

Meeting of Roundtable on Ethics – June 8, 2005

The purpose of this meeting was for Roundtable members to comment on NWMO's Draft Study Report.

Overall, the Roundtable endorsed the recommendations as a way to manage current and currently-planned used nuclear fuel. They strongly emphasized, however, that their acceptance of the recommendations for the treatment of that waste must be distinguished from the treatment of any "new" waste. The ethical standards that should be applied to deal with waste from existing fuel and those that would apply to the generation of waste as a result of a decision to expand nuclear power or to continue production beyond facilities current lifespans are not the same. Endorsement of this recommendation for current and currently-planned used fuel should, therefore, **not** be taken as endorsement of this approach taken in the recommendation for a scenario in which new used nuclear fuel is produced.

The text below attempts to summarize the comments from the free flowing discussion of the Roundtable.

Positive Comments

Individual member comments included the following observations::

- Is a valuable document and well written.
- People would understand the criteria NWMO used for formulating its recommendation, which is very important.
- Commend the NWMO for taking the approach to the recommendation as a management strategy rather than simply a technical method.
- Commend the suggestion that values need to be identified and incorporated at every point in decision making.
- Commend the report for flagging issues and problems with each of the alternatives. Provides a good framework for having people understand the matters at issue.
- Good discussion of adaptability, which was unclear or flawed in the second discussion document.
- Good attempt at seeking Aboriginal Knowledge. (However, we would not have created this situation in the first place if we had used Aboriginal Knowledge.)

The treatment of new waste versus existing waste in the document, and more generally the nuclear energy question

Individual member comments included the following observations:

- NWMO needs to think about how this report will factor into any debate on the future of nuclear energy in Canada, i.e. how it may be misinterpreted or misused. Even though explicitly not intended, the report may be taken as a signal that since there is a ‘solution’ to nuclear waste management, nuclear power may legitimately be expanded. NWMO needs to say more strongly that nothing in this report should be taken as endorsing the future expansion of nuclear power or the ethical acceptability of that.
- The Roundtable has said nuclear fuel as it exists has to be dealt with and based on an overview assessment they endorse the NWMO’s recommendation for this purpose. However, the Roundtable was not able to conduct a detailed in depth evaluation of the recommended approach and is therefore not in a position to say definitively that the recommendations set out the “least bad approach” or are in their entirety “ethically sound”. That having been said by way of qualification, the Roundtable did agree that the approach recommended by the report reflected a coherent and systematic approach to building the ethical values identified as significant into its recommendations.
- The Roundtable believes that there is a distinction between the ethical standards that should be applied to dealing with existing fuel and those that would apply to the generation of fuel as a result of a decision to expand or prolong the use of nuclear power beyond the presently anticipated time frame.
- NWMO should state that there is another major discussion which needs to take place concerning the future role of nuclear energy of which it has become profoundly aware .
- This is because even the best of the options to deal with existing waste that were studied, may be bad, including from an ethical perspective.
- A solution to the existing problem of nuclear waste is an entirely different question from what would be needed to handle new wastes ethically. This is not because the latter needs a public discussion of the expansion of nuclear power (though it does). It is because solutions to the two waste problems have to meet ‘different standards’. The best available may be good enough for existing and projected wastes, but may very well not be good enough to justify creating new wastes.
- The need for a stronger, clearer and/or more coherent statement, as described above, involves page 12, page 20 and page 26 at a minimum. It also extends to page 224 and the discussion of new entrants. The discussion appears to assume that the question of new entrants is just a matter of how to divide up the costs, and whether the facility could accommodate the additional waste. However, the ethical issues surrounding whether there should be new entrants are not examined.

- Concerning Traditional Knowledge and the discussion of new waste – NWMO has done a good job in capturing the essence of Traditional Knowledge. However, we might not have created this situation in the first place if we had used Traditional Knowledge. If we are really going to properly take into account Aboriginal values, for instance, on the question of whether we are going to have more reactors and waste, we will need to have a massive public involvement. Otherwise, it would not meet Aboriginal concepts of decision making.

What constitutes a “willing host community”?

Individual member comments included the following observations:

- This is a critical ethical issue. How willing and voluntary is ‘willing’ and ‘voluntary’? Are we prepared to let poor communities be hosts if they have been consulted and have given their informed consent or would this be exploitation of their situation of vulnerability? And what constitutes a community?
- If the local community is willing to host a facility, would the First Nations who claim the wider territory get a veto? If a local community is willing to host a facility, does the broader region have a say?
- The question concerning how to know if a host is genuinely willing at least needs to be raised if not resolved. Every host would be 'coerced' in some measure by economic factors. There is no clear answer to the question of how to respond to communities or regions which are poor and who express willingness to host the facility in order to receive economic benefits. At a minimum, a lively debate is required.
- When the coercion is extrinsic (e.g. poverty, lack of other opportunities and the promise of wealth) the call as to voluntariness is often not easy to make, and some would argue that denying opportunities on the basis of vulnerability and, thereby, possible coercion can also be unethical.
- It would be appropriate to be more expansive of the steps to be taken in describing a site selection process.
- A definition of ‘community’ should be included in the Glossary.
- NWMO needs to think through the tension inherent in its discussion of willing host. On page 24, the principles appear to be inconsistent on this issue. The third bullet implies a decision may be imposed, and the next bullet implies that it will not be imposed. There is a significant tension among the principles on this issue.
- Consider revising the last bullet on page 24 along the following lines: Ensure that those who do not benefit from nuclear power (past, present and perhaps future) are not bearing the costs and risks of managing spent fuel and other nuclear materials.

- On page 10, short form of willing community as host, should include ‘environment’ in the bullet.

Governance

Individual member comments included the following observations:

- It is crucial for the leadership of the NWMO, i.e. the Board and management, to understand they have a powerful ethical obligation to ensure that the ethical principles embedded in the report and its recommendations play an integral role at the implementation stage..
- Suggest the members of the Board should be more independent from industry and more reflective of the broader population of those most affected and/or Canadians at large, including Aboriginal Peoples.
- It is important to continue to have an independent Advisory Council.

Research

Individual member comments included the following observations:

- Commend discussion in the document of the need for ongoing research, however more emphasis should be put on social and ethical research going forward.
- Suggest adding as part of this discussion, that there is an ethical obligation to undertake research on social impacts. That is, underline the ethics base that must be established through ongoing research. With this management approach we will be engaging in a social experiment which should be monitored. It is important to have ongoing research on the ethical adequacy and social impact of the facility.
- The proposed facility will be a huge social experiment unlike anything ever tried anywhere to date. It is important to have ongoing research on the ethical adequacy and social impact of the facility.
- Use the word ‘research’ as the umbrella concept with ‘monitoring’ a sub category.
- Check page 25 and 217 in particular.

Treatment of Principles and Values

Individual member comments included the following observations:

- Put all key principles mentioned in various places throughout the report up front in order to give them more prominence and to make clear that it is these principles which inform all other discussion and recommendations in the report.

- NWMO needs to be as strong as possible in embedding the principles and values in the siting and implementation plans going forward. Setting out values which ought to guide the process is one matter, implementing them is quite another matter. This document will have no value if these principles and values are not carried forward to the implementing stage. If it doesn't happen, it will contribute to public cynicism.
- The language of ethical obligation should be used. "NWMO has an ethical obligation to ..."
- The fact that what is being suggested is a values based management approach needs to be made clearer.
- In order to try to ensure that the ethical principles and citizen values which have guided the study process guide the implementation going forward, discussion might be strengthened on page 11 and on page 127. Emphasize that the whole planning exercise was governed by values, specifically, the values identified as crucial by Canadians and by the Roundtable. On page 11 and page 127, underline that these values have governed both the process and the selection of the recommended approach. Note that process is missing on p. 127, for example.

Organization of the report

Individual member comments included the following observation:

- Given the length of the report, make Chapter 1 as self-sufficient and free-standing as possible, touching on all crucial issues.

Tension or Inconsistency in the report concerning 'ensuring' safety and highlighting uncertainties

Individual member comments included the following observations:

- There is a tension or inconsistency in the report concerning assurance of safety and the discussion of uncertainties. Part 1 of the report appears to suggest that a responsible path forward should ensure rigorous standards, and safety, but at the same time it highlights the uncertainties which would appear to make this assurance impossible. The report appears to offer a rigorous solution, but at the same time suggests we need to be humble precisely because of the uncertainties. In truth, the NWMO cannot ensure the safety of the approach because of a whole host of uncertainties.
- Throughout Chapter 4, words such as 'assurance' and 'safety' are used, as well as phrases such as 'it is well within the security requirements'. The use of these words make the approaches sound like definitive solutions and that the regulatory

standards and requirements are adequate in their own right to ensure safety. It may be fair to say that Canada's regulatory standards have inherent in them their own risks and uncertainties.

- The report has all the tensions the real world has.
- State more clearly the risk associated with transportation.

Consultation with Aboriginal People

Individual member comments included the following observations:

- NWMO discusses Haida and Taiku cases concerning the basic requirement for consultation but also needs to reference current cases before the Supreme Court. The NWMO will need to conduct its consultation throughout siting and implementation as if it were subject to the legal requirements of government.
- In order to meet these requirements, NWMO will need to provide very clear information and have some sort of test such as a community referendum. There is a need for information, debate and informed consent.
- Throughout the report, when referring to both the Canadian public and Aboriginal People in the document, reference should be to "Canadian public in general and Aboriginal People in particular".
- First Nation communities should have a veto, if the site is planned for their community. If the site is remote but within First Nation traditional territory and will affect a number of individual communities, then the larger Nation or region will have to exercise a veto.