

**Summary Remarks by John Gervers, Consultant,
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Introduction

I am John Gervers, representing Clark County, Nevada. I have been involved with the search for a high-level waste repository for the past thirty years, representing state, tribal or local affected governments. I would like to share some of the lessons we have learned about community relations and public acceptance of a repository

Community Involvement

While good science and technical proficiency are essential to the successful development of a nuclear waste disposal system, public confidence in the safety of the facility and the competence of the managing agency is just as necessary. Technical proficiency cannot substitute for a lack of public confidence. Both are essential components of a nuclear waste disposal system, and require the attention of policy-makers, planners and managers of such systems. The key lesson to be learned from the Nevada experience is that public acceptance is an

essential ingredient for success of any nuclear waste storage or disposal system.

Too often scientists and engineers believe that the only real challenge of a disposal system is to meet an acceptable standard of safety through a competent assessment of the technical capabilities of a site. They often overlook, or dismiss as irrational, the concerns of people who live and work near the site and along the transportation routes, and simply attribute objections to a lack of knowledge or understanding of a complex technical process. Citizens, however, and the local and state governments that represent them, are legitimately concerned with the ability of managers to protect public health and safety and address social and economic impacts. Their responses are quite rational and deserve consideration from managers of nuclear waste disposal systems.

Citizens are not alone in their concerns about radiation risks. Insurance companies consider the risks of radiation releases to be unacceptable and consistently decline to cover nuclear risks. The Federal Government has had to step in with the Price-Anderson Act. The private capital markets are also unwilling to make reactor construction loans without Federal Government guarantees of their investments.

Failure to acknowledge community concerns can lead to political resistance and public demonstrations. In the early 1980s, the Second Repository program in particular was beset by protests from people who felt their concerns had been marginalized. To accommodate such concerns, the Nuclear Waste Policy Act authorized the creation of Affected Units of Local Government (AULGs) and empowered them to monitor the siting process, identify potential impacts, comment on siting activities, and conduct public outreach. The involvement of local governments in the repository siting process has enhanced public confidence and has had a dampening effect on public protests aimed at Yucca Mountain.

Political Resistance in Nevada

Nonetheless, the resistance to Yucca Mountain in Nevada has deeper roots than mere lack of representation. There has been bipartisan opposition to the repository from all leading state officials and from over 70 percent of the Nevada population since 1987. This resistance differs markedly from the support shown by Nevadans for the Nevada Test Site and its contribution to national security. Why, then, did Nevadans turn against the repository?

First, in the 1960s, DOE's predecessor, the Atomic Energy Commission, assured Nevadans that fallout from above ground nuclear bomb testing would be merely "inconvenient" and would not endanger health. This proved to be false. Second, the DOE legacy of environmental contamination at defense sites, which is now being cleaned up at enormous expense, has left doubts about the Department's long term management capabilities. Third, DOE changes to the Yucca Mountain siting guidelines to make the guidelines fit the site rather than the site fit the guidelines have undermined confidence in the integrity of the siting process.

Fourth, Nevadans have noted that the economic benefits of nuclear power are largely in the East of the United States, while the costs of accepting long term disposal risks would be exclusively in Nevada. This inequity was reflected in a media cartoon in the late 1980s showing a huge pipeline from the East Coast spilling nuclear waste into Nevada.

Fifth, Clark County considered the economic risks of a repository to be unacceptable to its tourism industry. Las Vegas draws visitors from all over the world, and is very vulnerable to media reports that might undermine visitors' confidence in their safety. After 9/11, the perception of risk was enough to cause

extensive cancellation of vacation plans and business conferences in Las Vegas, resulting in 20,000 layoffs and economic losses in the billions of dollars.

Finally, Nevadans were outraged in 1987 when studies of three potential sites on the basis of comparative scientific merit were abandoned in favor of a political decision to consider only Yucca Mountain. The Nuclear Waste Policy Amendments Act of 1987 became known as the “Screw Nevada bill”, and resulted in a bipartisan alignment of political forces in Nevada to oppose the repository. Nevadans felt betrayed by a flawed and unfair site selection process.

The DOE Response

The DOE response has been to deny or minimize the risks of nuclear waste disposal and to attribute people’s fears to misinformation or ignorance of technical processes. DOE largely adopted an attitude of “We know best because we have the technical expertise”. This attitude was a carryover from the culture of the former Atomic Energy Commission, which valued achievement of the mission over attention to stakeholder concerns about health, safety and the environment. With one significant exception,

during the tenure of Ward Sproat as director of the nuclear waste program from 2006-2008, the Department has consistently withheld support and respect for the oversight activities of state and local governments in Nevada. Nevada's opposition to the repository has too often been seen at DOE as willful obstructionism, with the consequence that few efforts have been made to listen to local concerns or to remediate them.

Among other actions, DOE recommended a zero budget for local government oversight activities, tried unsuccessfully to withhold appropriated funds, required annual work plans and denied approval of activities deemed "inappropriate", initiated audits of expenditures made under previously approved work plans, failed to pass through funds during Continuing Resolutions in Congress, and sought legislation to preempt state and local regulatory authority. Much of this history improved under Ward Sproat's leadership, earning greater respect and cooperation from affected local governments.

The NRC Response

The Nuclear Regulatory Commission has made a concerted effort to distinguish its role from that of DOE. NRC commissioners and staff made visits to

individual counties to explain their function and listen to local concerns. NRC held training sessions to familiarize potential interveners with licensing procedures, and made senior staff accessible to local government delegations. The Construction Authorization Board accepted the vast majority of contentions submitted by state and local government interveners. This generally cooperative stance has contributed to a more productive dialog with affected governments than has characterized relations with DOE.

The Congressional Response

The United States Congress also vacillated in its commitment to “consultation and cooperation” with local communities. The Nuclear Waste Policy Acts of 1982 and 1987 acknowledged the critical role of state and local governments in the siting process, but many subsequent congressional bills sought to preempt or constrain the role of affected governments. Appropriators zero funded the oversight programs in FY1996 and 1997 and created a lengthy list of prohibitions and provisos governing the use of the funds.

Recommendations

We ask the Commission to consider the following recommendations, which we think might enhance the siting process for future nuclear waste systems:

- First, that DOE be replaced by an agency that is not deeply rooted in the values and attitudes of the former Atomic Energy Commission;
- Second, that the mission of the implementing agency be defined in both technical and institutional terms, with equal attention to resolving the scientific and engineering challenges and to addressing public concerns about the proposed facility;
- Third, that safety be the guiding principle of the implementing agency, and that siting guidelines be developed in concert with stakeholders and adhered to by the agency, even to the extent of abandoning a site if it cannot meet those guidelines;
- Fourth, that affected governments be recognized as parties to the siting decision with legitimate interests in the siting process.
- Fifth, that future siting efforts be guided by the principle of risk and reward, with clear benefits

accruing to communities that are prepared to accept the risks of long term storage or disposal.

- Sixth, that adequate funding be consistently provided to affected governments to undertake independent oversight activities on behalf of their citizens, including identification of potential impacts from the facility, review of the implementing agencies' plans and programs, and public outreach to citizens.
- Seventh, that attention be given to the experience of other countries, where initial efforts to impose a site on local communities met resistance and had to be revised to include full engagement with a new set of communities (e.g. Canada, France, Germany, Sweden ,United Kingdom).

Thank you Mr. Chairman, for this opportunity to address the Commission