



Department of Energy
Office of Civilian Radioactive Waste Management
Yucca Mountain Site Characterization Office
P.O. Box 98608
Las Vegas, NV 89193-8608

NOV 22 1994

Dear Stakeholder:

You are cordially invited to attend the Thursday, December 8, 1994, Site Suitability Stakeholders' Meetings being held at the Sheraton Desert Inn Hotel, located at 3145 Las Vegas Boulevard, Las Vegas, Nevada, and on Tuesday December 13, 1994, at the Crystal Gateway Marriott, located at 1700 Jefferson Davis Highway, Arlington, Virginia. These upcoming meetings will give you an opportunity to review the completed process for determining suitability and provide comments on the U.S. Department of Energy's effectiveness in involving the public and incorporating their comments and concerns in the site suitability evaluation process. In addition, Dr. Susan Wilshire of J.K. Associates, who has served on a number of National Academy of Science committees, including the Committee on Technical Bases for Yucca Mountain Standards, will be at the meeting to discuss her experiences with peer review panels.

Enclosed, please find copies of the draft summary reports from the August 27 and August 30, 1994, national stakeholders' meetings we hosted in Las Vegas, Nevada, and Washington, D.C., which included a discussion of the U.S. Department of Energy's proposed site suitability process for evaluating Yucca Mountain as a possible repository. These reports are being distributed for your review and comment.

If you have any questions about these meetings, or if you have comments on the enclosed summary reports, we ask that you communicate them within the next 30 days to either me at (702) 295-9610 or John D. Rosenthal, TRW Services, at (702) 794-1834.

Sincerely,

Jane R. Summerson
Site Suitability Team Leader
Assistant Manager for
Suitability and Licensing

Enclosures:
Draft Summary Reports

YMP-5

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PDR WASTE
WM-11 PDR

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SITE SUITABILITY MEETING
Crystal Gateway Marriott
1700 Jefferson Davis Highway
Arlington, Virginia
(703) 920-3230

December 13, 1994

9:00 a.m.	Introduction and Public Involvement	Wolfgang C. Repke Congressional Liaison Representative Office of Public Affairs Yucca Mountain Site Characterization Office
9:20 a.m.	Final Process	Dr. Jane Summerson Site Suitability Team Leader Yucca Mountain Site Characterization Office
9:40 a.m.	Open Discussion	
10:00 a.m.	Peer Review Task Definition	Dr. Jane Summerson
10:20 a.m.	Open Discussion	
10:40 a.m.	NAS Peer Review	Dr. Susan Wiltshire Vice President J. K. Associates
11:00 a.m.	Open Discussion	

**Summary of Discussion
Site Suitability Evaluation Process
Office of Civilian Radioactive Waste Management
August 30, 1994 Stakeholders' Meeting**

INTRODUCTION

On Saturday, August 27 and Tuesday, August 30, 1994, the U.S. Department of Energy (Department) sponsored two Stakeholders' Meetings to obtain public comments on the site suitability evaluation process. In an effort to ensure national participation and solicit as diverse a set of comments as possible, meetings were held at the Stardust Hotel in Las Vegas, Nevada and at the Renaissance Hotel in Washington, D.C.. A Notice of Inquiry and a notice of these public meetings were announced in the *Federal Register* (59 FR 39766).

Although the presentations made at the meetings were identical in both content and scope, separate summary reports have been prepared to reflect the diverse comments made at each meeting. These draft reports are being circulated to meeting participants to ensure that these summaries accurately reflect these discussions. After participant review and comment of these reports is complete, final reports will be redistributed and made available to the public. The following summary report focuses on comments made during the August 30, 1994 meeting in Washington, D. C.. This summary is not intended to be an exact transcript of the August 30 meeting.

MEETING SUMMARY

Welcome and Introductions

Wolf Repke, Congressional Liaison for the Yucca Mountain Site Characterization Office (YMSCO), opened the meeting. Polly Quick introduced herself as the meeting facilitator, established ground rules for the day, and discussed the agenda.

Presentation Overview

Dr. Jane Summerson, YMSCO Site Suitability Team Leader, made four presentations:

- 1) Background and Overview - covered siting guidelines (10 CFR Part 960), stakeholder interactions, and an overview of the process for evaluating suitability.
- 2) Technical Basis for Evaluating Suitability - covered data acquisition and analysis, technical basis documentation, and external peer review.

- 3) Guideline Assessments - covered assessments of compliance with the siting guidelines, and external review of these assessments.
- 4) DOE Decision Steps - covered DOE decisions on higher-level findings, technical site suitability, and overall suitability.

Following each of these presentations, meeting participants were encouraged to ask questions and voice their concerns. The following section summarizes these comments and responses.

SUMMARY OF COMMENTS

The following discussion is not intended to be a transcript. Comments from throughout the day have been grouped under general topics.

Stakeholder Involvement

A comment was made that the public are the "owners" of the process for evaluating suitability and, as such, the Department should expend greater effort in including all interested and affected parties in public participation efforts. It was stated the development of the process for evaluating suitability was not an example of good public participation, as this is a National issue and people in other parts of the country (outside Nevada and Washington, D.C.) cannot effectively participate in meetings. As such, it was stated that the Department should reconsider its policies so as to involve the many who should be involved. A comment was made that the Nuclear Waste Technical Review Board (NWTRB) had suggested ways to involve the public more fully (the invitational travel issue). It was pointed out that the Yucca Mountain Project is not just a Nevada issue as transportation affects many people outside of Nevada. In addition, it was felt that while the Department's efforts to include larger sections of the public are positive, it is not enough.

Dr. Summerson responded by stating that the Department has to balance a sincere desire to increase the involvement of the public across the country with the physical realities of budget and schedule. She stated that is simply not possible to have meetings in every state.

Dr. Summerson pointed out that there is, however, associated with the Federal Register process, a written comment period which allows for National input. Dr. Summerson also stated that while she agreed that the Department has not achieved its goals in public participation, the Department is making a sincere effort to engage in substantive public participation. She stated that she expected mistakes to be made along the way and that this is a learning process for everyone involved. Dr. Summerson also expressed hope that all parties would work together in improving public participation.

Dr. Summerson concluded that putting a process for evaluating suitability in place is necessary before there can be effective public participation in that process. The public cannot effectively be involved without knowing what decisions are being made, how those decisions will be made, what the bases will be for those decisions, and when the public can become involved.

Schedule

A question was asked about the interface between 10 CFR Part 60 and 10 CFR Part 960. Dr. Summerson said that the evaluation of site suitability is a DOE decision based on 10 CFR Part 960. In evaluating the site under 10 CFR Part 960, a determination will be made about whether the site should be recommended as a repository. 10 CFR Part 60 is the basis for an NRC decision on licensing.

Peer Review

A question was asked about the NAS's previous experience in conducting peer reviews. Concerns were raised about the NAS's use of its own procedures and a perception that it works "behind closed doors," thus offering little information about how decisions are made. A question was raised about the composition of peer review panels and who would participate on them. Dr. Summerson said that the Department is discussing this issue in detail with the NAS and that well defined opportunities would exist for submitting nominations for peer reviewers to the NAS.

A question was raised regarding how the NAS will choose peer reviewers. Dr. Summerson responded by saying that she believed the NAS intends to use a steering committee to choose the peer review panel members. In response to concerns about the diversity of NAS panels, it was pointed out that the NAS is *not* a homogeneous group; rather, it is made up of a diverse spectrum of opinions. A comment was made that the NAS should not determine the need for peer review. All technical documents should be reviewed externally regardless of technical complexity.

Dr. Summerson said that the Department will have a contract so as to explicitly require public involvement in peer review of the technical basis documentation. A comment was made that certain criteria should be included in the contract so that the panel is neither totally one-sided or the other. This use of criteria, such as technical expertise, will ensure a balanced perspective. Dr. Summerson agreed and said that the goal of the peer review is to build credibility. This can best be demonstrated, she said, trying to consider all perspectives. She pointed out that the State of Nevada had requested an opportunity to review the contract which she will investigate.

Dr. Summerson stated that she understood concerns about contracting with the NAS to manage the peer review process, but suggested that it would be worse if the Department attempted to make these decisions without the participation of the NAS. She stated the importance of the Department finding *someone* external, and, as such, she is open to suggestions of other experienced groups that would be appropriate to manage peer review.

Site Suitability Determination/"Higher-Level" Findings

Clarification was requested on the definition of a "guideline assessment" and when such assessments would be published. Comments were made that DOE decisions on suitability should be based on protecting public health and safety.

Questions were asked about the site suitability determination. Specifically, it was asked if the site would be declared suitable if it was determined that the Department could engineer

Concerns were expressed about the Department's ability to remain on schedule and meet target dates. It was stated that the Department was boxing itself into a corner and setting itself up for failure. To avoid this situation, a suggestion was made to set more realistic dates. In response, Dr. Summerson emphasized that the dates found within the schedule are merely goals or target dates, not deadlines. She stated that Dr. Dreyfus, Director of the Office of Civilian Radioactive Waste Management (OCRWM), considers the target dates to be important; however, he recognizes the reasonableness of extending target dates if it can be shown that there is an absence of necessary data and that additional tests will provide that missing data. For this to occur, however, it would be necessary to provide ample and specific justification. Dr. Summerson reiterated that the current target date for a technical site suitability decision is 1998.

Comments were made about the Department's ability to perform all necessary data collection and testing under the proposed schedule. Dr. Summerson responded by stating that the site suitability team is in the process of defining data needs and planning data collection to ensure the availability of necessary data for a technical site suitability decision in 1998. She also emphasized that there has been a great deal of data collection over the past ten years, and that the collection of data will continue during the license application process after the site suitability evaluation process is complete. She stated that the Department has no intention of making a decision in the absence of necessary data and that peer review and stakeholder involvement will help ensure a sound basis for DOE decision making.

Dr. Summerson discussed the use of fairly rigid schedules as a management tool to ensure accountability of the Department. A request was made for background information on the logic behind the choice of 1998 as a target date. Dr. Jan Docka (M&O Contractor) stated that because this process breaks technical issues into small groups of related topics, it is possible that schedule slips in individual groups may not impact the overall schedule. This gives the Department added flexibility in planning.

Siting Guidelines

A question was asked about the order in which the guidelines would be examined. April Gil, Licensing Team Leader, said that the first proposed group will be surface processes, which includes preclosure hydrology, surface characteristics, and postclosure erosion.

A question was asked regarding whether any of the information provided during the day's meeting would be used at the upcoming discussion at the Nuclear Regulatory Commission (NRC) meeting on the use of favorable and potentially adverse conditions. Ms. Gil stated that the Department meets with the NRC a few times each month to engage them in interactive discussion. She said that the site suitability evaluation process is obviously something the NRC is interested in and will likely be addressed at the upcoming September 21, 1994 meeting. Dr. Summerson stated that favorable and potentially adverse conditions will not be ignored as they are a major part of the licensing process.

around a problem that would otherwise render the site unsuitable. A meeting participant responded that repository will rely on the geologic medium and that if a disqualifying condition was found the Department would *not* try to engineer around it.

A question was asked about whether a negative high-level finding would render the site unsuitable. Dr. Summerson said that the team would make recommendations to the Director about a negative high-level finding. The Director would then make a decision. A follow-up comment was made that according to 10 CFR Part 960, the presence of a disqualifying condition (a negative high-level finding) had the potential of rendering a site unsuitable.

A statement was made that a negative high-level finding would require the same burden of proof as a positive high-level finding. More information on this issue was requested. Dr. Summerson said that a negative high-level finding, which has the potential to disqualify the site and result in the re-evaluation of geologic disposal, has as much impact as does a decision to go forward. She continued by saying that whatever recommendation is made, it must be supported and justified.

Topical Reports

A comment was made that the NRC had criticized the Department recently on its erosion topical report, including data and arguments. According to an NRC representative, there were problems with the methods that were used in the report. A follow-up question was asked about the effect that this would have on the schedule for site characterization. Ms. Gil responded to the questions by stating that problems with the erosion topical report would not slow down site characterization and that additional information would be added to the report in response to comments. Ms. Gil added that the department does not view experience with the erosion report as a failure; rather it is viewed as a learning process that will lead to improvement on future topical reports.

A question was asked about the availability of topical reports for the public. An official from the NRC said that everything that goes to the NRC becomes public within two days after its submission by the Department and is available at 2120 L Street, Washington, D.C.. A follow-up question was asked about when the next topical reports would be available. The answer to this was not immediately known.

Finally, a comment was made that erosion issues are closely tied to climate issues and that climate issues are not being sufficiently investigated in the site characterization process. Dr. Summerson once again differentiated between the license application process and the site suitability process. The site suitability evaluation process is the decision the Department makes using its own regulations; it is an internal process and decision.

National Environmental Policy Act (NEPA)

A question was asked about where the environmental quality, socioeconomics, and transportation guidelines fit into the process and who would be responsible for managing the interface of these issues with the process. Dr. Summerson stated that these guidelines would be addressed during the NEPA process, but that this issue will be addressed further after

completion of the overall OCRWM NEPA compliance strategy. Dr. Summerson said the Department envisions an analogous process with a technical basis and public participation for addressing environmental quality, socioeconomics, and transportation guidelines. Finally, she said that one of the counties has expertise in socioeconomic issues and has offered its assistance in the development of that part of the team. Dr. Summerson said that she and her team want help and that this is a good example of how the public *can help*.

Multipurpose Canister (MPC)

A question was asked about the impact of MPC-related issues on the process. A comment was made that the size of each waste package interfaces directly with whether the site is found to be suitable. It was stated that, in certain ways, the MPC defines decisions about the repository which determine decisions about suitability. Chris Kouts (DOE/HQ) stated that the Department is considering all sizes for the MPC and that it will have no effect on suitability. He continued by saying that the Department is looking at the MPC as a means to reduce exposure and enhance efficiency. He also pointed out that the repository could exist with or without the MPC.

A question was asked about whether or not the MPC might affect the determination of whether the repository should be hot or cold. Dr. Summerson said that the Department wants to support a design that accepts both a hot and cold repository. Dr. Bob Gamble (M&O Contractor) said that the Department is working towards a flexible design. He said that though emplacement affects overall suitability, thermal loading is not an issue. In addition, Dr. Gamble said that the Department is not trying to determine suitability for *any* repository; the goal is to determine suitability for *a* repository and the NRC will determine if the Department has a safe, licensable design for *this* site. An additional comment was made that the MPC could be completed and found to be incompatible by the time this process is complete. A comment was made that if the MPC is approved by the NRC for shipment and storage, it could be stored anywhere.

Bounding

Clarification was requested on the statement in the proposed process which calls for DOE to base its findings "to the extent possible" on conservative and robust bounding calculations and arguments. Dr. Summerson responded that clarification would be added to the revised draft site suitability evaluation process.

Final Agency Action

A question was asked about whether the technical site suitability decision was a final agency action and if the Director could be taken to court. Dr. Summerson responded that the decision by the Secretary to recommend the site was the only final agency action.

A follow-up question was asked about whether a decision to not recommend the site constituted a final agency action.

Proposed Program Approach (PPA)

A question was asked about how the PPA is more efficient than the previous approach. Dr. Summerson said that the most significant attribute of the PPA is its step-wise approach. She said that building a case step by step rather than providing all the information only at the end of the process will help measure progress and build confidence in the process.

A comment was made that the PPA is more efficient because the Department is putting off some additional testing until after a repository is functioning. Dr. Summerson responded by saying that not all testing outlined in the Site Characterization Plan is necessary at this time and that there has always been a plan for confirmatory testing.

Budget/Cost

It was suggested that the process would be more effective if costs were reduced or the amount of time available for testing increased. Another comment was made that the Department received a large increase in its budget but will still not have the necessary data under the current scenario. A question was asked about the balance between money spent on site characterization and money spent on developing the site. Dr. Summerson said there was, indeed, an increase in the budget; however, it was less than the projected budget and pointed out that there have been years of lower than expected funding.

Requests for Additional Information

The NWTRB made a request to see the information that would be used regarding data needs in the site suitability evaluation as it would prove helpful in understanding what technical work the Department sees as important in making these decisions. Ms. Gil stated that this information could be provided.

ADJOURNMENT

Dr. Summerson concluded her presentations and told participants that summary reports for the meetings in Las Vegas and Washington, D.C. would be compiled and distributed to meeting attendees for review and comment. Dr. Summerson closed the meeting with an expression of her appreciation for participants' comments and questions and adjourned the meeting at 12:30 p.m.