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Stakeholder Input on Best Practices for Establishment and Operation of Local Community Advisory Boards in Response to a Portion of the Nuclear Energy Innovation and Modernization Act; Reopening of Comment Period

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General Comment

See attached file(s)

Attachments

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I am writing with comments regarding Nuclear Power Plant Decommissioning Citizen Advisory Boards (CABs) as part of the NRC's requirement defined in Section 108 of the Nuclear Energy Innovation and Modernization Act (NEIMA) to identify best practices for establishment and operation of local community advisory boards.

Briefly I want to start with some background about myself, which I hope will put my comments in perspective. I have conducted research for 25 years on public involvement in assessment and decision-making in a broad range of risk contexts, including the clean-up of US nuclear weapons facilities, assessment of public health from the US nuclear weapons program, marine oil spill response, nuclear waste management, and climate change adaptation. I have advised federal agencies on issues related to public involvement in risk decision-making and risk communication, as a member of Federal Advisory Committees and National Academies of Sciences Committees. I have also provided technical assistance to community groups and local officials. My comments here rely on these experiences, as well includes a close reading of the vast literature related to designing, implementing, and evaluating public involvement processes.

My first comment relates to the way the NRC effort was defined in Section 108. NRC is required "to provide a report to Congress identifying best practices for establishing and operating local community advisory boards *to foster communication and information exchange between a decommissioning licensee and the local community*" (emphasis is mine).

First, the purpose of a community advisory board is not solely to foster communication and information exchange. These may be necessary and useful activities, but the purpose of a community advisory board should be to *advise* parties that take actions that can affect the local and regional communities. It is advisory. This goes beyond exchanging information. To be effective advisors, members of an advisory committee must be empowered to advise about relevant matters and those who need the advice should demonstrate commitment to listening and responding to the advice.

Second, Section 108 narrowly – and mistakenly – conceives of who is involved. NPP decommissioning obviously involves the licensee and the NRC, but the impacts from decommissioning that warrant consideration extend beyond what NRC has authority over and thus what the licensee is legally obligated to address. The NRC is essence has a choice about how to proceed. The NRC can take a narrow view and conceive of CABs as being narrowly focused on the specific topics that NRC hover which NRC has regulatory authority. Or, the NRC can adopt a more expansive view and conceive of CABs as having a purpose to advice the various entities that are involved in responding to the implementation of decommissioning and managing the potential impacts from decommissioning, which can include occupational and public health and safety,

environmental protection, economic impacts, and social impacts. The first approach will lead to failure – CABs will not be held in confidence, further erode trust in the NRC and licensees, exacerbate conflicts, and not help relevant entities address the broad range of concerns that arise from decommissioning. Community advisory boards that do not ensure that the concerns of affected communities can be discussed and addressed fail in these ways. This is demonstrated very well by past experience in many risk management contexts. Instead, CABs can usefully provide advice to state officials and regulators, regional planners, local authorities, and others. In fact, some of the most important advice and actions that can be taken may be beyond the limited scope of NRC authorities and licensee legal obligations. These are related to a variety of social and economic impacts from decommissioning, options for future use of the site, etc. Furthermore, while the local community often bears the brunt of decommissioning impacts, other nearby communities may also be impacted. Local is often understood to mean the political jurisdiction in which the NPP sites, but significant impacts are not necessarily restricted to this area.

The NRC should adopt an expanded view of the purpose of NPP CABs and the parties that are part of it, both giving and receiving advice. Without an expanded definition the report developed by NRC will not be helpful.

Many researchers and practitioners have suggested that performance of community involvement programs is driven by the type of participation model employed. In other words, they focus on the difference between, say, FACA-based advisory committees, stakeholder dialogues, and public hearings.

However, evaluations of processes using similar models have shown that there can be wide variation in their performance. Bradbury and her colleagues (2003), for example, conducted multi-year evaluations of the Department of Energy Environmental Management's Site Specific Advisory Boards at nuclear weapons facilities and found wide variations in the ways that they performed, in part due to the influence of context features (including perceived commitment of the agency and trust between the agency and the community. This is echoed by a committee of the US National Academies of Sciences (National Research Council (2008), *Public Participation in Environmental Assessment and Decision Making*, Washington DC: National Academies Press):

Evidence suggests that attributes are more relevant than formats to developing principles of practice" (pg. 115)

The outcomes of a public participation process depend strongly on the way the process is organized and carried out. (pg. 230)

The committee found strong evidence that public participation, when done well, improves decisions and builds trust. But it also noted that "[a]chieving these results depends on using practices that address difficulties that specific aspects of the context can present" (p. 226). The caveat of "when done well" was deemed necessary because the 2008 Committee observed that principles of good practice are often violated in practice and, when done poorly, public participation efforts can "decrease, rather than increase, the quality and legitimacy of an assessment of decision and damage capacity for future processes" (p. 227).

Thus, the NRC should focus on principles and features of effective Community Advisory Boards rather than only a specific model.

Bradbury and her colleagues argue that there are five principles (or dimensions) of an effective public participation process, which they called the “Acceptability Diamond.” The five dimensions are (see attached manuscript for more details):

- Open, full, and timely disclosure of information
- Identify, Acknowledge, and Address Substantive Issues of concern to all parties
- Establish a Clear, Fair, and Open Decision-making Process
- Build Relationships that Convey Honesty, Respect, and Consideration of Others’ Interests
- Provide Mechanisms to Assure Accountability

My colleague Thomas Webler and I conducted other studies in which we argued for principles related to fairness and competence, and later highlighting that a process should not make things worse (e.g., by exacerbating conflict and distrust). These overlap with those of Bradbury and colleagues. (Webler, T. and S. Tuler (2000), ‘Fairness and Competence in Citizen Participation: Reflections from a Case Study’, *Administration and Society* 32(5), 566-595. Webler, T. and Tuler, S. (2008), ‘Organizing a deliberative planning process: What does the science say?’. In S. Odugbemi and T. Jacobson (eds), *Governance reform under real-world conditions: Citizens, stakeholders, and voice*. Washington, DC: World Bank. Pp. 125-160).

The NRC should carefully consider how to achieve these *as a whole* when developing its recommendations. As Bradbury and colleagues note (and which is supported by much additional research):

“people experience their interaction with an agency (or company) and with public participation programs as all-of-a-piece, not as separate pieces. The five dimensions are closely interrelated, and though ranked differently in primacy by different stakeholders, are generally all seen as essential to a successful program. A well-designed decision process, following the many precepts laid down in the literature concerning openness and access, will fail miserably if other dimensions are weak: for example, if relationships are characterized by domination on the one hand and mistrust on the other; if the substantive issues are understood differently by agency staff and community members; and/or if institutional safeguards are considered inadequate by the participants. It is not enough to get one, two, or three of the facets right if the fourth or fifth is wrong. There is spillover from any one to all the others.”

A good example that was part of the comparative evaluation by Bradbury and colleagues worth the time to investigate is the DOE EM advisory board at Fernald (and the related Health Effects Subcommittee that advised the Centers for Disease Control and Prevention; see Bradbury, J., K. Branch, E. Malone (2003), *An Evaluation of DOE-EM Public Participation Programs*. Pacific Northwest National Lab. (PNNL), Richland, WA and Tuler, S. 2002. *Radiation Risk Perception and Communication: A Case Study of the Fernald Environmental Management Project*. SERI Report 02-005. Greenfield, MA: Social and Environmental Research Institute.). It performed very well because the chairs of the committees and the agencies established the conditions that lead to success. It was not a success because it was a FACA committee, but rather because it was

structured and run in a particular way, had support, and encouraged the members to learn and discuss, thus leading to well-considered and relevant advice.

In the following I highlight some of the conditions that can be used to support CABs to perform well on the principles of an effective public participation process.

Purpose and scope of Decommissioning Community Advisory Boards

Purposes of CABs should be much broader than fostering communication and exchanging information among the licensee, local and state officials, community members, etc. Many of the existing CABs highlight public education and outreach as a purpose. Outreach and education can be a component – and supported – but not the only purposes.

The primary purpose of a CAB should be to develop advice to inform decision making by the multiple parties that have responsibilities to decommission the NPP and mitigate the impacts resulting from the decommissioning.

These include, of course, topics related to spent fuel, public safety, and the removal of plant structures. But there are also other issues that may arise, such as the impacts from non-radiological decommissioning (e.g., truck traffic), preparation of the site to support choices about future reuse of the site, managing the loss of tax revenues, as well as creating a context that (re)establishes confidence in decommissioning processes and actions (i.e., the notions of confidence and trust). Broadly speaking socio-economic impacts include impacts related to the workforce and the local (and regional) communities. Choices about decommissioning create effects that ripple through these domains. Trade-offs are inevitable, and decommissioning decisions and actions should account for them – and the community's perspectives about them.

Ensuring that CABs are able to address the concerns that matter to all parties – the licensee, regulators, local officials, community members, etc. – will go a long way to ensuring that the benefits of public involvement are achieved: better decisions, more legitimacy for those decisions, and capacity building (NAS 2008:76). Better decisions are those that solve problems more effectively. This is achieved in part by expanding the sharing of information, learning, and reviewing of claims and evidence. Legitimacy, often defined in terms of less opposition to decisions, is promoted when people affected by the decision feel they are able to participate meaningfully and that a decision making process is fair. Capacity building refers to the communicative skills and relationships among people that make peaceful collaboration possible. By taking part in participatory processes, people learn important skills on how to work with others, which is essential for controversial and technically complex processes that take place over decades.

To ensure that high quality advice is provided to the multiple parties that have responsibilities to decommission the NPP and mitigate the impacts resulting from the decommissioning CABs should be designed as learning organizations. A primary purpose of the CABs should be to enable its members to learn; the site-specific advisory board at Fernald did an admirable job on this. It is not reasonable to expect that all members involved in a CAB (or interested in decommissioning) will start as experts in relevant topics. The issues are complex. The process will take decades. CABs should be designed so that members can learn together. Then provide informed feedback. There is time to do this and there are examples of this being done.

Membership on Decommissioning Community Advisory Boards

Members of CABs should fully represent the interests and perspectives within a community. Excluding people with certain affiliations or perspectives is counter-productive. However, a CAB is an entity that should be designed to provide advice from the affected *community*. CAB members should not include representatives of the licensee or federal or state regulators. These representatives should participate as *ex officio* members by providing information, sharing expertise, etc., but not be formal, voting members. The CAB is to advise those who make decisions and be a kind of watchdog. Those who get advised should not also be on the committee that advises, as voting members.

The CAB should include local officials or their representatives (from affected communities). However, non-official community representatives must also be members of a CAB. While decisions about land use are traditionally the domain of planners and other local officials, discussions about clean-up and future use of contaminated sites require more than the formal involvement of officials and staff of local, county, and state governments. Preferences of elected officials (and regulators) may conflict with those of their constituents on specific issues such as waste management or facility siting. Officials may be more focused on economic development rather than on conservation of lands, more focused on the short-term rather than the long-term, and more focused on tax revenues rather than community identity. Even though tensions can arise when community members attempt to tread on what local elected officials feel is their turf, as the “real” representatives of the community, CAB membership must include voices from the community at large.

Finally, the impacts from decommissioning are usually not isolated in a single municipality. They cross political (town, county) boundaries. Therefore it is important that representatives from all affected communities be included in CAB membership.

Operation and Administration of Decommissioning Community Advisory Boards

Following previous comments, CABs should be established by the relevant state, not the licensee. The scope of CAB concerns will likely extend beyond what NRC is legally responsible to address or what a licensee may be legally obligated to address, such as future use of a site, management of truck traffic, etc. Furthermore, licensees have a substantial conflict of interest because of their financial liabilities and funding sources.

Licensees should be obligated to provide information to the CAB, meeting the principle of open, full, and timely disclosure of information. Claims or proprietary information should be carefully reviewed by an independent entity (e.g., state agency).

CABs should be facilitated by independent parties that are trusted by CAB members and the community, local officials, etc.

CAB members should have power to set agendas, seek information, and request, define, and manage independent assessments. Not the licensee or regulator.

CABs should have the capacity to contract for and use independent assessments. In a context of social distrust, the current state of affairs in virtually all communities facing decommissioning of nuclear power plants, full disclosure of all information by itself will not guarantee confidence in decommissioning plans and the capacity of regulators to ensure safety, etc. Instead, the ability to access or conduct independent assessments and evaluations in ways that ensure accountability and reliability are likely to have more value (there is a literature on this). Independent review and monitoring can take pressure off the need for trust in the agency and facility developers. Jenkins-Smith and Silva (Jenkins-Smith, H. and Silva, C. 1998. The role of risk perception and technical information in scientific debates over nuclear waste storage, *Reliability Engineering and System*

Safety 59:107-122, pg. 120) have concluded that “members of the public place substantial trust in *independent* scientists, but relatively little weight on the statements of those who they believe to be scientific guns for hire.” Independent review and monitoring of the process may be able to proceed in a context of social distrust – or, more precisely where there is confidence in the *process* while there is distrust or skepticism in the institutional *actors*. Independent reviews can ensure that parties’ concerns are being addressed and that they accept the validity of assumptions and information (and models) used to inform decisions. Independent reviews can also enhance social learning that will provide a better foundation for social judgments about the trustworthiness of system managers. External review can also push forward analyses and catch errors or weaknesses. Independent reviews should not be limited to government entities (e.g., potential host municipalities). The lack of resources and expertise among non-governmental actors and the general public to independently assess and monitor is a challenge which can affect both the ability to develop good plans and obtain acceptance of them. Providing funding to critics, including community-based organizations and advisory boards, to assess and evaluate program elements can be a means for gaining trust and confidence, especially given the evidence that local leaders and residents may assess possible positive and negative impacts differently. At one time the Department of Energy Environmental Management Program funded a “Community Involvement Fund” administered by an independent non-governmental organization (see <https://nmc.org/programs/education-and-leadership/community-involvement-fund/>). For several years this program funded community groups to promote more informed public involvement in clean-up decision around nuclear weapons facilities; it was effective and could be duplicated.

CABs will require adequate resources to operate. Consistency and reliability of budgets should be ensured. One way to do this is to use funds from the Nuclear Waste Trust Fund – operation of CABs is small change compared to other costs associated with decommissioning.

CABs should have the funds and authority to hire staff (e.g., facilitator) to manage the process, organize meetings, organize informational materials and resources, etc. and to create and maintain institutional memory for such a longterm process.

Build on the best available science.

As part of the process of identifying best practices for establishment and operation of local community advisory boards the NRC should actively and systematically seek advice from those with expertise in designing, running, and evaluating community advisory boards and public involvement. I have already mentioned that the National Academies of Sciences Committee on Public Participation in Environmental Assessment and Decision Making published a report in 2008. Much additional work has been conducted since then. There is also a literature from Europe on stakeholder engagement in decommissioning.

It is not clear at all so far to me whether the NRC staff are digging into this literature or taking advantage of the knowledge and experience of researchers and practitioners in the US. When I attended the public meeting in Plymouth, MA I spoke to a couple of NRC staff there. They were unaware of the studies by the NAS, etc.

Tapping into this knowledge base is critical. It has been very important that the NRC tap into the experiences of local communities at the series of public hearings. However, people’s experiences are usually only of their own sites. They have valid stories and experiences to tell insights and lessons to share. But those are limited – perhaps to a place and perhaps to particular types of

processes or risk management issues. Experts who study public participation can provide another useful perspective. The NRC would do well to tap into both types of knowledge and think about how to merge them to develop best practices for decommissioning CABs.

One way to do this is to host a workshop that brings in scholars and practitioners. I have been to many with this kind of purpose, convened by agencies like the National Marine Fisheries Service and the US GAO.

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**Comparison of DOE and Army Advisory Boards: An Application of a
Conceptual Framework for Evaluating Public Participation and the
Legitimacy of Environmental Risk Decision-Making**

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August, 2005

ABSTRACT

This paper compares the characteristics and performance of citizen advisory boards established by the U.S. Department of Energy's Environmental Restoration and Waste Management Program (DOE/EM) and by the U.S. Department of Defense's Army (DoD/Army) as part of the public participation programs that were undertaken to help the agencies plan and implement the cleanup of their contaminated installations. We first present the Acceptability Diamond, an evaluative framework developed by the authors through extensive fieldwork on public-federal agency interactions. The Acceptability Diamond identifies five objectives of agency-public interactions and public participation programs. In the early 1990's, both DOE and DoD participated in the Federal Facilities Environmental Restoration Dialogue Committee (known as the FFER Dialogue Committee) and were influenced by the Committee's recommendations on public participation. However, the Site Specific Advisory Boards (SSABs) subsequently established by DOE/EM and the Restoration Advisory Boards (RABs) subsequently established by DoD and the Army were governed by significantly different policies and management. We describe some of these key differences and compare the performance of the SSABs and RABs on the dimensions of the Acceptability Diamond. The paper draws on a series of research studies conducted by the authors on the DOE/EM public participation program from its inception in the early 1990's through its transition to accelerated cleanup in 2002 and also on a recently completed study of seven Army RABs.

Comparison of DOE and Army Advisory Boards: An Application of a Conceptual Framework for Evaluating Public Participation and the Legitimacy of Environmental Risk Decision-Making

1. Introduction

This paper compares the characteristics and performance of citizen advisory boards established by the U.S. Department of Energy's Environmental Restoration and Waste Management Program (DOE/EM) and by the U.S. Department of Defense's Army (DoD/Army) as part of the public participation programs that were undertaken to help the agencies plan and implement the cleanup of their contaminated installations. We first present the Acceptability Diamond, an evaluative framework developed by the authors through extensive fieldwork on public-federal agency interactions and subsequently compare the performance of the agencies with respect to the Diamond. The Acceptability Diamond identifies five objectives of agency-public interactions and public participation programs.

In the early 1990's, both DOE and DoD participated in the Federal Facilities Environmental Restoration Dialogue Committee (known as the FFER Dialogue Committee) and were influenced by the Committee's recommendations on public participation. However, the Site Specific Advisory Boards (SSABs) subsequently established by DOE/EM and the Restoration Advisory Boards (RABs) subsequently established by DoD and the Army were governed by significantly different policies and management. We describe some of these key differences and their consequences for the structure and operation of the advisory boards. We then compare the performance of the SSABs and RABs on the dimensions of the Acceptability Diamond and discuss our observations about how the policy, managerial, structural and operational differences between the agencies affected the boards' performance. The paper draws on a series of research studies conducted by the authors on the DOE/EM public participation program from its inception in the early 1990's through its transition to accelerated cleanup in 2002 and also on a recently completed study of seven Army RABs.

2. The Acceptability Diamond: Five Dimensions of Agency-Public Interaction Critical for Legitimacy and Acceptability

The Acceptability Diamond emerged from our work on social impact assessment and public participation in communities engaged in long-term, large-scale interactions with federal agencies, which involved a series of decisions. Frequently, also, the programs involved the characterization and cleanup of hazardous materials. Agency commitment to, and performance on, five dimensions of agency-public interaction – demonstrated through policies, funding, and day-to-day behavior – were identified as key to an agency's ability to

achieve community and public acceptance of their plans, decisions, and program (Bradbury et. al. 1994). Figure 1 illustrates these five dimensions.

The research leading to the development of the Acceptability Diamond indicated that neither individual decision processes nor the standard risk framework provided an adequate approach to public acceptability. Rather, as shown by the Acceptability Diamond, the decision process is set firmly in its place as only one (although important) dimension of agency-public interactions and public participation programs that may have many different goals and types of activities. Similarly, the standard risk framework becomes one of many frameworks that people bring to the interactions in a public participation program and to their assessment of the acceptability of a particular activity or program (Bradbury 1998, 1989). The Acceptability Diamond underscores

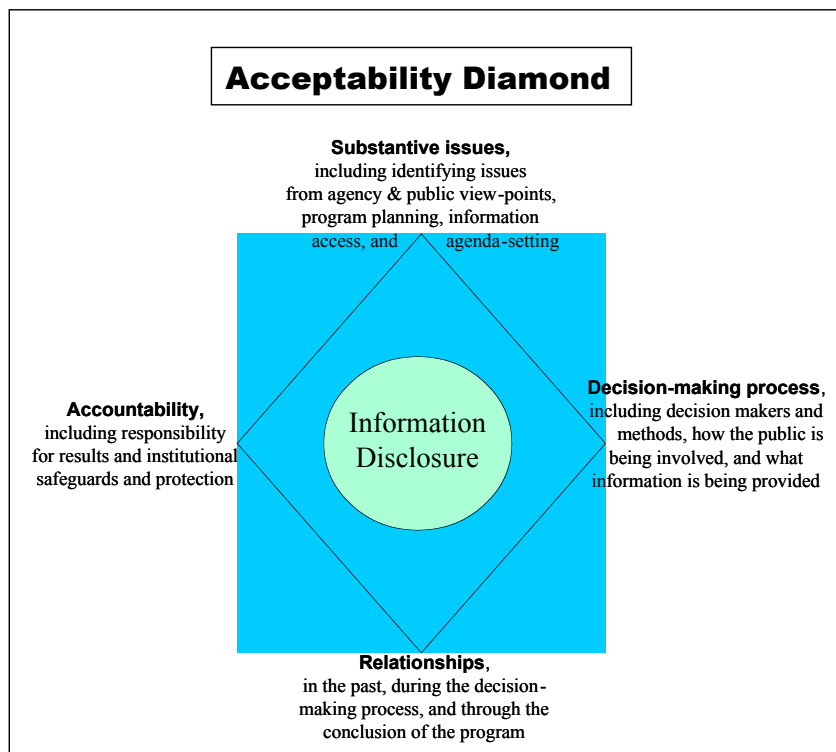


Figure 1. The Acceptability Diamond

the community context in which government agency programs operate and the need for the agency to reflect understanding and consideration of community interests, as well as its mission.

An important feature of the Acceptability Diamond is its indivisibility. That is, people experience their interaction with an agency (or company) and with public participation programs as all-of-a-piece, not as separate pieces. The five dimensions are closely interrelated, and though ranked differently in primacy by different stakeholders, are generally all seen as essential to a successful program. A well-designed decision process, following the many precepts laid down in the literature concerning openness and access, will fail miserably if other dimensions are weak: for example, if relationships are characterized by domination on the one hand and mistrust on the other; if the substantive issues are understood differently by agency staff and community members; and/or if institutional safeguards are considered inadequate by the participants. It is not enough to get one, two, or three of the facets right if the fourth or fifth is wrong. There is spillover from any one to all the others. Public participants “relate simultaneously to something in the objective, the social, and the subjective worlds, even when they *thematically stress only one* of the three components in their utterance” (Habermas 1987[1981]:120).

Open Disclosure of Information

Open disclosure of information is a necessary, though not sufficient, component of an agency's demonstration of commitment to agency-public interactions. Timely disclosure of pertinent information underlies each dimension of the Acceptability Diamond. Without open information, stakeholders are unable to identify and frame the issues; identify their interests, assess the validity of evidence, judge the appropriateness of plans, or provide useful input to decisions; hold a credible and respected position in the interaction and believe that their contributions are respected and valued; or develop a basis for accountability. Because of the fundamental relationship between open information disclosure and the other four dimensions of the Acceptability Diamond, any indication that an agency is not open in providing information, is imposing new restrictions on the provision of information – or is intentionally refusing to release information that has been routinely provided in the past – affects stakeholders' assessment of agency commitment to the interaction and the integrity of the process. Because open disclosure has both substantive and symbolic significance and is so critical to agency-public interactions, it is typically covered by both policy and regulations. It is also often the day-to-day behavior that creates the most obvious tension between an agency and its stakeholders.

Identifying, Acknowledging, and Addressing Substantive Issues

Framing and prioritizing the issues to be addressed and decisions to be made have significant consequences for both site management and the affected communities. The important issues may differ from the agency, regulator, and public viewpoints. With careful attention to the forum and schedule of interaction, issues important to the community can be acknowledged and addressed by the agency; advocates for community interests can be heard and community interests protected; and the substantive program issues and impacts can be identified and examined in a way that identifies and takes into consideration community interests as well as agency mission. An effective process enables the interested public to understand how the community and different public groups will be affected by the proposed plans; how the various technologies were selected, schedules established, and programs designed. Framing and prioritizing activities are a key function of the scoping and public involvement requirements of the National Environmental Policy Act (NEPA). Getting the right issues on the agenda for decision making and for public participation – and framing them in ways that reflect the public's interests – are therefore fundamental to agency-public interactions and to effective public participation. A key function of public participation programs is to ensure that stakeholders have the information and forums they need to identify and act effectively to understand and protect community interests.

Establishing a Clear, Fair, and Open Decision-making Process

An important challenge for both program managers and community residents is to understand the decision-making process of the agency: What are the decisions that are being considered? Who has the responsibility and authority to make which decisions? What decision method is being used? What information is being used as the basis for a decision? Does the public have a genuine opportunity for involvement and to influence the decision? Stakeholders care about the transparency, quality, and accessibility of an

agency's decision-making process when they perceive that their well-being will be affected by those decisions. An important function of agency-public interactions and public participation programs is to improve the clarity and quality of the decision-making process. This includes ensuring that all interested stakeholders are aware of the decisions being considered and know who is responsible for what aspects of the decision-making process. It requires ensuring that stakeholders have access to the information they need to determine their interests in the process and develop opinions about alternatives, as well as to have the ability to influence the process by making their interests, preferences, and arguments known to the analysts and decision makers before decisions are made.

Building Relationships that Convey Honesty, Respect, and Consideration of Others' Interests

In processes that involve people, relationships always matter: people have both needs and expectations from relationships, no matter how personal or impersonal they are. An agency's presence in a community inevitably leads to the creation of agency-public relationships. An important goal of agency-public interactions and public participation programs is to build positive relationships that support the development of mutual respect and improved communication based on honesty and an effort to understand and take into consideration one-another's interests and viewpoints. Agency-public interactions and public participation programs seek to provide a forum in which people get to know one-another and feel they are treated with recognition and respect. In addition to the building of relationships through face-to-face interaction, relationships are also built through day-to-day behavior that demonstrates awareness and consideration of one-another's rights and interests. Has the agency demonstrated in previous actions that the well-being of the community is a factor in its decisions and that it will be a factor influencing future decisions? Responsiveness and openness in providing information are important contributors to good relationships. Such relationships give each party, including the public, "standing," i.e., members of the public and representatives of the agency are affirmed as individuals and treated with respect. With such standing, people expect that all participants will adhere to certain norms that are assumed to be valid, such as honesty and openness.

Providing Mechanisms to Assure Accountability

Our research has found that community residents are generally sensitive to disparities in power and resources between the community and the federal agency, the federal agency and the regulators, and the agency and the individual or social group and hence to the existence and effectiveness of mechanisms to protect the community and assure accountability once agency decisions are made. Federal sovereignty and agency dependence upon elections and the annual funding cycle to maintain the policies and funding necessary to carry out decisions and fulfill commitments add to this sensitivity. Agency-public interactions and public participation programs are generally perceived by both agency representatives and the public to provide a measure of accountability by providing the information needed to monitor performance and a forum for bringing issues to the attention of the agency, regulators, and the public. When regulators of the agency are included in the interaction process, the sense of accountability generally increases.

3. DOE/EM and DoD/Army Public Participation Programs: Advisory Boards with a Similar Origin but Different Policies and Institutional Structures

3.1 Similar Origin – The Federal Facilities Environmental Restoration Dialogue Committee

Both the SSAB and RAB programs grew out of a national interest in public participation and the results of the Federal Facilities Environmental Restoration Dialogue Committee (known as the FFER Dialogue Committee), which was convened in the early 1990's. The committee, which developed from an informal dialogue among governmental and stakeholder representatives, including the DOE and the DoD, was chartered by the Environmental Protection Agency (EPA) to develop consensus policy recommendations for improving environmental restoration at federal facilities. Committee members recommended establishment of citizens' advisory boards as a way of involving stakeholders more directly in agency cleanup decisions. They viewed such boards as a means of providing a consistent opportunity for involvement; regular, early, and effective participation in federal cleanup programs; and consolidation of the many public involvement initiatives in addressing cleanup.¹

3.2 Different Policies and Management Decisions

Both DOE and DoD adopted the committee's recommendations to establish citizen advisory boards. However, the two agencies and the advisory boards we studied differed in a variety of ways that affected their ability to demonstrate commitment and achieve performance on the five dimensions of the Acceptability Diamond. Our research indicates that the following agency-driven differences were particularly important:

- ◆ The clarity and specificity of the agency's policy commitment to public participation
- ◆ The institutional structure and standing of the advisory boards
- ◆ The resources, training, and staff allocated to the public participation and advisory board process
- ◆ The composition of the advisory boards, the membership selection process, and the frequency and intensity of advisory board activities

Although contextual factors such as the centrality of the cleanup mission to the agency, the installation, and the community; the number of installations (and advisory boards) the agency was managing; historical installation-community dynamics; and the institutional novelty and complexity of the cleanup process influenced these policy and management decisions, we leave detailed analysis of the nature of these interactions to another paper.

The Clarity and Specificity of the Agency's Policy Commitment to Public Participation

Following their participation in the FFER Dialogue Committee, both DOE and DoD established a public participation policy and policy guidance to the installations concerning

¹ The Keystone Center. February 1993. *Interim Report of the Federal Facilities Environmental Restoration Dialogue Committee*; The Keystone Center. April 1996. *Final Report of the Federal Facilities Environmental Restoration Dialogue Committee*;

the establishment and operation of the advisory boards. However, several aspects of the policies and the manner in which they were communicated to the installations differed considerably between the two agencies.

SSABs constituted one component of a broader DOE public participation program, which was a central component of its cleanup program. DOE/EM policy guidance provided a comprehensive overview of the Department's philosophy and approach to public participation. In particular, the DOE/EM policy:

- ◆ Defined and distinguished public participation from public information
- ◆ Explicitly enumerated the objectives of EM's public participation, and
- ◆ Made clear its commitment to "meaningful public participation that provides the "opportunity to participate in the EM decision-making process for program planning, design, and implementation."

In contrast, RABs were frequently the only mechanism (apart from legally-mandated information repositories) for direct interaction between management and the public and were not a central part of DoD's approach to cleanup. Of critical importance was that, in both in its initial and revised guidance,² the Army (consistent with DoD,³) was more focused on the logistics of implementation. The primary topics included in the guidance provided specific rules for establishing, operating, adjourning a RAB and for reporting mechanisms. The term *participation* was not defined; nor was explicit reference made to public participation in the decision-making process. For some RABs, the Army's lack of clarity about the intended extent of participation was accompanied by confusion about goals and disillusionment about the Army's intentions.

Institutional Structure and Standing of the Advisory Boards

DOE and DoD decisions concerning the institutional structure and standing of the advisory boards they created as a result of the Committee recommendations had important implications for the relationships of the boards to agency headquarters, and to the characteristics of the boards. DOE made a decision to establish advisory boards at its major installations, and to form these boards under the Federal Advisory Committee Act (FACA) by establishing an umbrella agreement under which the boards were grouped. The Department of Defense, faced with the establishment of over 300 Restoration Advisory Boards (plus boards for other agency-public interaction issues), made a decision that was binding on all its service agencies not to establish its advisory boards as FACA boards. Establishment as FACA boards afforded the DOE SSABs full authority to provide group advice and written recommendations. In addition, although never explicitly stated in its initial SSAB guidance, the field office managers' list of responsibilities included the statement that they should "encourage the Board to make every attempt to reach consensus."⁴ The DoD RABs, in contrast, were not established under FACA. The Army

² U.S. Army Environmental Center. April 1998. *Restoration Advisory Board and Technical Assistance for Public Participation Guidance*

³ U.S. Department of Defense and U.S. Environmental Protection Agency. 1994. *Restoration Advisory Board Implementation Guidelines*.

⁴ DOE Office of Environmental Management, November 14, 1994. *Site-Specific Advisory Board Guidance, Interim Final*, p.8.

guidance, consistent with that of DoD, accordingly required the RABs to provide advice and recommendations “in their individual capacities rather than by the consensus of the RAB.”⁵

The Resources, Training, and Staff Allocated to the Public Participation and Advisory Board Process

Overall, DOE-EM placed a high priority on its advisory boards, and devoted considerable high-level policy attention to the establishment of the public participation policy and design of the advisory board process. This was less true at DoD. These relative priority ratings had a number of consequences in terms of the resources, training, and staff allocated to the public participation and advisory board processes at each agency.

DOE, for example, allocated more resources to their public participation programs and support of the advisory boards than the Army did. More funding, training and professional contractor support were provided to the boards by DOE than by the Army. Each SSAB was allocated its own budget, which, in combination with the citizen leadership, afforded a greater a degree of independence to the members, as well as the ability to cover the cost of support for the board members. For the RABs, funding was constrained, creating tension between time and resource requirements to support RABs and to carry out the cleanup – a particular problem for sites that were closing. Other resource differences included:

- ◆ Army boards and staff received limited training in public participation whereas DOE developed and implemented an EM-wide training program in public participation for both upper-level and site staff
- ◆ The Army had limited professional support personnel as compared with DOE. Unlike the DOE boards where the use of professional facilitators for both board and subcommittee meetings was the norm, none of the RABs studies had professional facilitators. Few of the RABs had full-time assistance with document copying and distribution, interaction with RAB members, including assistance with scheduling and operating subcommittee meetings and informal discussions and assistance with group relationship building.
- ◆ The RABs had limited opportunities for personal interaction among members from different RABs). In contrast, DOE arranged semi-annual or annual meetings among the SSABs which offered opportunities for both training and “lessons learned.”
- ◆ SSABs constituted one component of a broader DOE public participation program; RABs were frequently the only mechanism (apart from legally-mandated information repositories) for direct interaction. "...achieving dialogue between the installation and affected stakeholders...two-way communication between government decision makers and the community" (DoD/EPA 1994).

The Composition of the Advisory Boards, the Membership Selection Process, and the Frequency and Intensity of Advisory Board Activities

SSABs were typically larger and more complex entities than RABs, and had longer and more frequent meetings, at least at the time of the studies. Two SSABs had a membership of over 30 people, while the RABs had a membership under 20, and often many fewer. All

⁵ U.S. Army Environmental Center. April 1998. *Army Restoration Advisory Board and Technical Assistance for Public Participation Guidance*, p.9.

of the SSABs had active subcommittees that conducted detailed technical review and discussions (usually with the active support and participation of DOE and contractor support staff). In addition, the SSABs frequently had members who were affiliated with organizations interested in or responsible for installation cleanup issues; this was less true of the RABs, whose community members tended to be unaffiliated individuals.

Another important difference involved the role and participation of the installation's federal and state regulators. On the SSABs, both DOE participants and the representatives of federal and state regulators served as ex-officio members – they provided information/presentations and participated actively in discussions, and jointly received advice and recommendations from the board's citizen members. In addition, the Board chair, who often functioned as the executive director, was a citizen member. On the RABs, no differentiation of roles was made – regulators and Army staff participated as “regular” members, since, federal regulations prevented non-FACA boards to provide formal advice and recommendations. Each RABs in our study was headed by Co-Chairs – an Army and a citizen Co-Chair, of which the Army Co-Chair was clearly the lead.

4. Comparison of Agency Performance on the Dimensions of the Acceptability Diamond

The SSAB and RAB studies were designed separately and not as a comparative study of the effect of agency differences in policy, management, structure, and operations on the dimensions of the Acceptability Diamond. Nevertheless, the authors observed distinct differences between the EM and Army performance in relation to the Acceptability Diamond. While the study designs do not permit conclusions about causal linkages, the policy, managerial, structural and operational differences between the agencies appeared to the authors to be contributing factors to differences in performance. In this section, we examine each of the dimensions of the Acceptability Diamond in turn. For each, we first compare the agencies' performance and subsequently discuss our observations concerning contributory factors.

4.1 Open Disclosure of Information

As previously discussed, timely, open disclosure of information plays a central role in public participation and underlies each dimension of the Acceptability Diamond. It is a prerequisite for community members' ability both to understand and confirm the agency's identification of the issues and to understand and identify issues of importance to themselves. It is a precondition for community involvement in, and ability to influence, the decision-making process. It is a key ingredient of respectful and communicative relationships and relationship building, and indicates that the agency is indeed operating in a credible, open, responsive manner. And, finally, it forms the basis for accountability – without accurate information, the public cannot be confident that cleanup operations are actually implemented as planned, that commitments are being kept, and that their concerns are being truly addressed.

The need for open disclosure is reinforced by the legal requirement under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, or Superfund) and the Resource Conservation and Recovery Act (RCRA) for establishment of a publicly available Administrative Record, as well as under the requirements of the National Environmental Policy Act (NEPA) for public access. However, not all information pertaining to cleanup decisions is covered by these legal requirements and agencies therefore retain discretion over what information is made available and when it is disclosed.⁶ Information disclosure may often, therefore, be a basis for tension between an agency and its stakeholders.

The discussion in this section compares the DOE/EM and Army performance with respect to information disclosure in terms of patterns of distribution and use and identifies some of the policy, managerial, structural, and operational differences that appear to have contributed to these different patterns.

4.1.1 Differences in Patterns of Information Distribution and Use

In our research, we observed several differences between DOE and Army information patterns.

DOE generally had multiple channels of information flow. There were often multiple DOE programs and associated public participation programs (including those not sponsored by EM) at any one site. Typically, DOE-wide information channels included a DOE public reading room (or more than one), newsletters, fact sheets or other publications, and a toll-free telephone number, of which EM and SSAB members could take advantage. Most DOE sites also maintained and used an extensive mailing list for distributing information both to advisory board members and to the broader public. In addition, all sites developed EM and SSAB web sites through which SSAB members could access site information, documents, and meeting notices, as well as records of their board meetings and sub-committee meetings. Most, though not all, of the latter web sites were frequently updated, comprehensive, and user-friendly. Often, board members reported that they did not use, or only selectively used the DOE formal information channels, although they regarded them as an important signal of DOE's commitment to open disclosure. Many SSAB members reported that they relied on comprehensive information packets prepared by DOE/EM and its support staff for each board or subcommittee meeting. In addition, many emphasized that they viewed the information as a starting point and used the meetings as the primary

⁶ Stakeholders can challenge an agency's choice to withhold information by requesting information under the Freedom of Information Act (FOIA). The news media, particularly newspapers, have been influential in disclosing information about past or upcoming site activities, sometimes after obtaining information under a FOIA request.

opportunity for soliciting information in a detailed question-and-answer response with the program managers who typically participated in meetings.

An important channel of information for many SSABs was the information exchanged among SSABs from different DOE sites. Initially, DOE/EM had appeared reluctant to encourage cross-SSAB interchange. However, after several years, Headquarters initiated annual (or semiannual) national meetings and training workshops on technical issues of concern (e.g., groundwater contamination and transportation) which were attended by representatives from each SSAB. The meetings provided a valuable opportunity for SSAB members to exchange lessons learned, to develop a broader understanding of participatory processes and to develop personal relationships that could be drawn on for future information exchange and learning.

Perhaps most significantly, with only a few exceptions, access to information was not an issue at most DOE boards. Typically, board members received documents and information at the same time as the regulators. At many boards, also, members were already knowledgeable about cleanup issues because of their affiliation with organizations interested in or responsible for installation cleanup issues. The SSABs' role included review and discussion of technical reports and members received them promptly – indeed, the major focus of DOE boards was on technical documents and proposals and by the late 1990's, most boards expected to be consulted on key issues and comment on reports prior to their public release. It was only after a change in administration and at the time of the last SSAB evaluation conducted in 2002 that this way of doing business began to show signs of change. Significantly, many of those interviewed for the study in 2002 expressed alarm about an EM Headquarters directive which, contrary to previous practice, prohibited sites from releasing information and consulting with stakeholders in developing Performance Management Plans concerning accelerated schedules for cleanup. The alarm expressed by interviewees reflected a concern that this indicated a change in DOE's policy of open access to information.

By comparison, RAB members (with the notable exception of one of the installations studied) had only limited access to information. Perhaps most significantly, RAB members were much more likely than SSAB members to cite access to timely information as problematic. Technical documents were available only in a public library (as opposed to an agency-sponsored reading room, such as at the DOE sites, where specialized assistance could be obtained). RAB community members were not notified of, or provided, technical documents as a matter of course. At one RAB, one document was shared among all members. At some RABs, documents were not provided unless specifically requested. Only two of the RABs included in our study maintained updated web sites that included detailed board minutes and only one had readily available comprehensive information about the installation's cleanup program. Only one consistently maintained and used an extensive mailing list to notify the broader public of meetings and activities and to distribute information about cleanup across the installation.

For the RABs also, less robust information packages were prepared for RAB members than for the DOE SSABs. Unlike the DOE boards, all except one RAB did not get access to information before the general public and at the same time as the regulators. Community members at RABs were less likely to be affiliated with organizations interested in and familiar with cleanup issues. At the same time, fewer installation staff were available to participate in RAB meetings and there were only limited opportunities for personal interaction among RAB members from different installation. Only one cross-RAB meeting was noted by those who were interviewed during the RAB study. The primary mechanism for information exchange about activities beyond their own RAB was obtained via the listserv operated by the Center for Public Environmental Oversight.

4.1.2 Factors Contributing to Agency Differences in Information Disclosure

We identified several factors which, either singly or in combination, appeared to contribute to the differences in performance between DOE and the Army.

Perhaps the most significant contributing factor to the SSABs' superior performance in terms of openness, was that DOE's agency-wide open policy, coincided with the establishment of a comprehensive EM public participation program that included the SSABs. The agency's commitment to openness was a very visible and public change, as reflected in the public announcement by Secretary O'Leary, soon after her appointment in 1993, that she had ordered the declassification of many pages of previously inaccessible nuclear information.

EM's commitment to public participation was similarly very public. The decision to establish the SSABs was only one component of a broader commitment to public participation in cleanup decisions which, as described in the previous section, was supported by a written EM policy that emphasized a broad interpretation and clear commitment to "meaningful" participation by the public. Moreover, EM provided a variety of resources to support this open, participatory policy and to encourage a change to a new way of doing business. Most important, from the perspective of information provision, was the expectation that the SSABs would receive and focus on review and discussion of technical documents and the provision of funding to support the associated activities. This included funding for reading rooms; for communications staff to develop detailed information packets for board members and copy and disseminate technical documents; and for managers from the cleanup program to participate actively in board and subcommittee meetings. Finally, the funding combined with the small number of SSABs made it simpler to arrange regular, cross-SSAB meetings for information exchange and learning.

None of these enabling factors were present for the RABs: there was no comparable, agency-wide declaration of an open information policy; at most of the RABs studied, funding was severely constrained and insufficient to support the kind of effort demonstrated by EM; and in cases where sites were closing (four of the sites studied) there were few Army technical staff on site to assist with informing RAB members on a day-by day basis.

4.2 Addressing Substantive Issues

Getting issues on the agenda for decision making (and for public participation) and framing them in ways that reflect the public's interests, are fundamental to effective public participation. The way in which an agency helps the public access and understand pertinent information so that they can identify the issues that are important to their community, get those issues on the decision-making agenda, and ensure that the

community's interests are protected constitutes one of the four dimensions of the Acceptability Diamond.

4.2.1 Differences in Framing, Prioritizing and Addressing Issues

As with information disclosure, the authors observed different levels of performance between DOE/EM and the Army.

In its policy and stated intent, DOE-EM strongly supported the value of public participation in the framing and prioritizing of issues. The first two bullets listed under the agency's definition of public participation cited 1) "Identifying public concerns and issues" and 2) "Providing information and opportunities for the public to assist DOE in identifying EM-related issues and problems and in formulating and evaluating alternatives." In addition, the first listed objective of public participation is to "Solicit the public's help in identifying EM-related problems and issues."⁷ Actual performance varied among the boards—although in almost all cases was superior to that of the RABs.

The DOE/EM policy of open disclosure of information reinforced the policy of engaging the public in the framing and prioritizing of issues since, in general, SSAB members were able to access needed information and have opportunities to closely question management. In addition, establishment of the SSABs as FACA boards, combined with an emphasis on the value of consensus reinforced DOE-EM's wish to solicit the public's help in identifying and addressing their issues. An issue at a number of DOE sites, however, was the exclusion of salient community issues from the agenda. At sites where remediation was not the sole DOE mission, issues of broader national scope (e.g., weapons production) that were beyond EM's scope of authority made it difficult for the SSAB to get the public's issues on the agenda (examples of such sites are Sandia, Los Alamos National Laboratory, Paducah and Pantex). However, where sites were closing and EM had management control at the site, there were fewer battles over the board's scope (e.g. Hanford, Rocky Flats, and Fernald) and a much increased ability by the public to get their issues on the agenda. In addition, the management at some sites such as Idaho and Savannah River recognized the value of public support in their ability to achieve their mission and attempted to address a broad range of community issues.

With one exception, all of the RABs studied demonstrated only very limited success in framing and getting the community's interests on the agenda. RAB members appeared to accede to a more limited sense of power than SSAB members in this regard. In addition, at almost all RAB installations, issues of scope arose that were frequently interpreted as inviolable. Although the RABs were created to focus on the restoration cleanup program, the Army developed multiple programs and decision-making processes to address the complex requirements of base cleanup, re-use, and operation. These different mandates and funding sources resulted in a distinction between in-scope RAB activities (i.e., related to the Installation Restoration Program) and activities that were deemed to be out of scope because they derive from other DoD programs and funding sources. In some cases, the distinctions applied to different cleanup activities according to the DoD program or "color of money;" in other instances, scope constraints arose from the separation of cleanup decisions from decisions about the transfer of land or from cleanup associated with on-going installation activities. This separation made it difficult for the Government Co-Chairs and the community members to address the full scope of cleanup issues they perceived as affecting their community and limited their ability to address community concerns.

⁷ DOE-EM Public Participation Policy, September 17, 1998.

4.2.2 Factors Contributing to Agency Differences in Addressing Substantive Issues

Several factors identified in Section 3 appeared to contribute to a greater sense of power and ability to get the community's interests on the agenda among SSABs than among RABs.

First, was the more specific identification by DOE of the role of the public in identifying EM-related issues and problems and in formulating and evaluating alternatives that was written into DOE-EM policy. Through the customized training in public participation that was provided to its manager and by their close attention to the site's SSAB activities, EM Headquarters management conveyed their strong commitment to public participation in general and a continuing, strong endorsement of the purpose of the SSABs. It is clear from a reading of the EM Public Participation Policy that the agency understood the meaning and implications of "meaningful" public participation and was actively seeking public advice (see also the discussion related to FACA in Section 4.3). By contrast, there was only limited conveyance of this message to RABs.

Second, the DOE boards were chartered as FACA boards, whereas the RABs were not. This distinction appeared to carry critical implications for the ability of an advisory board to frame, identify and get the community's interests addressed.

Specifically:

- ◆ The requirement for RAB members to speak as individuals reduces the impetus for the governmental members to encourage, and community members to work on resolving their differences and seeking agreement among themselves about community priorities. In our opinion, this was arguably the most negative impact of the RAB members being required to speak as individuals. In effect, it hampered the RABs from realizing their full potential value to the Army – specifically, of being able, and encouraged, to present recommendations that resulted from the reasoned and informed opinions of the entire group and reflected their assessment of community priorities.
- ◆ One constructive function of advisory boards for sponsoring agencies is their ability to serve as a link to the issues and perspectives of the broader community. However, this cannot occur at RABs when members may represent only themselves and speak only as individuals.

Finally, issues of scope which were more complex and legally-based at Army installations, combined with the absence of alternative public participation pathways to raise cleanup issues frequently frustrated efforts by RAB members to enable community members to get issues on agenda. In addition, the difficulty of obtaining adequate information about Army plans, the infrequency of meetings, and much less extensive use of subcommittees made it difficult for RABs to contribute to the framing and issue resolution process. At many of the RABS studied, therefore, members appeared to have concluded that they had to accede to DOD's definition of scope and power.

4.3 The Role of the Public in Decision-making

Understanding and being able to influence an agency's decision making is central to the public participation process. Did SSAB and RAB members understand what the decision-making process was – what decisions were being made, by whom, and how they could influence that process?

4.3.1 Differences in Establishing a Clear and Open Decision-making Process

At almost all DOE/EM and Army sites, board members who were interviewed commented on the difficulty of understanding the decision-making process. However, there were several differences between the agencies both in terms of the clarity of their intent and their performance in allowing and encouraging public influence.

EM policy related to the public's role in decision making was very clear, specifically stating that "The public will have the opportunity to participate in the EM decision-making process for program planning, design and implementation."⁸ As with substantive issues, performance varied both among the boards and also over time—although the intent was generally achieved at most SSABs, especially during the early and middle years of their existence.

SSAB members with whom we spoke generally agreed that DOE/EM's performance in explaining the decision-making process had improved over time and attributed this to increased agency staff efforts and also to the use of the public participation process to question DOE persistently. There was general agreement also among members concerning the value and influence of consensus recommendations from a body specifically established to provide input from a diversity of public views. They reported that the SSABs' formal, written recommendations, which were authorized under FACA, were influential because EM was required to acknowledge them, take them into account and provide a response to show how they had been implemented—and if not, why not.

In addition to the value of formal recommendations, many pointed to the importance of informal communication and access to the decision makers at both the site and Headquarters levels and the associated value of the SSABs in enabling this type of communication. They also emphasized the value of the SSABs in providing opportunities for early input—such input enabled them to help shape the framing of the issues as well as being a mechanism for obtaining feedback. Over time, most DOE/EM boards reported that they had succeeded in gaining access to information at an early stage; were provided "heads-up" alerts about upcoming issues, decisions and schedules; and believed that they were able to influence site decisions.

⁸ DOE-EM Public Participation Policy, September 17, 1998.

Many SSAB members nevertheless expressed concern that decisions made at the lower, site level could be overturned by Headquarters. Of particular concern at the time of the last study, conducted in 2002, was that apparent progress in understanding and being able to contribute to decisions was being eroded by decreased site authority and increased centralization at Headquarters.

In contrast to DOE, the Army's policy on the role of the public in decision making was never clearly specified nor conveyed to the installation level. Members at all except one RAB unanimously agreed that their impact on the Army's environmental decision making was very limited and many believed that their input was not sought or wanted. Since the RABs were not chartered under FACA, they were not authorized to provide group advice and recommendations—comments and suggestions at most RABs were made informally and individually, although at some RABs, there was an emphasis on taking minutes “for the record.”

At most of the RABs studied, information flow tended to be uni-directional, with presentations by the Army and questions from community members. Consultation, early access to information and “heads-up” alerts were the norm at only one of the RABs studied. Most agreed that decisions were made by Headquarters staff who were unknown. In addition, the inability to influence decisions or decision makers was exacerbated at some RABs by the lack of on-site decision makers and the complexity and opaque nature of the various programs closely related to cleanup. For example, the procedures for early transfer of still-contaminated property (which was not within the RABs' scope though frequently of concern to the community) were extremely complex and poorly understood, even by agency staff.

4.3.2 Factors Contributing to Differences in the Role of the Public in Decision Making

Primary factors that appeared to be of particular importance in providing a role for the SSABs and a minimal role for the RABs in agency decision making were the clarity of policy, the commitment of the agency in following through on that policy, and whether or not the boards were established as FACA boards. Other factors also played a role.

First, as noted above, DOE was very clear in its policy to involve the public, while the Army was not. In addition, DOE followed through on its commitment to public participation and, perhaps because of the much fewer number of boards, was able to provide for Headquarters visits and frequent interaction with the site managers who were responsible for implementing policy. This close personal attention, which did not occur at the RABs, signaled a high agency priority on providing a role for the public. Associated with the close personal attention was the emphasis placed by EM/Headquarters on recruiting members who could represent the various community interests, including persons who were influential and could add to the credibility and ability of the board to influence decisions.

Second, the lack of authority provided under FACA restricted RAB members from providing group advice and written recommendations. It resulted in the RAB members providing their viewpoints and recommendations indirectly in the form of questions or statements of individuals rather than as specific, formal written recommendations or statements of the RAB. Significantly, this contributed to the lack of a formal record highlighting and tracking the advice and input of the RAB members concerning the issues of importance to them and relating it to the Army's considered response.

Other factors also contributed to a limited role for the RABs. These included the disconnect of Army decision makers from the local installation and the absence of agency staff and upper-level management in board meetings. The overwhelming majority of the DOE/EM SSAB sites included upper-level management who, at least during the agency's relatively decentralized structure of the 1990's, were delegated considerable responsibility for decision making. Most SSAB meetings included senior EM staff and the site (or Field Office) manager attended many meetings. The RABs which were included in the study typically were led by the head of the Environmental Restoration Division (who acted as Co-Chair) who held less decision-making authority. Senior installation staff and the Garrison Commander were not present at any of the observed RAB meetings. In addition, the more infrequent and shorter RAB meetings and the reduced number of subcommittees made it difficult for members to keep abreast of events and provide input in time to be relevant for decisions.

4.4 Building Relationships of Mutual Recognition and Respect

Another important function of the public participation program is to create the public space where meaningful communication can take place and relationships of mutual recognition and respect can develop. This requires effort in establishing the forum, skill in managing small group interpersonal relationships, and a commitment by each party to listen and to talk. DOE and DoD each had established relationships with nearby communities many years before EM or the Army Restoration program initiated its public participation programs and were necessarily dealing with the legacy of their past relationships. Both agencies created their advisory boards, in part to create a forum for building honest, respectful relationships that could, where necessary, overcome conflicts of the past.

4.4.1 Overcoming Past Hostilities and Conflicts and Creating Relationships of Mutual Respect and Recognition

DOE-EM recognized the need to take the initiative in improving their community relationships, to work hard to overcome historical hostilities and conflict, and to create a forum in which the advisory board participants could listen and talk constructively. This was particularly true at the DOE installations with a continuing production mission (Los Alamos, Savannah River, and Oak Ridge). At many of the DOE installations studied, interviews with participants in the advisory board process indicated that the boards were quite successful in creating this forum and building relationships of mutual respect and recognition. This was less true of the Army RABs.

DOE, more than DoD, made a concerted effort to identify and engage the stakeholders in site cleanup, and to undertake a visible and intentional process to recruit and select board members. In addition, DOE undertook a specific and sustained effort to ensure that its stakeholders, and particularly the SSAB members, had personal familiarity with and access to installation and headquarters decision makers, and that these decision makers participated in board meetings and/or discussions with board representatives. However, successful, mutually respectful relationships were not achieved at all DOE-EM installations, for example, at Pantex, Sandia, Los Alamos, and Monticello lack of agreement among community members and between community members, DOE, and the regulators about goals and approach kept the boards from moving beyond procedural discussions to substantive issues. At these SSABs, the participants generally did not gain or evidence recognition of the legitimacy of other's viewpoints and priorities. It is notable that many of these boards disbanded without really achieving their goals. At many of the SSABs that did succeed in achieving a shared sense of purpose, focused attention and resources were directed to the management of interpersonal interactions, frequently through the use of trained facilitators.

In general, the Army installations in our study had less intense and contentious relationships with their neighboring communities when they initiated their advisory boards, although there were notable tensions in the Army's relationship with community groups at several installations. We found that the intensity of interaction on the Army RABs was lower than on most DOE SSABs, with the exception of the Aberdeen RAB, which met frequently and worked especially hard. However, we also found that members of some RABs viewed the building of positive relationships and interactions with other board members as the most beneficial and important outcome of their participation on the board.

An important consequence of these differences in interaction was that SSAB members were more likely than RAB members to report that they knew one another well, and that they had gained an in-depth understanding of one-another's viewpoints, interests, and priorities. We found that a number of RABs were not seen as forums for discussion and exchange of viewpoints and priorities. Consequently, we found that the SSABs were more frequently successful than the RABs in overcoming past hostilities and suspicion and creating a base of personal relationships that supported constructive dialog and exchange.

4.4.2 Factors Contributing to Agency Differences in Overcoming Past Hostilities and Conflict and Creating a Forum for Constructive Exchange

Several factors contributed to the greater ability of the SSABs than the RABs to build substantive and constructive relationships. As noted previously, the clarity and specificity of the DOE policy and guidance helped installations understand the purpose and priority placed on public participation and the advisory boards. In addition, DOE undertook an agency-wide training program for both headquarters and installation managers on public participation, and provided substantial administrative support for the boards, including facilitators and professional participation specialists. In general, DoD headquarters and installations did not provide either training, guidance, or professional staff support. Although DoD has typically placed a higher priority on maintaining positive community relationships than DOE has – at least pre-SSAB establishment, DoD maintained a practice of keeping its public relations, re-use, and remediation activities separate. This prevented the installations from gaining the synergy and interrelationships that DOE gained by linking its various public participation.

4.5 Providing Mechanisms to Assure Accountability

Accountability is a complex concept, implying a system of agreed-upon responsibilities and commitments, transparency, and enforcement. A perceived lack of accountability can lead to distrust, opposition, and/or the imposition of overly conservative requirements. Public participation helps clarify and build these commitments, and provides the communication channels for stakeholders to verify that established mechanisms for providing accountability are being enforced.

4.5.1 Differences in Clarity, Expectations, and Enforcement of Accountability

The issue of accountability was salient to members of both the SSABs and the RABs, and most respondents reported that the advisory boards were having a positive impact on

agency accountability. However, we found that RAB members had lower expectations for the RABs direct impact on agency accountability than SSAB members had for the SSABs. To a significant extent, respondents in both the SSAB and RAB studies linked accountability with transparency – the ability of community members to find out what the agency was doing and to match its behavior to its statements and assertions. Since RAB members did not make formal recommendations to the Army or receive formal responses to the suggestions they did make, the RABs did not have a clear paper trail to which they could hold the Army accountable. The SSABs, on the other hand, did have the advantage of such formal documentation. Consequently, the SSABs were more effective in achieving accountability through direct action of the board.

However, both SSAB and RAB members emphasized the important role of the federal and state regulators. Several respondents noted that the only way to hold the agency accountable was through the courts – and that the regulators have the most direct line to the courts. We found that, overall, the RABs had established a more substantive and constructive relationship with the regulators than the SSABs. The regulators tended to be more fully integrated into, and provided more direct advice to the RABs than the SSABs, and many RAB members noted that the regular attendance of the regulators contributed significantly to their ability to hold the Army accountable.

4.5.2 Factors Affecting Differences in Accountability

The central role played by the regulators in setting up and participating in the RABs clearly affected RAB members' assessment of the RABs ability to hold the Army accountable. This greater participation by the regulators was somewhat offset by the inability of the RABs to provide formal advice to the Army, as a consequence of their non-FACA status. The SSAB members tended to attribute their ability to enhance accountability not to their relationship with agency regulators, but with the DOE decision makers themselves, and with congressional representatives or even DOE headquarters decision makers. In addition, as mentioned previously,

the SSABs typically had close ties to activist stakeholders in the community, and had the benefit of multiple communication and information channels, unlike the RABs, which typically had weaker and fewer communication links into agency decisions and performance.

5. Summary

As discussed in this paper, our separate studies of the SSABs and RABs indicated that DOE/EM (especially during the early and middle stages of the SSABs' existence) achieved a superior level of performance than the DoD/Army with respect to the dimensions of the Acceptability Diamond. Our observations suggested that differences in policy, managerial and structure contributed to these differences in performance.

The clarity and commitment of DOE/EM to public participation in both policy and implementation was noteworthy. In addition, establishing the SSABs under FACA provided authority to the boards to provide written advice and recommendations that encouraged members to forge agreement among diverse interests of community on issues and priorities. And finally, funding and staff support enhanced their ability to achieve their objectives.

However, it should be noted that, at the time of the last evaluation study of the SSABs in 2002, EM's program's context was very different from the early and mid-1990's. The sense of embarking on a new mission was being replaced by an emphasis on completion, closure, and long-term stewardship. Cleanup was well underway at most sites; some were nearing closure. At these sites, stewardship issues were becoming increasingly important while identifying and reaching agreement on cleanup alternatives was becoming less important. Many sites were anticipating a significantly reduced role for DOE/EM, both at their site and within DOE. Further, although there was no formal change in public participation policy, many study respondents perceived that DOE/EM Headquarters was sending a variety of signals indicating that they were placing a lower priority on consultation with community stakeholders.