

LEARNING FROM EXPERIENCE: NEW YORK'S REVISED SITING PROCESS

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ABSTRACT

"LEARNING FROM EXPERIENCE: NEW YORK'S REVISED SITING PROCESS" by Angelo F. Orazio, Chairman of The New York State Low-Level Radioactive Waste Siting Commission, documents the progress the Siting Commission has made since its program was redirected in a 1990 amendment to its original legislation. The Commission's prior process was stopped in 1990 due to citizen opposition. Governor Mario M. Cuomo initiated an amendment to the original legislation in 1990, revising and redirecting the selection process. The Commission is proceeding to implement the requirements of the amendment through work on a number of projects that will lead to identifying a preferred method. The amendment requires that the method be certified by the regulator before restarting the on-site study. In addition, the Commission is investigating the implications of a volunteer community siting process.

INTRODUCTION

In 1990, New York State's process for developing a disposal facility for low-level radioactive waste reached an impasse due to citizen opposition. Consequently, Governor Cuomo initiated legislation which revised the process. The resulting legislation, developed with significant public participation, brought about changes to the Siting Commission's management, operations and public participation program.

The change in the legislation having the highest priority requires selecting a disposal method before further on-site study. Other changes include the addition of two Commission members, one each to represent environmental issues and the social sciences; restructuring the Citizen Advisory Committee by expanding the role of the public and removing all state agency members; providing for an independent technical and scientific evaluation panel to review the Commission's past and future work; and expanding public participation in the decision-making process.

PROGRESS SINCE LEGISLATION

Management and Operations

The Commission staff currently consists of 20 positions. Since it is an independent agency, many of these positions are dedicated to management, communications and support personnel. There are eight technical staff positions, representing the principal disciplines associated with selecting a disposal facility.

The initial Commission program engaged a single contractor to manage the program, perform the technical work, and provide communication and other services. The program has been revised in a number of ways, and divided into several discrete projects. Hands-on project management is now provided by the staff.

Given a small staff size, substantial contractor support is needed if the program is to succeed. Since, in our view, it is unlikely a single contractor could excel in all areas needed by the Commission, a number of firms are now under contract to provide services through task orders. Presently under contract are three engineering firms, each with different strengths; a geology and mining firm; a communications company; two audit firms and a firm specializing in records management. The Commission staff contracts with the appropriate firms through task orders for specific projects.

Public Involvement

Revisions to the state law in 1990 instituted and required increased public review and input into the Siting Commission decision-making process. The law itself mandates certain specific decision points for public involvement, but it is the general feeling of the Commission members that the spirit of the law requires more public involvement than is strictly mandated.

The following procedure tries to fulfill the spirit of the law in what I believe is a reasonable manner. The essence of the procedure is that no important decisions are made by the Commission before the public has an opportunity to comment.

1. The staff develops a recommendation, a proposal for decision, or any other documents which the Commission believes needs public review or input.
2. The staff makes available all necessary documents requiring review and comment to the Citizen Advisory Committee (CAC). Other agencies responsible for reviewing documents at various stages of the process include the Department of Environmental Conservation (DEC), which is the regulator, and the independent technical and scientific evaluation panels. Those documents are available as well to the public.
3. The staff responds to all comments received and presents its report to the Commission.
4. The Commission provides the desired guidance or decision.

Communications Program

The Commission contracted with an experienced communications firm to assist in developing and implementing a communications program. This program includes an integral public involvement element. A major activity is obtaining public participation in the method study. In this phase of its outreach initiatives, the Commission has conducted two focus groups and two round table discussions for the purpose of testing public values in the process of selecting a disposal method.

Reaction to the public involvement phases of the communications program is mixed. The public from the areas where the five potential sites are located appear suspicious of the

Commission commitment to the program, and have exhibited reluctance to participate. Some of the program's supporters, such as generators, have indicated that the program could be expensive and may cause delays. However, the Commission Members support the program.

Early impressions from the round tables and focus groups are encouraging. The participants and audiences were thoughtful and diligent in responding to the various materials the Commission provided them. Their roles were to begin providing public reaction to Commission activities and technical design concepts. Although the evaluations of these outreach initiatives are not yet complete, we are beginning to gain a sense of public values on some aspects of the method selection process. It is important to note that these responses are compatible with the program's objectives. Public attitudes appear to favor multiple barriers, monitoring, retrievability and above-ground disposal structures.

Projects

At the present time the Commission staff manage about 28 projects under eight task orders. The following are among the active projects:

- Finalize the generic site characterization plan;
- Provide support in development and implementation of the Quality Assurance program;
- Develop a records management and document control system;
- Evaluate the impact of waste form and packaging on method and site selection;
- Develop an overall program plan;
- Engage public involvement for the method selection project;
- Provide technical support for public involvement in the method selection project.

The following are projects due to begin imminently:

- Conduct the disposal method study, and
- Develop performance assessment capabilities.

Method Study

By the end of March, the Siting Commission will have developed a plan for conducting the disposal method selection study. The plan also will incorporate public involvement associated with this decision-making process. The method study is the principal project the Commission is undertaking in this phase of its work and will begin immediately following the Commission's acceptance of the method selection plan.

The Commission anticipates submitting a preferred method or methods recommendation to the regulator by the end of the calendar year. Accompanying the recommendation of a preferred disposal method will be the required draft *generic environmental impact statement*.

In-House GIS

A significant project recently completed is the development of an in-house site selection database on a computerized geographical information system (GIS). The GIS contains all of the studies the Siting Commission had collected for its siting work. Through the in-house GIS computer program, the Commission can reconstruct its initial siting work, previously

performed at the contractor's offices, and develop programs to support any future activities. This system is available to the public for their examination.

VOLUNTEER COMMUNITY SITING PROCESS

Initial Steps

In a resolution passed in January 1991, the Commission stated its belief "that imposing a site on an unwilling community has little or no possibility of success." Although the 1990 revisions to state law do not permit further on-site work until a preferred method has been approved by DEC, the Commission has initiated discussions on a volunteer community siting process. At its February monthly meeting, the Commission conducted a round table on this issue.

An important corollary of that discussion is the need to negotiate an adequate mitigation and compensation package with such a community. The 1990 revisions to state law require that the Commission include a mitigation and compensation package in its Draft Environmental Impact Statement that accompanies the certification application for its final selection of combined method and site. The February round table was intended to begin the discussion of how best to accomplish that requirement.

West Valley

The 1986 state law that initiated the low-level radioactive waste siting process in New York excluded the Western New York Nuclear Service Center at West Valley in the Town of Ashford. The exclusion reflected the fact that the Center had been the site of one of the six locations nationally that had accepted LLRW for disposal from 1969 to 1975. As a result, segments of the community opposed any further waste disposal at the site. Circumstances have changed, and in July 1991 the Ashford Town Board voted unanimously to support legislation for the removal of the exclusion. To date, however, the legislature has not acted upon the Town's request.

The West Valley site is owned by New York State and consists of about 3300 acres. Approximately 200 acres are reserved for a high-level radioactive waste solidification demonstration project now underway. The Siting Commission is not involved in the effort to study the West Valley Site as a disposal area, but is monitoring the situation with great interest since it represents the emergence of the first actual volunteer community in New York State.

CONCLUSION

The Siting Commission has restructured its operations and acquired improved consultant support. The preliminary work of the method study is underway, significant progress in determining the disposal method will stem from the draft plan and a preferred disposal method will be recommended within the calendar year.

Siting issues that may emerge when the method is determined have started to receive consideration. The Commission and various members of the public are beginning to recognize siting issues during discussions of the method process. An important change is the Commission's interest in a volunteer community process as well as increased public involvement. These activities should result in policy decisions to define the future direction of the Siting Commission and to provide the groundwork for siting in New York State.