

OFFICE OF THE  
UNITED STATES NUCLEAR WASTE  
NEGOTIATOR



DAVID H. LEROY  
NEGOTIATOR

March 25, 1991

Mr. Joe Youngblood  
Office of Nuclear Material Safety and Safeguards  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Mr. Youngblood:

On behalf of the Office of the Nuclear Waste Negotiator I would like to extend our thanks for your participation in our workshop on March 11, 1991. We are pleased with the results of the meeting and think you will find the enclosed summary of interest.

Any further comments or suggestions you might have concerning the workshop, or any other issues related to our mission are welcomed.

Sincerely,

A handwritten signature in cursive script, appearing to read "Putnam Coes".

Putnam Coes  
Deputy Chief of Staff

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WM-11

Enclosure

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**SUMMARY**

**OFFICE OF THE NUCLEAR WASTE NEGOTIATOR  
PANEL MEETING**

**March 11, 1991**

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**OFFICE OF THE NUCLEAR WASTE NEGOTIATOR  
PANEL MEETING SUMMARY**

**March 11, 1991**

**Introduction**

The Office of the Nuclear Waste Negotiator Panel Discussion was held March 11, 1991, in Washington, D.C. The purpose of the meeting was to provide guidance to the Negotiator for developing a negotiation process that will assist in siting high-level nuclear waste facilities.

**Background**

The Office of the Nuclear Waste Negotiator was established under the 1987 Amendments to the Nuclear Waste Policy Act. These Amendments established a 5-year term for the Negotiator that ends on January 21, 1993. The Senate confirmed President Bush's nomination of David H. Leroy as the first United States Nuclear Waste Negotiator on August 4, 1990.

The mission of the Negotiator is to seek negotiations with States and Indian tribes in order to reach a proposed agreement that sets forth the terms and conditions under which a State or tribe would be willing to host a repository or a monitored retrievable storage (MRS) facility for high-level nuclear waste. The Negotiator established three broad objectives to help accomplish his mission within the time constraints of his term:

- *Independence.* Create and maintain the identity and mission of the Nuclear Waste Negotiator as a new and autonomous Federal initiative separate from all other past and ongoing efforts to site high-level nuclear waste management projects.
- *Credibility.* Earn and maintain trust by proceeding with integrity, honesty, and objectivity.
- *Understanding.* Comprehend and appreciate the history of past and ongoing siting efforts in order to understand the perceptions of, concerns about, objections to, and justifications for high-level nuclear waste facilities.

**Meeting Structure and Issues**

The panel meeting summarized in this document is part of the Negotiator's ongoing effort to incorporate a broad base of experience and expertise in designing a process to involve the general public as well as the designated representatives of States and Indian tribes in managing the Nation's high-level nuclear waste. Members of the panel included representatives from the nuclear waste and energy industries, environmental advocacy organizations and public interest groups, voter and taxpayer organizations, scientific and technical organizations, and Federal agencies (see List of Participants). A list of general issues to be considered for discussion was distributed to the panel members prior to the meeting. This list was amended and prioritized by the panel members as follows:

1. What is the best means of soliciting a dialogue with a prospective host State or tribe?
2. How does the Negotiator balance the need for openness and public disclosure with the need for candor in the negotiation?
3. What do you perceive to be the role and mission of the Nuclear Waste Negotiator?
4. Who are the stakeholders who should be involved in the negotiation? Who decides who sits at the table?
5. What items, if any, constitute legitimate and appropriate benefits that should be discussed with or offered to a prospective host State or tribe? Is it appropriate or beneficial to provide a menu of potential benefits to a host jurisdiction? What is the duty of the Negotiator to examine the potential detriments to a prospective host State or tribe?
6. How can the Negotiator best assist prospective hosts in assessing the potential costs and benefits of a proposed facility?
7. How should credible factual and scientific information be obtained and disseminated during the process?
8. By what process can the Negotiator (or anyone else) determine whether a State or tribe is indeed a willing Host? To what degree can the general public be involved in determining the willingness of a prospective host?
9. How can the public be best involved in the process?

#### **Discussion of Issues**

A general discussion of each issue was preceded by an opportunity for each panel member to make opening remarks.

*1. What is the best means of soliciting a dialogue with a prospective host State or tribe?*

The discussion reflected panel members' concern for the need to build public confidence in and credibility for the Negotiator and the negotiation process. Panel members suggested that the Negotiator guard against the appearance of "closed-door" negotiations. Panel members expressed that the Negotiator should take a proactive stance in providing an open negotiation process through a culturally diverse, broad, and flexible dialogue with the public. Other panel members suggested the need for a designated time period during which requests for information from community and political leaders would be confidential, followed by complete openness as the negotiations progress.

Recommendations for developing credibility for the Negotiator and the negotiation process included:

- **Maintain a physical and bureaucratic distance from the "Washington Establishment" and Federal agencies in which the public has little confidence.**
- **Educate the public on the role of the Negotiator and the negotiation process. It was suggested that the Negotiator provide substantive information to the public before issuing a Request for Proposals (RFP), including historical information on the need for a nuclear waste facility and the siting process; information on the nature and amount of waste that a facility would receive; information on the physical characteristics and impacts of a facility; and a clear statement on what is being proposed, including distinguishing between a MRS and a repository, to serve as the basis of any discussion. To assist in disseminating information, it was suggested that the Negotiator distribute a newsletter in addition to making public speaking engagements and other public appearances that would be covered by the news media.**
- **Respond to public concerns about nuclear waste "dumps" and general public criticism of national energy policy and the nuclear establishment. The Negotiator should be an emissary both to and from States, tribes, and potential host communities.**
- **Provide credible technical and scientific information to the public. Although some panel members suggested that the Negotiator provide cost-benefit analyses of the impacts to communities from high-level nuclear waste facilities, most panel members suggested that such an approach would be controversial because no analysis would be applicable to all potential hosts and the validity of a community-specific analysis would be questioned even within that specific community. As an alternative to providing cost-benefit analyses, it was suggested that the Negotiator serve as a conduit for credible information to be used by individual communities in evaluating their own costs and benefits. An additional suggestion was to provide potential host communities with independent technical assistance (an independent consultant) to assist them in sifting through and evaluating information and in analyzing specific costs and benefits to their communities.**

**2. *How does the Negotiator balance the need for openness and public disclosure with the need for candor in the negotiation?***

**Recommendations for balancing the need for openness and public disclosure with the need for candor in the negotiations included:**

- **Provide for a period at the beginning of the negotiation process when contacts between local and State officials and the Negotiator would be kept confidential. This period would allow local and State officials the opportunity to explore the negotiation process and details related to hosting a high-level nuclear waste facility without committing to any negotiation and without subjecting the official to potentially adverse political fallout from fact-finding inquiries.**
- **Provide for a phased negotiation process to include an initial period of public education on the negotiation process, on nuclear waste facilities, and on the nature of waste received by such facilities, followed by a period of confidentiality, and then complete openness for the duration of the negotiations. This process should also include the ability of a community to withdraw from the negotiations at any time.**

- **Maintain openness throughout the entire negotiation process: any process involving confidential discussions might undermine the credibility of the Negotiator and the negotiation process. The Negotiator could also interact with the public to provide credible information on a continual basis. A completely open process could allay local officials' apprehension of contacting the Negotiator because the public would already be informed of the noncommittal nature of the process and information requests.**
- **Provide information to State and tribal governments only, as it is these governments' responsibility to determine the most appropriate means to inform and involve their constituencies.**

**3. *What do you perceive to be the role and mission of the Nuclear Waste Negotiator?***

**Panel members agreed that information dissemination to the public is an important role of the Negotiator. Many panel members expressed their belief that the negotiation process is an opportunity to bring the American people and the political leadership together in an open format to address the national nuclear waste problem. It is envisioned that the Negotiator would serve as both a conduit for information and an impartial facilitator, "a guardian of a process, not the result of one." The Negotiator could work with communities to determine the terms and conditions that Congress will need to meet in siting a high-level nuclear waste facility. Many panel members thought the Negotiator should serve as a channel for conveying to Federal government leaders the concerns expressed by States, tribes, local officials, and the public regarding the siting of high-level nuclear waste facilities, general energy policy issues, and the negotiation process itself.**

**Panel members suggested that the Negotiator's role includes reporting to Congress both on success in negotiating a site for a high-level nuclear waste facility or on why negotiations are not working, if negotiations do not produce results that lead to siting a facility. Panel members commented that the measure of the negotiation process' success is not necessarily the identification of a host for a high-level nuclear waste facility; rather, it might be having successful communications with the public and a thorough hearing of relevant issues and opinions. It was noted that a lack of willingness by States or tribes to negotiate could have a profound impact on public policy.**

**It was also mentioned that the United States Environmental Protection Agency found architectural design concepts and scale models to be useful in siting facilities; communities could use models as a catalyst to begin discussions of the potential economic and environmental impacts that a similar facility could have on the community. Other panel members disagreed with the use of models because it might create the perception that the size and character of a facility are not negotiable.**

**It was strongly suggested that the Negotiator's role include ensuring fairness and equity in the negotiation process with regard to communities of color and economically disadvantaged communities.**

**4. *Who are the stakeholders who should be involved in the negotiation? Who decides who sits at the table?***

**Panel members commented that a high-level nuclear waste facility affects more than the individual host community. Entire States and regions will be involved because of the need to transport nuclear wastes to the facility, creating a potential problem in making the negotiation**

process available to all affected jurisdictions and interests. Opinions varied on how to address this issue. Since stakeholders at each negotiation would probably be different as a result of jurisdiction-specific conditions, some panel members suggested that negotiations be conducted with State Governors and tribal leaders only. Other participants in the negotiations would be at the discretion of the Governors and tribal leaders. The Negotiator, however, should actively encourage broad representation. It was also suggested that the Negotiator use judgment based on local and regional input in identifying stakeholders. Another suggestion was that a preliminary topic for negotiation is identifying the stakeholders to be involved in subsequent negotiations.

Panel members suggested that the Negotiator act to ensure that all potential stakeholders have equal access to negotiations. Many potential stakeholders (e.g., Native American tribes and economically disadvantaged communities) may not have the technical or financial resources that are available to larger jurisdictions, States, and the Federal government. The Negotiator might play a role in providing resources for technical assistance and travel.

5. *What items, if any, constitute legitimate and appropriate benefits that should be discussed with or offered to a prospective host State or tribe? Is it appropriate or beneficial to provide a menu of potential benefits to a host jurisdiction? What is the duty of the Negotiator to examine the potential detriments to a prospective host State or tribe?*

Panel members expressed the opinion that while providing a list of possible benefits from a high-level nuclear waste facility to potential host communities may encourage interest in the negotiation process, the menu of benefits itself could be a floor for negotiations. It was suggested that a "skeletal" list of benefits might be useful. Panel members remarked that the Negotiator also has the responsibility to inform potential hosts of known detrimental aspects of constructing and operating a high-level nuclear waste facility.

An alternative suggestion was to prepare a list of benefits specific for each potential host, since a general list of benefits may not address the specific needs, concerns, and perspectives of individual jurisdictions and cultures. Others expressed the opinion that providing a list of predetermined costs and benefits to a potential host would not be as productive as developing a list through an interactive process with a potential host. Negotiations could also include provisions for community involvement in construction, operation, and oversight of a facility, including guidelines for preventing a MRS from becoming a repository. To avoid the perception that a community is being "bought off," panel members suggested that emphasis be placed on addressing health, safety, and environmental concerns before discussing economic benefits that a community might expect in return for hosting a high-level nuclear waste facility.

6. *How can the Negotiator best assist prospective hosts in assessing the potential costs and benefits of a proposed facility?*

Panel members suggested that the Negotiator utilize information provided by both Federal agencies, including the Department of Energy (DOE), and outside sources. If a potential host questioned the validity of information provided by the Negotiator, it would be the hosts' responsibility to acquire outside information. Other panel members suggested that the Federal government provide resources to potential hosts who do not have the necessary technical or financial resources to obtain independent technical evaluations. Another suggestion was that a technical review board independently evaluate data prior to its dissemination to communities to overcome the public suspicion of information furnished by Federal agencies.

**7. *How should credible factual and scientific information be obtained and disseminated during the process?***

**Recommendations for obtaining and disseminating credible factual and scientific information included:**

- **Information acquisition.** Panel members cited problems in acquiring relevant information, including difficulties in accessing information from some Federal agencies and industry sources, different viewpoints of what constitutes valid information, mistrust of information provided by Federal agencies, poor past performance of Federal agencies in implementing experimental systems in the field, and poor readability of technical documents.
- **Information dissemination.** Panel members agreed that there are different ways to best disseminate information to different audiences. Suggestions included assisting host communities to find "interpreters" for technical information, establishing within potential host communities a reading room containing all available and relevant information, improving the readability of technical documents, regularly distributing newsletters and news reports, sponsoring and attending public meetings, and giving equal merit to different viewpoints of what constitutes valid and relevant information.

**8. *By what process can the Negotiator (or anyone else) determine whether a State or tribe is indeed a willing host? To what degree can the general public be involved in determining the willingness of a prospective host?***

Panel members had few specific suggestions on how to determine whether a State or tribe is actually a willing host--other than encouraging a statewide referendum or simply asking the State Governor or tribal leader. The majority of the panel members expressed the view that the responsibility for involving the public lies with the Governors or tribal leaders. Differences in States and tribes make it difficult to form general guidelines that the Negotiator could apply equally. Most panel members suggested that the Negotiator take a State- or tribal-specific approach.

**9. *How can the public be best involved in the process?***

Most of the suggestions made by panel members repeated ideas discussed under other topics, including the need for openness, public education, and dissemination of technical information in a way that can be understood by the general public.

## LIST OF PARTICIPANTS

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