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Congress of Aboriginal People  
Saskatchewan  
Dialogue: Nuclear Waste Management  
Final Report

September 7, 2005

# 201 - 1121 Winnipeg Street  
Regina, Saskatchewan

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# Congress of Aboriginal People Saskatchewan Dialogue: Nuclear Waste Management Final Report

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“...the significant problems we face cannot be solved at the same level of thinking we were at when we created them.” Albert Einstein

## Background

The Congress of Aboriginal People of Saskatchewan (CAPS) is a provincial advocacy organization that represents a number of regional affiliate organizations. The organization serves and protects the interest of Aboriginal constituents, namely off-reserve and non-status Indians (Half-breeds) living in Saskatchewan by:

- Establishing democratic representation for all off reserve and non-status Indians (Half-breeds) based upon the principles of the Corbiere decision <sup>1</sup> by becoming an effective political voice for off-reserve First Nation people affected by Bill C-31
- Establishing an institutional structure to implement the representation described above
- Ensuring core services are provided at comparable levels to meet common needs no matter where a person resides in Saskatchewan (on or off-reserve)

- Ensuring that services are provided to off-reserve residents that adequately meet their needs when these needs differ from on-reserve residents because of the location of their residents

Each affiliate has its own constitution and is separately funded under the federal Aboriginal Representative Organization Program (AROP). The affiliates of CAPS include provincial organizations from Saskatchewan, Alberta and Manitoba who formally and legally associate themselves with the Western Treaty Alliance Group Inc. These organizations include the Congress of Aboriginal Peoples of Saskatchewan Inc., Native Council of Alberta Inc. and the Indian Council of Manitoba Inc. Within the province of Saskatchewan there are regional organizations that have applied formally and legally to associate themselves with CAPS as their provincial representative body. Each regional organization has its own constitution and offers memberships to those individual who meet the membership criteria of that particular regional organization. Individual members elect their executive officers who serve as board members for the Congress of Aboriginal Peoples of Saskatchewan Inc. The CAPS bylaws require that this affiliation be limited to one organization per region. The regional organizations include the following:

Willowfield Area Treaty Rights, Inc. – Jake Falcon, President  
 Saskatoon Area Treaty Rights, Inc. – Winston McKay, President  
 South Bay Youth Representative – Brennon Merasty  
 Treaty Four Governance Rights, Inc. – Jim Sinclair, President  
 Touchwood Hills Treaty Rights, Inc. – Ken Sinclair, President  
 Fishing Lake Area Rights, Inc. – Brad Desjarlais, President  
 Seventh Generation Youth Alliance Representative – Solomon Cyr

Each regional organization is entitled to send voting delegates to an Annual General Assemble held at the provincial level by CAPS in June of each year. The Assembly hears the activity related to the resolutions of the previous Assembly, is presented with

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<sup>1</sup> Corbiere Decision is a May 20, 1999 Supreme Court Decision regarding eligible voters in Band government election held under section 77(1) of the Indian Act. The Court ruled that the requirement that all voters in Band

the annual reports of each department and activity at CAPS, and examines the auditor's report for that year. Individual delegates put forward motions and resolutions for the consideration of the Assembly and every third year select a President by secret ballot. At each Assembly workshops are held for delegates dealing with a variety of priority issues and concerns.

Environmental concerns including nuclear waste have been a concern for delegates over the past few years. This has motivated the Congress of Aboriginal People of Saskatchewan to participate in these dialogues regarding nuclear waste management in Canada.

CAPS's mandate is to:

- share, facilitate collaboration and partnership strategies related to the implementation of Aboriginal issues in Saskatchewan;
- facilitate and enhance partnership with First Nations communities by identifying opportunities for collaboration, and developing and supporting joint initiatives to maximize opportunities to jointly strategize and address particular issues of concern; and,
- serve as a reference group for newly emerging/existing issues regarding policy and program development.

In November, 2004, WITA entered into a contractual agreement with the Nuclear Waste Management Organization (NWMO) wherein WITA would engage in NWMO's ongoing dialogue concerning the long-term management of Canada's used nuclear fuel. The Congress of Aboriginal People of Saskatchewan was a part of that agreement to facilitate a dialogue in Saskatchewan ; however, a number of administrative challenges have made it impossible for the Congress of Aboriginal People of Saskatchewan to report on the dialogues as agreed (a group report), and as a result a separate reporting process was created.

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government elections be "ordinarily resident of the reserve"; violated the equality provision of the Charter of Rights and Freedoms.

## **The CAP Process**

The process undertaken by the Congress of Aboriginal People of Saskatchewan included the facilitation of a number of community meetings within the province. Education awareness workshops were held in a number of locations.

The initial public meeting was held in Regina. It was a two day meeting where people from the community were invited to hear the presentation, while CAP used this meeting to inform their Board and affiliate organizations. Meeting agenda included presentations on the issues related to nuclear waste management, the work of NWMO, and the process that would be used to initiate the dialogue. CAP representatives were then asked to take the information back to their communities to begin the dialogue at the local level. A summary of the issues were kept by CAP staff for the preparation of recommendations. An outcome of the first meeting was a number of requests for further meetings. CAP staff attended a number of meetings and workshops in each of the affiliate regions to provide public education and awareness on the issue of nuclear waste. In total there were over 15 meetings held, from Regina to La Loche plus a number of small discussion groups.

Information was also put up on the CAP website [www.capsask.ca](http://www.capsask.ca) and this also generated a number of requests to provide more information. As information was provided people were invited to review the material and share their concerns. We also had two ancillary discussions with a nuclear physicist facilitated by the consultant to help identify research of other relevant materials that would be useful. Findings were reviewed and synthesized, resulting in the following themes and recommendations for NWMO's consideration.

## **Themes from the CAP Dialogue**

From the discussion and from contributions from the website there were a number of themes that have developed. A common concern was the lack of information, and lack of time, for meaningful community participation. The issue was considered complex and took time to absorb the information. It was clear from the discussion that our people see the challenge of

the Nuclear Waste Management as a real dilemma: on the one hand the government have allowed nuclear development because of the money (too profitable) even though the consequences of use is nuclear waste without a safe way of management, and on the other hand, stopping the use of nuclear power today would still require a strategy to deal with these spent fuel bundles. As one person said: “It is interesting how Non-Aboriginal people always ‘foul’ their own nest.”

1. Information needs to be simple enough to be understood by community people. A number of people used personal examples when dialogues were held and the information was not always understood. For example, people see all grades of nuclear wastes as the same when the government and industry suggest there are different grades. It was suggested by some that present nuclear waste are not being managed well at this time, and there is a concern that there is no consensus regarding the impact of “low level” waste like tailing from the mines or “intermediate” waste from hospitals or industrial uses, like mining supplies. Although these items are not considered a part of this “high level” fuel bundle disposal dialogue of NWMO most of our people see all types of waste as one problem. In some peoples minds it is the same substance. Information provided by stakeholders suggested, for example that everything is not the same; the subtleties of impact where not helpful because it was agreed that there is not adequate monitoring at this present time. Some people even suggested that the “scientific community” is often so arrogant that it resists the requesting and preparation of information in a simple form. One idea that we heard over and over again was the need to understand the debate or you can not make an informed decision. It was clear that information must be shared in Aboriginal languages.

#### Recommendation

NWMO needs to provide information in Aboriginal languages and the information needs to represent both side of the debate. To get this information NWMO could structure a number of debates between the stakeholders for and against each option. In this way the subtleties of each issue and the positions taken could be understood so

people can make more informed decisions. One other way is to have a conference where all group's positions could be reviewed.

2. Aboriginal stakeholders interests is not evident. Stakeholders advocate their position in very creative but subtle ways. For example, the federal legislation doesn't discuss liability and the value of human life and health as part of its framework for dialogue. The voice that you hear in the legislation is the voice of those stakeholders with "money." The fear is a decision based on who they represent and not on behalf of those without power. A number of people use the example of Uranium City, Saskatchewan in the 60's. The Uranium was taken out, the short term benefits which were to be received were never realized because of unions and a lack of integrity by the companies. Now the Aboriginal people are left in a ghost town and to this day the clean up of the mine site has not happened. Since most of the nuclear waste is generated in the southern part of Canada and since there is no voice of the Aboriginal people of the north where disposal sites are anticipated to be located, there is a lack of the Aboriginal voice. It was feared that stakeholders may use economic benefits as the only motivation in making their recommendations and decision.

In the case of NWMO it was evident that their Board and staff also lacked the Aboriginal voice behind the close doors, as what was heard was being analyzed, developed and as the report was written. Not having an opportunity to influence what was reported is an example of two problems: first the Aboriginal voice is not heard and secondly, the contribution of those involved in the process will be looked at as being "bought off" because their concerns never surface. Those outside of the process will suggest that the Aboriginal groups in the process agreed.

### Recommendation

NWMO work need to be transparent, stakeholder interest in the organization need to identified, and the Aboriginal voice needs to be an integral part of Board decision making, research and report preparations. Dialogues need to build on the continuity of existing activities and not be changed randomly. If it does change randomly if will be

perceived as people were not invited back because their views were different. CAP members strongly suggest a national Aboriginal monitoring group with authority, be established, and funded to be that Aboriginal community voice. Each region needs the opportunity to structure a committee of Aboriginal stakeholders so all of Canada can be represented.

3. This phase of the process not be considered “consultations.” Governments have a legal obligation to consult with the Aboriginal community. People suggest that the present process and funding was inadequate and as a result it was only an introduction to the issue and there need to be a lot more time and effort to educate the Aboriginal public. Northerners believe that they has the most to loose and least to gain from NWMO recommendations.

#### Recommendation

NWMO reporting to the Federal Government needs to acknowledge that this obligation to consult exists, and this process is not consultation, and Treaties obligations will be respected.

4. Technical Information inadequate Some suggested that the reports generated by NWMO and public information created did not acknowledge the technical challenges. The descriptions suggest that all the concerns raise in the public dialogue can be managed. We have seen the devastation from a hurricane in the southern states and how the potential damage exceeded the best technical predictions. We have not had, or do we want, a nuclear waste disaster because technical knowledge is inadequate. One person said the “Gene is out of the bottle” and we need to act; however, technical information is still inadequate at this time and there decision made that seem inconsistent with the creation of good information. For example, the underground research storage facility in Manitoba is being closed in its infancy and there is no real conclusion on how adequate underground storage is, or how it will work in the long term. It is now being closed when this dialogue project is being initiated when what is needed is research to determine technical adequacy over the next 30 – 50 years. Over and

over again, we heard traditional land users concerns regarding their traditional livelihood. We could not answer how they will be affected because we only surmise what the impact will be. The challenge of nuclear waste is not understood. There are a number of anecdotal comments that deserve further research and local people suggested that they could monitor the water ways, fish and animals. For example, the tailing pond spillage has already happened and the impact is not understood. If it is it is not being shared. There were a number of comments regarding the specific impact underground storage would have on different species of birds and fish.

### Recommendation

NWMO needs to encourage (fund) research which will enhance and challenge technical thinking. The research questions need to be the people's questions. For example, nuclear waste is the only topic when there are many other chemicals, many which are poisonous. What is to happen with these by products? Aboriginal traditional knowledge relating to impact nuclear waste on the environment needs to be part of the research. This was discussed and reported on in the Elder Forum report.

5. There framework for decision making is not based on principle, because the NWMO principles are really statements of preference. The four recommendations include: socially acceptable, environmentally responsible, technically sound and economically feasible. The context describing "whose perspective" is never mentioned. This silence raised a number of concerns. For example, what is considered socially acceptable changes in Canada almost as fast as the weather? If you think about it, being environmentally responsibility is how we got to this point in time. What was "socially" wrong a few years ago is now being embraced and what was considered environmentally responsible is not adequate and that is why we have the dialogues. Our concern is this: If you look at the four recommendations two - socially acceptable and environmentally responsible - will be determined by government and two - technically sound and economically feasible - will be determined by the nuclear industry. Because these statements are not principles, but preferences statements, they must not be argued as fundamental truths which they are not. These statements actually lack principles

and you see this very quickly because they are not consistent with the creator or natural law. If one understands the creator and natural law they don't change. What seems to be missing is the understanding that principles are not created, but they are discovered.

NWMO principles are social creations based on social laws. They are not principles at all. Our concern can be captured in the statement "...if you pick up one end of the stick you pick up the other. Not because you want the other end, but it comes with it." Utilizing social law may give a perception of a truth; however, it will limit the range of decisions available in the future, and will not result in principle based decision-making.

### Recommendation

This is a good example where the use of traditional knowledge would have been an asset to the report's development. Understanding the Aboriginal world view would have contextualized the framework of the report and would have assisted in principle based decision making. NWMO needs to carefully review the recommendations of the Elders forum held in Ottawa August 25-27, 2005 especially how traditional knowledge guides the decision making process. It is also recommended that there be continuity of members at these dialogue tables so new iterations of reports can be reviewed.

### Conclusion

In conclusion, CAP appreciates the opportunity to be part of the dialogue. We make these recommendations because we know that this process has to have integrity. We also concur with the WITA interim recommendation that "...NWMO must come to a firm, simple, conclusion in its recommendation to Parliament on November 15, 2005. .." The conclusion must balance the interest of Aboriginal community, government interests and the "industry driven" NWMO Board. The decision on what to do with nuclear waste is not just a long-term scientific issue, but must consider all stakeholders especially those who signed Indian Treaties, as "Affirmed and Recognized" by Section 35 of The Constitution of Canada. The nuclear industry in Canada must respect Treaties; regardless of cost.

The Congress of Aboriginal People in Saskatchewan dialogue comments reflect the desire of community members to be involved. We are facing a dilemma, and it will not be solved in the long-term without the participation of our people. Our recommendations suggest how this could be done. As mentioned earlier in the report, “the Genie is out of the bottle.” The power and influence of the nuclear industry is being heard, however, our voice - the voice of the seven generations - needs to also be heard loud and clear. This decision will affect all citizens. We know that one of the potential sites is Saskatchewan, and we will not stand by, or take on the passive role of the critic. We have to do more – the Congress of Aboriginal People of Saskatchewan will actively participate in the next phase of this process.