

THE PUBLIC AS FINAL ARBITER: A DEVELOPING ROLE*

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ABSTRACT

The developing role of the public as the final decision-maker regarding the safe disposal of low-level radioactive waste is an emerging reality. Recent events in several states demonstrate the public is demanding to be involved in the siting of new low-level radioactive waste disposal facilities, as well as the selection of the technologies to be employed at that site.

This paper will discuss issues, observations and themes common to these states and clarify them from a national perspective. General conclusions will be presented regarding the implications of these observations.

The National Low-Level Waste Management Program is committed to assisting states and regions in developing new low-level radioactive waste disposal facilities, including public involvement needs. The paper presents Program objectives and initiatives for public involvement support to the states as well as an overview of ongoing and proposed efforts.

BACKGROUND

During the past decade, it has become increasingly difficult to site controversial facilities. To us in waste management, it is obvious that high-level waste repositories and low-level waste disposal facilities top the list. However, similar problems also arise in the siting of sanitary landfills, prisons, psychiatric hospitals, and airports. The developing role of the public as the final decision maker is an emerging reality.

In recent years, low-level radioactive wastes have received national attention. The closure of three low-level waste disposal sites between 1975 and 1978 increased the burden on the three states whose sites remain open (South Carolina, Nevada, and Washington).

Pressed by concerned citizens, the governors of those three states took the lead in bringing the problem to the fore, establishing the position that a coordinated national plan was needed to manage low-level wastes. In December 1980, Congress enacted the Low-Level Radioactive Waste Policy Act, designating states as the responsible level of government for low-level waste management. The date by which all states would have disposal capacity was set at January 1, 1986. Several elements of the Act affected the pace at which states have been able to fulfill their responsibilities under the Act.

In spite of a great deal of effort by many concerned citizens, the goal of the Act -- a national system of regional facilities for the safe disposal of low-level radioactive waste -- is not yet in place. Indeed the Act itself has now been amended as a consequence of the failure to-date to develop new disposal facilities.

THE NATIONAL LOW-LEVEL WASTE MANAGEMENT PROGRAM

In 1981, the U.S. Department of Energy was designated as the lead federal agency for working with the states, other agencies, industry, and the public in resolving the problems associated with managing low-level radioactive wastes. The National Low-Level

Waste Management Program was formed to support state efforts in organizing regional compacts and expanding low-level waste disposal capacity. By providing technical information and other resources to the states, the Program was designed to assist in establishing an acceptable low-level waste management system; a system designed to ensure the safe disposal of low-level radioactive wastes and the protection of public health and the environment.

The Review Group on Public Involvement

In 1981, an independent review group, the Program Review Committee (PRC), was established. The purpose of the PRC is "to review and comment on low-level waste management program activities and related issues and to offer advice that may be necessary to ensure that the Low-Level Waste Management Program achieves its overall objective".

The PRC, like many national, state, and regional representatives, has become increasingly concerned about the lack of progress in siting new low-level radioactive waste disposal facilities. In March 1985 a Special Review Group on Public Involvement was formed to examine efforts of those states/regions who have experienced or conducted public involvement programs. The main idea was to build on what states have learned during their siting process and public involvement efforts. Representatives from California, Texas, South Dakota, Illinois, and Virginia met with five Program Review Committee members in May 1985. The same group plus a representative from New York met again in August 1985. Discussions were also held with a representative from Pennsylvania.

The specific purpose of the meeting was to:

- Examine those states' efforts to site low-level waste disposal facilities and identify lessons learned from their experience that may be generally applicable
- Determine whether and how the public can play a constructive role in the siting and construction of a facility

- Recommend actions the National Low-Level Waste Management Program can take to aid states in siting disposal facilities.

The remainder of this presentation reflects the Review Group's preliminary findings and outlines possible future actions of the National Low-Level Waste Management Program.

PUBLIC INVOLVEMENT ISSUES

Throughout its discussions the Review Group has viewed "the public" and "public involvement" or "public participation" in broader terms than is generally the case. They defined the public to encompass all those outside the agency program and "Public involvement" to encompass inclusion of nonagency people throughout the decision process. Such involvement requires effective ongoing agency-public interaction rather than limited public relations.

Why Include the Public

1. Members of the public have a legitimate interest in the outcome of siting projects. Citizen involvement is essential if government actions are to be viewed as legitimate under our form of government.
2. Citizen involvement is essential if government actions are to be regarded as fair. If decisions are regarded as fair they are far more likely to be accepted. And in practical terms, recent experience clearly demonstrates that public acceptance is necessary if facilities are to be sited and built.

Goals of Public Involvement

At the most fundamental level, the purpose of public participation is to allow citizens to identify and reflect their interests in a proposed governmental action and to hold government officials accountable for their actions. Many formulations have been developed that broaden this basic definition of the purpose of public participation. In the Fourth Working Draft of the National Plan for Radioactive Waste Management of January 1981, the Department of Energy stated that the objectives of public participation are:

1. To provide information to the public about waste management programs, technology, problems, and progress.
2. To improve the quality of waste management decisions through solicitation of broad public input and review.
3. To enhance the legitimacy of the decision-making process by having it open to public inspection and responsive to contributions from responsible parties.
4. To gain public acceptance and cooperation in the implementation of a technically sound waste-management program that protects the health and safety of citizens and is compatible with broad social values.

Identity of the Public

In general terms, the public is anyone outside the agency which is responsible for the program. One useful way to identify specific interests within the larger group is to consider the public as composed of:

- The scientific community outside the project.

- Government officials in other state agencies and at other levels of government.
- Nuclear industry groups including generators and disposal facility companies.
- Public and environmental interest groups, including nonnuclear industry business interests. Some in this category will be professionals engaged full-time in public issues; others will be volunteers. Requirements for effective participation by various groups within this category are sometimes dissimilar.
- Unaffiliated public. When a project is seen to directly affect their lives, members of this group quickly join the previous one.
- The media and other information resources for the public.

Each sector of the public, however defined, will have its own requirements for obtaining information and for effective participation. Each person and organization will choose to become actively involved at specific points in the program. It is important to understand the dynamics within and among these groups if effective public involvement is to be developed.

Characteristics of Effective Public Involvement

Participants at the May and August workshops used their own experiences to formulate the characteristics of a program leading to constructive, problem-solving public involvement. In general, their remarks fall into three categories making it clear that to be effective, public involvement efforts must be well-planned and well-executed, politically astute, and publicly credible.

1. To be well-planned and well-executed, a public involvement plan must:
 - Not be appendage, but an integral part of the program development. It must be focused on real tasks and decisions rather than fabricated ones, must not waste participants' time, and must be understandable and logical in its development.
 - Be based on realistic goals and objectives.
 - Not be static but remain dynamic and evolutionary, open to modification in light of periodic evaluation and the exigencies of implementation.
 - Use participation methods suited to situation and the stage of the program.
 - Provide the resources (lead time and access to technical expertise) the public needs to deal with complex technical issues.
 - Provide opportunities for public interaction well in advance of decisions, so that the public's input can have some effect on proposals. Otherwise the plan will be regarded as merely a public relations ploy.
 - Provide continuity over the periods between major decisions. It must maintain the interest of and provide information to those whose attention will be needed later. For example, a newsletter can be

sent to those who have expressed interest or attended meetings, and to key legislators.

- Encourage and support basic programs that provide background information necessary for citizens to understand the issues, such as programs in schools and community forums and radiation.
2. To be politically astute the efforts of an agency planner must:

- Recognize the essential role leadership will play in the plan's effectiveness and identify and develop effective leadership among officials and in the community.
- Understand and allow for the natural flow of events. For example, a general pattern developed during meetings in Texas:

After the formal presentation, citizens initially challenge the speakers with questions from the floor, but within 20 minutes, as answers are given fully and nondefensively, the meeting calms and good discussion ensues.

- Identify formal and informal power/decision structures.
- Incorporate good negotiating techniques and not back people into a corner. For example, in discussion groups, participants are asked to identify their interests and concerns, not their position.
- Allow latecomers to join the process.
- Recognize diversity in the community, including differences in skills and resources among participants and groups.
- Develop a sense of ownership of the problem among those who can contribute to the solution, but avoid letting the problem be captured by one interest group.
- Take into account the outside context, including recent failures or controversy about existing hazardous and low-level waste disposal sites; opposition to nuclear energy; concern about related issues (uranium milling controversy in South Dakota); concern for equity (for example, desert residents feel that desert areas are unjustly targeted for every undesirable facility); political need of elected officials, candidates or organizations for a politically useful issue; and concurrent efforts to site other facilities.
- Cultivate high-level agency understanding and commitment and retain the cooperation of the governor's office.
- Recognize that the state agency will be seen as (and is) an interested party charged with developing a site, not as an unbiased neutral observer.

3. For its efforts to be credible an agency must:

- Define its actions clearly. It must be sure that participants from the public

know the limits of their influence so they can decide whether or not to take part.

- Be frank about bad news.
- Understand how to present proposals so that they will have the best chance to be considered on their merits.
- Base its actions on adequate, understandable, credible information.
- Understand whether there is public confidence in the agency and, if not, seek to develop it.
- Respect opponents.
- Keep an open, nondefensive attitude toward criticism.

And it is essential that underlying the process be a well-understood, agreed-upon method for resolving disputes as they arise and at the lowest decision level possible. All parties must understand where the responsibility lies for making decisions and how appeals or disputes are to be handled. Such a process should be capable of discriminating between those issues which are matters of limited concern and those which contain larger policy questions. In that way disagreements will not be elevated beyond their level of importance, nor would emerging substantive issues remain embedded in what appears to be a local conflict.

No single decision method or public involvement plan will work in all states or all stages of a project. Plans must remain flexible, changing to meet changing circumstances.

A great deal has been learned during the last few years by those on the front lines in this issue and by those working to solve other, equally difficult siting problems. The Review Group's recommendations are designed to extend the benefit of that hard-won understanding to others charged with developing low-level waste disposal facilities.

RECOMMENDATIONS

During its July meeting, the Review Group developed a series of statements summing up the difficulties facing agencies responsible for siting low-level waste facilities. These problem statements fell into two general categories: those concerning agency operations and resources and those concerning policy and the decision process.

The Review Group concluded that many of the operation and resource problems could be addressed directly by the National Low-Level Waste Management Program. For example, many states are faced with developing legislative language, drawing up siting guidelines, and promulgating regulations. Some states have already passed these milestones. A notebook containing examples of such documents would be of practical assistance to the former groups. Other such possible direct aids include generic public information material with camera ready copy available, a bibliography, and sample press releases.

The policy and process questions require a different approach. For example, clarifying points-of-view about the citizen's role in public decisions may be done most effectively in a small working group. Learning about dispute resolution techniques, long-range planning, crisis management, and mechanisms for

developing host community compensation may also be best done in face-to-face sessions. Therefore, the Review Group has recommended, and the National Low-Level Waste Management Program is now planning, a working conference.

The conference will acquaint those responsible for developing low-level waste disposal facilities with lessons learned and with several mechanisms which can be used to effectively involve the public in decision-making processes. In addition to the plenary sessions, the conference will include workshops on factors that affect public involvement, mechanisms and techniques for public involvement, dispute resolution, and how to work constructively with the media. The purpose of the conference is not to debate the pros and cons of disposal options, but rather to discuss effective public involvement in decision-making processes. Invitees to the conference will include compact

commissioners, representatives from nonaffiliated states, persons responsible for implementing public involvement programs in their respective states, persons representing the environmental side of the issue, and representatives from the U.S. Department of Energy, U.S. Nuclear Regulatory Commission, National Governors' Association, and the National Conference of State Legislators. The conference will be held April 3 and 4 in New Orleans, Louisiana.

The National Low-Level Waste Management Program believes that timely and meaningful involvement of all affected publics is essential to the success of the development of a nationwide system of new disposal facilities. Information gained has brought us to believe that decision-makers should seek out, early in a siting process, public issues and concerns and incorporate those concerns, as well as those who voice them, into the decision process.