

THE TEXAS SITING PLAN:
IMPLICATIONS FOR LOCAL GOVERNMENTS

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ABSTRACT

Since its organization in 1982, the Texas Low-Level Radioactive Waste Disposal Authority has been screening the State of Texas for suitable sites for a low-level radioactive waste disposal facility. This effort culminated in the preliminary selection of two sites in 1985, but the sites were rejected for political reasons. In 1987, additional sites have been identified on state-owned lands in far west Texas.

The Authority, in accordance with the mandates of Public Law 99-240, has produced a siting plan intended to satisfy the 1988 federal milestone. The success of the siting plan depends to a great extent on its acceptance by citizens and local governments. This paper explores the various methods available to the Authority to encourage at least some measure of local support for the facility, and the reasonable likelihood of success of the siting plan.

SITING HISTORY

The Texas Low-Level Radioactive Waste Disposal Authority was created by the Texas Legislature in 1981 to develop, operate, maintain, finance, and decommission a low-level radioactive waste disposal facility for Texas-only waste. The Authority's Board of Directors held its organizational meeting in March 1982.

In early 1983, the Authority contracted with Dames and Moore to conduct a statewide screening and site search based on siting criteria set out in the Authority's enabling legislation and 10 CFR Part 61. The effort was conducted in three phases--broad screening, candidate site identification, and preferred site identification. The first phase, completed in May 1983, applied exclusionary criteria on a broad scale which eliminated large areas of the state. The second phase resulted in the identification of 57 suitable siting areas. The third phase, completed in November 1984, identified five potentially suitable sites, of which three were later removed from consideration because they could not be purchased from unwilling landowners.

In February 1985, the Authority was ready to name one of the two preferred sites (both located in south Texas) as the most suitable; however, political considerations intervened, and the Authority's statute was amended to require the Authority to continue its site search and give preference to state-owned land, most of which is located in far west Texas. Some of this land is owned by the University of Texas and dedicated to the permanent university fund (PUF land) and some is administered by the Texas School Land Board and dedicated to the permanent school fund (PSF land). An evaluation of state-owned land was immediately undertaken, resulting in the identification of two suitable sites in Hudspeth County. The Authority's Board of Directors plans to designate one of the sites as the prime disposal site in late February 1987.

TEXAS SITING PLAN

Milestone Compliance

Public Law 99-240, the Low-Level Radioactive Waste Policy Amendments Act of 1985, sets out milestones that the nonsited states and compacts must meet if they are to avoid penalty surcharges and possible cut-off of access to existing disposal sites. Texas automatically met the 1986 milestone requirement that noncompact states have enacted legislation expressing an intent to develop a disposal site. The 1988 requirement for development of a siting plan has been addressed through a contract with the Southern States Energy Board (SSEB). Together, the Authority and the SSEB have produced a document titled Texas Siting Plan, which has been submitted to the United States Department of Energy for approval.

Plan Components

The siting plan follows closely the requirements for a siting plan set out in Public Law 99-240. The plan contains:

- historical background on the State's low-level radioactive waste regulatory system and progress in facility development to date;
- planning mechanisms (statements of work) for completing the tasks that are required before facility operation can begin, including public participation, site selection, site characterization, facility design, operating procedures, development, licensing, and facility construction;
- scheduled start and finish dates and associated cost estimates for the stated tasks;
- a statement of organizational responsibilities for various functions within the Authority;

- a detailed schedule for low-level waste facility development;
- methods for planning and managing the facility work, including an automated project management system which will track schedule compliance; and
- analyses of the impacts of various delays in the baseline schedule for facility development (delay scenarios).

The following baseline schedule for development of a Texas low-level radioactive waste disposal facility is detailed in the siting plan as follows:

	<u>Start</u>	<u>Finish</u>
Site Selection	05/14/85	09/11/87
Site Characterization	06/02/87	03/09/89
Facility Design	11/15/85	03/01/89
Operating Procedures Development	10/30/86	06/30/89
Licensing	01/04/88	04/01/91
Facility Construction	04/02/91	01/01/92

The success of the siting plan, which details all the activities and schedules required for development of a low-level radioactive waste facility by 1992, depends to a large degree on the public's willingness to accept a disposal facility in their particular area. If citizens believe that a disposal facility is unacceptable, they will then use all available legal and legislative means to slow down, terminate, or divert the siting effort. This was graphically illustrated in 1985 when, on the eve of the Authority's naming a disposal site, public outcry mobilized the Texas Legislature to redirect the siting process.

Public Information

The Authority has developed a strong public information program focusing on the preferred siting areas in west Texas. Two counties have a particular interest in the siting activities: Hudspeth County (population 2,900) where the preferred sites are actually located, and El Paso County (population 513,400) located adjacent to and west of Hudspeth County. The Authority has assigned one person full time to those counties and other personnel are available as needed.

Key elements of the public information program include:

- A public policy forum. The West Texas Council of Governments (a regional planning agency), in cooperation with the Authority, has established a public policy forum comprised of citizens and local government representatives. Subcommittees have been established to study legal, land use, engineering, socioeconomic, and other issues associated with siting and report their findings to the main body of the forum. The forum will then prepare a report on the issues which will be available for use by citizens and government representatives.
- Informational brochures. Pamphlets and other publications on low-level radioactive waste issues have been widely circulated in west Texas. Many of these brochures have been translated into Spanish.
- Public meetings and symposiums. Authority personnel have participated in many meetings with local citizens to explain the siting program and answer questions. One recent

beneficial symposium was sponsored by the League of Women Voters of El Paso.

- Television, radio, and newspaper interviews. Several panel discussions and newspaper articles have examined the low-level radioactive waste program.
- Scale models of disposal methods. The Authority has developed models of several types of disposal technologies that may be used at the site. These models have been placed for public viewing at many locations.
- Public opinion polls. Through the cooperation of Texas A&M University, public opinion polls of various aspects of low-level radioactive waste disposal have been conducted in the siting areas.
- Trips to existing disposal sites. One of the more effective public information tools is sponsorship of trips for citizens to existing sites in Beatty, Nevada and Barnwell, South Carolina. Most visitors have been impressed by how those sites are operated and have generally developed a new perspective on low-level radioactive waste disposal sites.
- Citizens advisory panel. A group of private citizens representing various occupations and disciplines meet on a regular basis to advise the Authority on its siting program.

The public information program has been instrumental in identifying major local concerns. These include: possible groundwater contamination; release of radionuclides into the atmosphere; liability for transportation and on-site accidents; devaluation of land adjoining a disposal facility; private versus public operation of a site; exclusion of out-of-state waste; and local participation in operational decisions. Of these, the most important concern is groundwater protection. This is understandable since west Texas is an arid area and much of the area's drinking water comes from subsurface sources.

The Authority has attempted to respond to each of these concerns. For example, in response to the groundwater issue, the Authority has attempted to locate potential sites that are at least several hundred feet above aquifers and that have in-place substrata barriers to radionuclide migration. The Authority is also studying three disposal technologies, including aboveground vaults, that will provide additional engineered barriers for groundwater protection.

Compensation and Mitigation

As the Authority nears a decision on the location of its disposal facility, it must consider, in addition to the public information and local involvement efforts, what kind of specific incentives can be offered to make the siting plan more palatable to local citizens and political subdivisions.

Hudspeth County, the probable host county, encompasses a large (4566 square miles), sparsely populated (0.6 persons per square mile), and arid (7.86 inches of annual rainfall) area of west Texas. The annual budget of this rural county is only about \$1.2 million a year. Taxing powers of counties are restricted by the Texas Constitution, so that they cannot generate revenue by levying occupational taxes on waste disposal operations inside their boundaries. It is also constitutionally impossible for counties

which are political subdivisions of the state, to tax a state-owned and operated business. In addition, state-owned land, which encompasses about 25 percent of the land area of Hudspeth County, is not subject to local ad valorem property taxes. Thus, payments in lieu of taxes is not a workable concept for the county.

The Authority's disposal facility will employ about 20 persons, most of whom can be hired locally. This factor alone will create some economic incentives for the area in terms of jobs, income, and related businesses, but the potential impact is probably limited.

With these limitations in mind, the Authority held a series of meetings with local officials to determine what kind of incentives and/or compensation might be feasible. Representatives of the electric utilities that are constructing nuclear power plants in Texas also attended, since the utilities will be partially funding through user fees the costs of any incentives directed to the county.

From these meetings, it quickly became clear that the local officials were primarily interested in direct compensation. It was pointed out that unrestricted payments could not be paid to local governments, but would have to be tied to impacts on local services associated with construction and operation of the disposal site. The money would be targeted for road construction and repair, emergency medical and fire services, law enforcement, public information, local monitoring and other impacted governmental services. The Authority, utility representatives, and local officials agreed to the establishment of a local citizens advisory committee composed of one member from each affected governmental entity. The committee will determine how the available impact money will be distributed among its members, based on impact needs of each member and a formula based on the ratio of each member's assessed property tax valuation to the total tax valuation of all the members.

The committee will then submit a yearly budget to the Authority for approval and release of funds. No agreement has yet been reached on the amount of money that should be earmarked for impact assistance. The utility representatives favor a \$2-3 per cubic foot charge with a cap of \$300-400,000 a year, but the county officials want an amount equal to ten percent of the yearly gross receipts with no cap.

In addition to compensation, local interest has been expressed in the following concepts:

- A rangeland and wildlife management plan. Much of the state-owned land in the vicinity of the preferred sites is severely eroded and overgrazed. The Authority has developed a plan which, over time, will utilize rangeland and wildlife habitat management techniques to enhance the economic value and natural productivity of the land. This, in turn, will generate additional hunting and grazing income to the permanent school and university funds and the county.
- Annual meetings of local officials and Authority's Board of Directors. The Board and local officials would meet once a year to discuss any concerns relating to the disposal site or impact assistance.
- "Hire locally" policy. Any person that contracts with the Authority to construct the

disposal facility shall, when practicable, obtain necessary supplies, equipment, and personnel from local sources.

Local monitoring of the site. The citizens advisory committee will conduct independent monitoring of disposal site activities and make appropriate recommendations to the Authority.

The "incentives package" will require implementing legislation. Senate and House sponsors of proposed legislation have been found, and action is expected on bills before the end of the current legislative session.

Legislative Attitudes Towards Siting

In the 1985 legislative session, the Authority was prepared to designate a preferred disposal site in south Texas. Texas was clearly ahead of most of the nation in its siting program. The Governor and the south Texas legislative delegation clearly did not approve of the proposed location. The main theme of the opposition was that the proposed site was too close (within 20 miles) of a major metropolitan area's water supply, and that if Texas proceeded too quickly in developing a disposal site, it would become the low-level radioactive waste dumping ground for the rest of nation. Consequently, enough legislative support was generated to delay and redirect the siting effort to another part of the state.

The 70th Texas Legislature convened on January 13, 1987. The Authority has expressed its intent to name a preferred site in Hudspeth County by the end of February. As expected, there are some citizens of Hudspeth County that are opposed to siting in the county. The county commissioners are also on record as opposing the site, but are working with the Authority to develop incentives and compensation programs. The senator that represents Hudspeth County will carry the necessary bill in the Legislature.

In contrast, in El Paso County, the urban county to the west of Hudspeth County, environmental groups and local county officials are much more strident in their opposition. Public information programs have seemingly had little impact. This opposition has resulted in the senator from El Paso County becoming absolutely opposed to siting in Hudspeth County. The senator's staff has informed the Authority that the senator may introduce a bill that would exclude further consideration of the Hudspeth County sites. Again, the theme of the opposition is that the site will pose a threat to water supplies of urban areas and that Texas may not be able to exclude out-of-state waste. The latter issue has given rise to a new interest in joining a compact, the idea being that this action may be necessary to guarantee the right of exclusion under the Low-Level Radioactive Waste Policy Amendments Act of 1985. This matter may be the subject of an interim legislative study committee after the current session.

One additional legislative consideration has become increasingly important. Under current state law, the School Land Board and the University of Texas are not required to convey land to the Authority for a disposal facility. Local pressure is being applied to both entities to refuse to convey the land. A bill has been introduced in the Senate to remove this veto option and require that if the Authority designates a site on PUF or PSF land, the appropriate entities shall sell the land to the Authority.

Prospects for Success

The chances of success for the selection of a disposal site appear favorable, at least more so than in 1985. More effort is being expended, more Authority presence is being maintained in the siting areas, and lessons learned from the 1985 experience are being applied to siting in 1987. Leaders of both the Texas House of Representatives and Senate have

been regularly briefed on the current effort, and representatives of citizens and local governments have been asked to state what they want out of the process. In addition, the negative implications of not timely meeting the new federal milestones has been emphasized; this consideration was not available in early 1985. By June 1987, the Authority will know whether the most important phase of the siting plan -- finding a site -- has been successful.