youth are not as fearful of nuclear as many Elders are because of their knowledge of technology. Youth understand and expect technology to rapidly increase and think there is potential for technology to solve nuclear problem. It was stated that it is important to include them sooner rather than later and that role-models are needed in Aboriginal communities.
- As a team we can change each other collectively and as Elders we are parents of nations
- One member shared a story of his youth and how the creator has given him everything.
 - It was requested that time be set aside a future council meetings to allow for people to give an update on their lives, so that everyone can be knowledgeable of health issues etc
- Mentioned his comfort level with the work of the Council of Elders. As a member of the board he will not report to the board but is more than happy to share his personal reflections.
 - Sincere discussions at Council of Elders meetings are putting the NWMO on the right track
- Fred Kelly believed it was important to celebrate Ron and his achievements with a circle dance. The participants danced and thanked Ron as part of closing ceremony.

The discussion transitioned to setting up the next Council of Elders meeting. It was requested that the new members be in place by next meeting as well as the youth council chosen. Gordon requested that the Working Group meet in the very near future to figure out the roles and selection process for the youth. The next meeting was proposed for June, and discussion of changing location to meet health requirements was suggested.

Bob Watts reminded the members that the Record of Discussion from the November meeting had not been reviewed at this meeting, but NWMO would leave it open for 2-weeks for people to submit comments if needed before finalizing and posting to the NWMO website.

Prior to Elder Fred Kelly closing the week's meeting with ceremony, Pat Patton thanked Dawn Pratt for her time at NWMO.

Participant List

NWMO COUNCIL OF ELDERS MEETING, AUGUST 26-28, 2013

PARTICIPANTS			
FIRST NAME	LAST NAME	COMMUNITY	PROVINCE
Donna	Augustine	Rexton	NB
Leslie	Perley	Grand Falls	NB
Joseph	Poitras	Scarborough	ON
Billie	Schibler	Winnipeg	MB
Roland	St.	Owen Sound	ON
Billy	Two Rivers	Kahnawake	QC
Gordon	Williams	Orleans	ON
Diane	Longboat	Six Nations of the Grand River	ON
NWMO			
Ron	Jamieson	NWMO Board of Directors	
Eva	Ligeti	NWMO Advisory Council	
Don	Obonsawin	NWMO Advisory Council	
Fred	Gilbert	NWMO Advisory Council	
Michel	Rheume	NWMO Advisory Council	
Marlyn	Cook	NWMO Advisory Council	
Wesley	Cragg	NWMO Advisory Council	
Ken	Nash	President & CEO	
Kathryn	Shaver	Vice President, APM Engagement & Site	
Bob	Watts	Director, Aboriginal Community Relations	
Ben	Belfadhel	Director, APM Geoscience	
Raymond	Hatfield	Senior Advisor, Aboriginal Relations	
Cynthia	Jourdain	Engagement Officer, Aboriginal Relations	
Jo-Ann	Facella	Director, Social Research & Dialogue	
Lawrence	Joseph	NWMO Liaison, Saskatchewan	
Jamie	Matear	Senior Advisor, Aboriginal Relations	
Pat	Moran	General Counsel & Corporate Secretary	
Jessica	Perritt	Engagement Officer, Aboriginal Relations	
Sara	Neuert	Manager Aboriginal Partnerships	
Joanne	Barnaby	Guest	
Ross	Holden	Senior Advisor, Aboriginal Relations	