

DRAFT

**Summary of Discussion and Recommendations at the
Workshop on Developing a Consultative Process
Sponsored by the U.S. Department of Energy
Office of Civilian Radioactive Waste Management**

**August 10, 1993
Las Vegas, Nevada**

**Prepared by
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INTRODUCTION

On August 10, 1993, the United States Department of Energy (DOE) Office of Civilian Radioactive Waste Management (OCRWM) sponsored a "Workshop on Developing a Consultative Process" at the University of Nevada at Las Vegas. Approximately 250 representatives of interested groups and members of the public attended the day and evening sessions of the workshop. The purpose of the workshop was for the participants to recommend a consultative process to provide meaningful opportunities for interested parties to participate in the program's direction and decision-making. The process would complement and help inform the Secretary of Energy Hazel O'Leary's current review of the civilian radioactive waste management program. The purpose of this report is to summarize and synthesize the workshop discussion and recommendations so that the Secretary and other decision-makers can consider them in planning a process for public involvement in the program.

The first draft of this report was reviewed by workshop facilitators and notetakers; the second draft is being reviewed by workshop participants. The final report will be presented to Secretary O'Leary, and copies will be distributed to workshop participants and interested Department of Energy staff.

WORKSHOP DISCUSSION AND RECOMMENDATIONS

SUMMARY

The day-long workshop was attended by approximately 175 people who are interested in or affected by Department of Energy decisions and actions, or who represent organizations that are interested in or affected by those decisions and actions. About 50 of the daytime participants and an additional 76 interested parties attended a public forum in the evening.

open communication among parties holding widely disparate views. People were courteous in explaining their honest concerns and disagreements over how the program should proceed and, particularly by the end of the small group discussions, collegial in developing suggestions for a process through which the Department and the public can review the program and make decisions.

MORNING STATEMENTS

In a welcoming statement, Lake Barrett, Acting Director of the Department's Office of Civilian Radioactive Waste Management, explained that the Secretary of Energy intended to incorporate the workshop's recommendations for consulting the public into her current overall review of the program. He distinguished between discussion of a process for public participation and discussion of program issues, and he reminded participants that this workshop was intended to focus on the process. He also noted that while he hoped the group would offer useful, detailed recommendations on a process, he did not believe that it was feasible or necessary for the workshop to achieve consensus.

The moderator explained the agenda (included as Appendix B), and then 18 participants presented prepared statements. Everyone who wished to speak was given the opportunity to do so. The first two speakers offered specific, detailed proposals which became the subjects of considerable discussion during the course of the day.

Formal comment-response process. A representative of public utility commissioners suggested that the Department of Energy use a formal comment-response process often employed by regulatory agencies when opinions are diverse and issues are complex. In such a process, the Department of Energy would establish a set of questions that need to be answered regarding how to deal effectively with a specific topic or issue; interested stakeholders would comment on those questions, and some stakeholders could find it in their interest to file joint comments; the Department of Energy would

directed MRS facilities; WIPP, including the land withdrawal and test phase process; and the Yucca Mountain project.

During the discussions that followed, there was some difference of opinion concerning the advisability of a full or partial moratorium on program activities during review by such a commission. Support emerged for the general idea of an independent review, not necessarily any particular model.

Proponents of these two views had prepared their proposals in advance and were well-organized to support them throughout the workshop. During the day, representatives of utilities and utility commissioners argued for the FERC-type review. Proponents of the Blue Ribbon Commission discussed their proposal to some extent during the group discussion, and additional supporters spoke at the evening public forum.

The other 16 speakers expressed a range of views. Seven speakers supported the idea of an independent review. Three speakers supported the idea of a formal comment-response process. People also said:

- the Department of Energy needs to make definitive decisions so that others (such as utilities) can have the certainty they need for taking actions (four speakers made this point);
- federal advisory committees are limited in their usefulness;
- independent reviews should not be overdone;
- the test of any public participation process is whether or not its recommendations get implemented, so the Department of Energy needs to demonstrate a willingness to listen to people, to be open to change, and to respond to suggestions;
- any involvement process should include people who do not have statutory (formal legal) roles to play;
- the Department of Energy must undertake more coordination and integration of

SMALL GROUP DISCUSSION RECOMMENDATIONS

Participants divided into four groups for discussion. Workshop organizers had first divided participants randomly and then adjusted the composition so that each group would reflect the full range of perspectives represented at the workshop. Department of Energy staff sat in on the small groups in order to answer questions but did not actively participate in the discussions, since the purpose of the workshop was to hear suggestions from the public and interested parties. The agenda called for each group to discuss and report to the larger group on a public involvement process for waste acceptance and storage issues and a public involvement process for repository program strategy issues.

The overall pattern of discussion in the four groups was similar, though the flavor of each was unique. The task at hand was unclear to many participants, and some participants would have preferred a different focus, such as on specific program issues. Each group spent considerable time in the morning discussing: whether or not the issues suggested were the issues for which they wished to describe a public involvement process; what issues or range of issues they believed the public should be involved in; definitions of the terms "the public" and "stakeholder"; whether or not a single process could be applied to multiple issues; and differences in the kinds of processes needed for local versus national issues. Participants in all groups experienced some degree of frustration in grappling with these topics, feeling either as if they were not addressing the purpose of the workshop (developing a process for public involvement) or as if they were not achieving the purposes for which they had come (to discuss specific issues or make specific points). In general, both the daytime session and the evening session focused on the public involvement process, although many participants were not particularly familiar with the various options and tended to discuss those with which they had some experience.

By afternoon, the groups had established if not camaraderie at least minimal working relationships and began to focus harder on the task of suggesting concrete recommendations. All participants reassembled in the afternoon to hear a spokesperson from each group present

is, how should the input from a potential repository host community or corridor state be considered in relation to the input of other interest groups? Another example is the difficulty any authority will have in naming people to a commission or even assembling a workshop that will be widely perceived as fairly representing the full range of parties who are interested in and affected by this program.

Convenient. Public meetings should be held at times and on days, such as Saturdays, when working people can attend. They should be scheduled in places people can reach without undue expenditure of time and money.

Adequately funded to enable participation. Interested parties need to be provided with financial resources to enable their participation. For example, they may need money to hire consultants to provide them with independent technical reviews. They may need money to pay travel expenses. Some participants said that national environmental groups were unrepresented at the workshop in part because they lacked the funding to attend. Another participant cautioned that before the Department of Energy starts paying expenses for non-local interest groups, it should remember that local people are making sacrifices of their own time and money (through lost work hours) in order to participate.

Tailored to the situations and decisions at hand. The Department should use different public involvement approaches for local, regional, and national issues. For example, the resolution of local issues concerning a particular power plant calls for different means than does the resolution of regional or national issues, such as those concerning the transportation of radioactive waste. Different regions may call for very different approaches. For example, the issues in Nevada are very different from the issues anywhere else and require a process uniquely tailored to them. One group divided the public into the following segments: the public (communities near proposed storage facilities; communities near nuclear utilities; and communities along transportation lines); interest groups; industry; groups with legal or formal responsibilities (counties,

making decisions, so that people can form judgements about the merit of those decisions, and that the Department needs to respond to people in a timely way about how it has considered their input.

Responsive, interactive, open to change. Participants said that the Department needs to listen actively to what people say and be truly open to changing its plans on the basis of that input. They suggested that the Department and the public should be making decisions together, jointly.

Characteristics on which participants were divided

Based on common goals, not forced siting. Some participants stated that meaningful public participation concerning the proposed repository is not possible so long as forced siting is the federal government's policy. One local activist had outlined this theme in her prepared statement at the beginning of the meeting, stating that for a cooperative process to succeed, the participants need to share the same goals, and that so long as residents of Nevada and the Department of Energy were at loggerheads over their purposes in interacting with each other, no cooperative process could succeed in reaching an agreement on a public involvement process which all could support.

Culminating in final decisions. Representatives of the utility industry and utility commissioners were particularly concerned that public participation be part of a process that would lead to final decisions, decisions on which the industry and others can make firm plans that would be cost-effective for electric power consumers. Others felt that major decisions should and will remain open to challenge.

Decision-making authority. There was also some discussion, amplified below in the discussion of a Blue Ribbon Commission, about who should have final authority to make decisions. Some people believe the Department of Energy should retain decision-

now involved and to maximize local and state involvement. It should provide means for the public and Native Americans to conduct their own assessments concerning transportation.

Employ a variety of involvement methods. Many participants strongly felt that a wide variety of methods is necessary to reach disparate segments of the public, since different audiences, decisions, and purposes are better served by different methods.

Broadly supported methods

Participants suggested that the Department of Energy employ the following specific means to involve the public in the program. They provided the most detail on the methods with which they had personal experience, which tended to be somewhat formal.

Public meetings. Participants suggested that the Department conduct extraordinary outreach to involve all sectors of the public. It should bring meetings to local communities and to local districts of Indian nations.

Formal methods (such as notices in the *Federal Register*, public hearings). Participants suggested that the Department employ formal processes that hold the Department of Energy accountable to respond to the public. At public hearings, the Department should allow for testimony by all, keep a formal record, and commit to respond. People should have means for appealing if the Department does not respond adequately.

Informal means. Participants suggested that less formal means be used to reach a broader public, since not everyone reads the *Federal Register*. Television, radio, and local newspapers could be used to announce meetings and the availability of documents. Copies of program reports could be placed in local libraries.

consumers. Participants who did not particularly care for the model granted that it does entail some desirable accountability on the Department of Energy's part in that it requires the Department to provide written responses. However, they said that in practice, such reviews involve too many lawyers and do not really change the usual way in which the Department makes decisions since the Department basically directs the review and finally gets to make decisions by itself, rather than work them out more interactively with interested parties. Many people said that for such a process to work, it would have to be broader and more open than the FERC-type or APA-like process usually is and would call for extraordinary outreach in order to effectively reach and obtain the participation of affected groups and individuals who do not read the *Federal Register*.

Overall, the modified version of the model was supported as one of many methods to be used in a public involvement process.

Methods on which opinion was divided

Participants differed over whether or not to recommend the following methods, or over some aspect of the methods:

Local advisory groups. Local advisory groups were generally considered desirable, though there was disagreement over the extent to which their recommendations could or should be binding.

Federal advisory groups. A few people supported the establishment of federal advisory groups, though others said that the long process of instituting them makes them more trouble than they are worth and that they wind up being too exclusionary. None of the groups was interested in discussing them at any great length.

CLOSING REMARKS

Lake Barrett thanked participants for their suggestions. He noted that despite a somewhat rocky start in the small group discussions, they all had produced a lot of good material that the program can use in planning a process for public involvement. He asked several questions to clarify points that presenters had raised. In particular, he asked for input about other interested parties who should be represented in this discussion and means for reaching them. Participants said that reactor states, states under consideration for hosting a monitored retrievable storage facility, and transportation corridor populations other than tribes were not represented, and said that local and national environmental groups were under-represented due to a lack of funding to support travel to the meeting. One participant suggested that the program follow up on a previous Atlanta meeting and involve transportation unions, transportation inspectors, emergency management personnel, and others, and that the Department address a memorandum of understanding with the Occupational Safety and Health Administration. Some suggested using creative means such as teleconferencing to hold down expenses and reach a broader spectrum of the public. Others asked how decisions had been made about which people to invite from each interest group. For example, they wondered why some utilities were represented and not others. Lake Barrett closed the forum by thanking participants again for their hard work and good spirits all day as well as for the concrete material they had provided.

EVENING PUBLIC FORUM

About 50 participants from the daytime session returned for the evening public forum. An additional 76 people registered for the evening session. Lake Barrett welcomed the group, and the moderator summarized the day's events and the recommendations offered by the workshop's four discussion groups. A few people offered some additional remarks about the day session. In particular, several people discussed and disagreed about the degree of support received for the idea of a Blue Ribbon Commission.

Some participants suggested that future public meetings be held on Saturdays when it is easier for working people to attend; others noted that this crowd was the usual professional crowd at such meetings, not the general public. One suggested that the Department pay expenses to enable additional interested groups to attend; another said that before paying for national interest groups to attend meetings, the Department should consider the sacrifices of time and money (in lost work hours) that local members of the public make in order to attend meetings.

Some speakers addressed other specific issues, including: lack of trust in the Department of Energy; waste of money in the Office of Civilian Radioactive Waste Management Program; the need to clarify the affected status of tribes; the desire that the policy of forced siting be discontinued; a suggestion that waste be stored indefinitely wherever it is rather than at Yucca Mountain, given the likelihood of earthquakes; and a request for a list of criteria under which Yucca Mountain would be disqualified as a site.

The speakers were generally courteous towards each other. Some of the workers expressed frustration at citizens whom they considered to be needlessly scaring the public; some speakers suggested that others were trying to scare people about a lack of jobs. Overall, the evening reflected the diversity of opinion that exists about this program yet also reflected a common desire to communicate openly and to bridge differences in making decisions and/or reaching solutions about the management of civilian radioactive waste.

Lake Barrett, Acting Director of the Department's Office of Civilian Radioactive Waste Management, closed the meeting after everyone who wished to speak had done so. He thanked people for their time and suggestions. He also introduced the national and local Department of Energy and Nuclear Regulatory Commission staff who were present, so that people could ask them questions and talk with them informally after the meeting ended.

APPENDIX A

Participants List

ATTENDANCE LIST, MORNING AND AFTERNOON SESSIONS

**Workshop on Developing a Consultative Process
August 10, 1993**

**Sponsored by the U.S. Department of Energy
Office of Civilian Radioactive Waste Management**

**Thomas & Mack Center
Tropicana & Swenson Street
University of Nevada, Las Vegas**

**Mr. Robert S. Aiken
Arizona Public Service Co.**

**Dr. Carl A. Anderson
National Academy of Sciences**

**Ms. Maria Ardila-Coulson
University of Nevada, Reno**

**Mr. Richard Arnold
Las Vegas Indian Center**

**Mr. Mike L. Baughman
Intertech Services Corp.**

**Mr. Don Bayer
Nevada Legislature**

**Mr. Richard Bear
Skull Valley Band of Goshute Indians**

Mr. Neil Blackburn

**Ms. Carol Bleuss
Eureka County Yucca Mt. Information Office**

**Mr. Phillip A. Blount
Clark County Nuclear Waste Division**

**Mr. Jason Bosnos
International Brotherhood of Electrical Workers
Local Union #357**

**Ms. Carolyn Boyle
Clark County, Nevada**

**Mr. Les Bradshaw
Nye County, Nevada**

**Mr. Chris Brown
Citizen Alert**

**Mr. Connor Byestewa, Jr.
Colorado River Indian Tribes**

**Mr. Frank Caine
Building & Construction Trades
Nevada AFL-CIO**

**Mr. Lee Callaway
Pacific Gas & Electric Co.**

**Mr. Ron Callen
Michigan Public Service Commission**

**Mr. Wayne Cameron
White Pine County Commission**

**Ms. Joy-Lind Chamberlain
Citizen Alert**

**Ms. Tonya Clark
Idaho Public Utilities Commission**

Mr. Frank Clements

**Mr. Don Cloquet
Las Vegas Indian Center**

**Ms. Ernestine Coble
Fort McDermitt Paiute-Shoshone Tribe
MRS Project Office**

**Dr. T. Dwight Connor
National Conference of State Legislatures**

**Ms. Betty Cornelius
Colorado River Indian Tribes**

Mr. William J. McConaghy
Pacific Nuclear

Mr. Lathia McDaniels
MAC/JAG Technology

Dr. David McNelis
University of Nevada, Las Vegas

Mr. Brad Mettam
Inyo County Yucca Mountain Repository Assessment
Office

Mr. Calvin Meyers
Moapa Band of Paiute Tribe

Mr. William Middleton

Mr. Jeff Mielke
Nevade Nuclear Waste Study Committee

Mr. David Mielke
Fort McDermitt Paiute-Shoshone Tribe
MRS Project Office

Mr. Vernon Miller
Fort Independence Indian Tribe

Mr. Leroy Montgomery
African Americans in Favor of Yucca Mountain
Studies

Mr. Robert Mussler
Office of the Nuclear Waste Negotiator

Ms. Neddeen Naylor
Lone Pine Paiute-Shoshone Tribe

Mr. Phillip A. Niedzielski-Eichner
Nye County, Nevada

Mr. D. Warner North
Nuclear Waste Technical Review Board

Ms. Janice Owens
National Association of Regulatory Utility
Commissioners

Mr. William P. Orchard
ABC America and Associates

Mr. Morrie Perkel

Mr. Vernon Poe
Mineral County Office of Nuclear Projects

Ms. Judy Poferi
Minnesota Department of Public Service

Mr. Richard Powell
University of Nevada, Las Vegas
Department of Instructional and Curricular Studies

Ms. Nancy Powers
City of North Las Vegas, Nevada

Ms. Sue Purvis
Florida Power Corp.

Mr. Danny Quintana
Skull Valley Band of Goshute Indians

Raven
Citizen Alert

Mr. Chester Richardson
African Americans in Favor of Yucca Mountain
Studies

Mr. Cas Robinson
National Association of Regulatory Utility
Commissioners

Ms. Cathy Roche
U.S. Council for Energy Awareness

Mr. Hal Rogers
Nevada Nuclear Waste Study Committee

Mr. Frank E. Scott
DRES Media

Mr. Robert Shaw
Electric Power Research Institute

Mr. Alex Shepherd
Paiute Indian Tribe of Utah

Commissioner Lynn Shishido-Topel
Subcommittee on Nuclear Issues - Waste Disposal
Illinois Commerce Commission

Mr. Lawrence Skinner

Ms. Beverley Slack
Skull Valley Band of Goshute Indians

Mr. William C. Stock
Pacific Gas & Electric

Ms. Joanne Stockill
League of Women Voters

Mr. Joe Strolin
Nuclear Waste Project Office

APPENDIX B

Workshop Agenda

REVISED AGENDA

Workshop on Developing a Consultative Process
Sponsored by U.S. Department of Energy
Office of Civilian Radioactive Waste Management

August 10, 1993

Thomas & Muck Center
Tropicana & Swenson Street
University of Nevada, Las Vegas

Purpose of Workshop: In conjunction with the Secretary's review of the civilian radioactive waste management program, the purpose of this workshop is to develop and recommend a consultative process that will provide external parties meaningful opportunities to participate in the program's direction and decision-making.

8:00 - 8:30 am	Registration and Coffee Reception	The Board Room
8:30 - 8:45 am	Welcome and Workshop Objectives Lake H. Barrett, Acting Director, OCRWM	
8:45 - 9:00 am	Overview of Workshop Process Facilitator	
9:00 - 9:30 am	Prepared Stakeholder Comments	
9:30 - 9:45 am	Draft Public Involvement Process Options Allen B. Benson, Director, Program Relations Division, OCRWM	
9:45 - 10:15 am	Facilitated Discussion Period on Process Options	
10:15 - 10:30 am	Break (During break, teams assemble in designated rooms to begin break-out sessions.)	Yellow Group - Room A Green Group - Room B Blue Group - Room C Red Group - Room D
10:30 - 12 Noon	Topic I - Public Involvement Process for Waste Acceptance and Storage Issues	
12 Noon - 1:30 pm	Lunch (on own)	
1:30 - 3:00 pm	Topic II - Public Involvement Process for Repository Program Strategy Issues	
3:00 - 3:15 pm	Break	
3:15 - 3:45 pm	Preparation of Break-out Session Summaries	
3:45 - 4:45 pm	Presentation of Break-out Session Summaries Facilitator	The Board Room
4:45 - 5:00 pm	Next Steps / Wrap-up Facilitator / Lake H. Barrett	
5:00 - 7:00 pm	Dinner (on own)	

APPENDIX C

Small Group Presentations

Yellow Group Summary Notes

Conglomerate approach to yield comprehensive impact

Process

- A. Public Meetings**
 - Extraordinary Outreach
 - Convenient time/location
 - All publics

- B. Public Hearings**
 - Testimony by all
 - Formal record
 - Commit to respond

- C. Predecisional Drafts**
 - "FERC-type" review and extraordinary outreach

- D. Public Opinion Polls**
 - Use 800-Number

- E. Independent Review**
 - Blue Ribbon Panel

Who to Participate (National Issue)

- A. Public**
 - Community/proposed facility
 - Community/nuclear utility
 - Community/transport

- B. Interest Groups**

- C. Industry**

- D. Statutory Responsibility**
 - Counties
 - Tribes
 - States
 - Regulators
 - Other government

Blue Group Summary Notes

Criteria

- Broad based participation
- DOE commitment to change (sign-on)
- DOE commitment to respond
- Equality of burden
- Try to please majority
- Practice good science
- Checks & balances needed
- Additional resources to existing stakeholders to enable participation of constituents
- DOE needs to pay attention to & respect Tribal customs

Process

- Technical Review Board - expand
- Local technical assistance panels
 - Provide information to stakeholders
 - Need resources
 - Serve as resource group
- May need different approaches for different regions
- Conflict resolutions
 - Ombudsman
 - Negotiations
- Advisory group
- Process for review of non-technical issues
- External review
 - Lack of consensus on need & benefit for
- Administrative Procedures Act like process

Decision informing ----- Decision-making

No solution: Best solution ----- Quick solution: best solution

Green Group Summary Notes

Process Criteria

1. Open & inclusive
2. Convenient (tailored)
3. Accountable (reasoning and logic behind decisions)
4. Timely
5. Credible
6. Stable (decision-making)
7. Fair
8. Final decision (minority opinion) (ability to challenge) (not a solution) (independent)

Key Topics

- Tailor to local, regional, national as appropriate
- Difference of opinion as to:
 - Keep decisions w/in depart.
 - Establish a blue ribbon review committee
- More flexibility/opportunity to define the questions

Decisions-Making Entity

Receives input by a time sensitive model:

- Notice to define problem
- Definition of problem
- Seek solutions
- Pre-decisional draft
- Final decision

Model Needs Multiple Steps to Ensure Full Input (& meet process criteria) and Accountability

Outreach

Concern about involving/getting input from "less involved" general public:

- Neutral mechanism for general facts
- League of Women Voters
- Conflict resolution on basic facts
- Crossfire approach

Red Group Summary Notes

Determining the Public

- DOE should not arbitrarily select the public or interested parties on an issue
- DOE should seek broad-based public involvement
- DOE should establish an advisory group to assist in identifying affected parties for creating topics

External Review

- A number of participants favored a high-level external review of the entire program

Issue Definition

- DOE should identify areas where it wants public comment
- DOE should take into account the costs & difficulties of various constituencies in planning & scheduling public participation processes.
- DOE should update its description of the HLW program so that the public is familiar with the program it is being asked to participate in

DOE Responds to the Public

- DOE should respond to public comments in a timely fashion and explain how it responded

Public Involvement

- Local groups should be given greater power to affect, not just advise on, DOE policy
- The public should play a substantive role - the DOE and the public should decide
- Participants in public processes need to be committed
- Focus groups in communities where nuclear power plants are located
- The public and Native Americans should be involved in transportation and conduct their own assessments
- DOE should maximize local and state involvement in transportation
- Establish citizen advisory boards to advise DOE and inform the public
- Adopt procedures similar to FERC's for public involvement