THE ROLE OF ENERGY COMMUNITIES IN A CONSENT-BASED SITING PROCESS

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ENERGY COMMUNITIES ALLIANCE

ECA is the national, non-profit organization of local governments adjacent to and impacted by DOE nuclear activities.

- Hosts to federally-owned and operated nuclear facilities
- Long-term experience working with DOE, Congress, states and industry
- Potential hosts for new nuclear facilities (nuclear waste storage, nuclear power production, and recycling)
DEFENSE HLW AND SNF IN STORAGE IN THE U.S.
CURRENT EFFORTS TO ADDRESS NUCLEAR WASTE MANAGEMENT

**Positives**

- DOE is committed to a consent-based siting process based on sound science, “meaningful collaboration with affected communities,” flexibility and transparency
- DOE is actively seeking public input
- DOE Strategy: “Prospective host jurisdictions must be recognized as partners” in the siting and development of pilot storage facility (2021), one larger interim storage facility (2025) and at least one permanent geologic repository (2048).
- Affected communities to decide whether, and on what terms, the affected communities will host a nuclear facility
CURRENT EFFORTS TO ADDRESS NUCLEAR WASTE MANAGEMENT

**Challenges**

- Trust
- Timeline/sense of urgency
- Defining “consent”
- Future of Yucca Mountain
- Prioritization of government-owned/generated HLW
- Minimizing political influence
- Assured access to funding not based on annual appropriations
- Resources for education, outreach and feasibility studies
- Impact on DOE Cleanup Program
CURRENT EFFORTS TO ADDRESS NUCLEAR WASTE MANAGEMENT

Challenges

Clarifying “Stakeholder” versus “Interested Party”

• Stakeholder — State, local, tribal officials, nongovernmental organizations, industry and labor representatives and interested members of the public with residence within a set radius of the physical proposed interim storage or research site location.

• Interested party — State, local, tribal officials, nongovernmental organizations, industry and labor representatives and interested members of the public with residence outside of that set radius of the physical proposed interim storage or research site location who have something aside from a financial stake in public policy outcomes.
DEFINING CONSENT

Key elements for consent:

• **Transparency** - The potential host community and state must be engaged throughout the process and trust that its interests, concerns and priorities are recognized and meaningfully considered.

• **Flexibility** - The terms and conditions under which a specific community will host a facility must be reflected in any agreement – there is no “one-size-fits-all”
DEFINING CONSENT

Key elements for consent:

• **Education** – Local governments and states must be given the resources to provide education and outreach to explain the potential benefits and risks.

• **Based on standards and science** – Data should not only come from the federal government; potential host communities must be enable to hire their own independent experts.

• **Legally enforceable**
DEFINING CONSENT

Politics happen.

The process to withdraw consent should be as involved, transparent and rigorous as the process is to achieve it.
WHO PROVIDES CONSENT?

Local governments are uniquely positioned to negotiate on behalf of impacted community, as is the governor of a state.
ROLE OF LOCAL GOVERNMENTS AND COMMUNITIES

Local governments and communities are responsible for:

• Education and outreach to the community
• Education and outreach to state, regional, federal decision-makers and industry
• Negotiation on behalf of the potential host community
• Protection of public and environmental health and safety
• Securing a viable economic future
ROLE OF STATE GOVERNMENTS

State governments are responsible for:

- Ensuring the safety of operations and protection of the environment and public health.
- Serving as ‘co-regulators’ in various aspects of regulation, permitting and operations.
- Being national partners with the federal government in a federal system.

(ECOS Resolution Number 12-6)
STATE AND LOCAL GOVERNMENTS IN CONSENT-BASED SITING

“A good gauge of consent would be the willingness of the host jurisdiction and state government to enter into legally binding agreements with the facility operator...enabling states, tribes or communities to have confidence that they can protest the interests of their citizens.” - BRC

• Without local support, projects likely will fail.
  – DOE borehole test in Rugby, North Dakota

• Meaningful and substantial involvement of states is critical to development and implementation of environmental programs.
  – Yucca Mountain in Nevada
  – Shipment of research fuel to Idaho
WHAT TO INCLUDE IN A CONSENT AGREEMENT

Conditions for negotiation:

• Financial compensation and incentives
• Economic development assistance
• Operational limitations or requirements
• Regulatory oversight authority
• Enforceable deadline for removing waste from storage facility
• Legally binding contract with federal government and state
WHAT TO INCLUDE IN A CONSENT AGREEMENT

ECA recommends:

• Volume limitations
• Linking storage and disposal
• Amending existing agreements/statutory prohibitions
• Enforceable milestones
• Penalties for failure to meet obligations
• Triggers for termination
• Indemnification for communities, states and tribes
• Opportunities for future nuclear missions
ACHIEVING CONSENT

Lessons learned from siting WIPP:

• Extended consent-based siting process (10+ years)
• Recognition of national need
• Existence of a “clear” benefit for citizens of the state and local jurisdiction in which the repository was sited
• Solid local support
• Competent technical oversight by the State of New Mexico
• Intense and early outreach
• Rigorous quality assurance from the earliest stages of the project such as traceability, transparency and independent review
• Credibility
ACHIEVING CONSENT

Lessons learned from siting Yucca Mountain:

• Local government and community support alone will not lead to successful siting – support from the state government is necessary
• Local governments and state governments need to work together
• Clarify stakeholder vs. interested party
PATH FORWARD – FEDERAL LEVEL

• Finish the Yucca Mountain licensing review or pass legislation to modify the NWPA and allow alternative sites for interim storage or permanent disposal to be considered
• DOE must continue working with local governments and communities, states and tribes to identify components for consent
• DOE should identify necessary steps– and the order that need to be accomplished – to move a consent-based siting process forward
• Congress/Administration should provide resources and funding for education, outreach, feasibility studies and R&D aspects for waste management and disposal
PATH FORWARD – FEDERAL LEVEL

• DOE should develop a list of suitable disposal mediums and indicate where they exist (salt, granite, etc.) to inform feasibility studies
• Create entity focused solely on HLW/SNF nuclear waste management empowered to consent on behalf of the federal government
• DOE should develop an initial list of the type of incentives/compensation they are willing to consider
• DOE, NRC, EPA should begin to develop scientifically-based health and environmental standards, model state laws and regulations to guide siting process
PATH FORWARD – FEDERAL LEVEL

* If progress cannot be made, communities that have become *de facto* interim storage sites for both defense high-level nuclear waste as well as commercial spent nuclear fuel should receive funding from the federal government to offset the impacts of storing waste beyond the timeframe originally expected.
PATH FORWARD – LOCAL/STATE LEVEL

• Ensure and promote opportunities for public input at federal, state and local level
• Identify resources and partners needed for education, feasibility and technical studies

• Begin outreach efforts:
  • Identify trusted local “champions”
  • Host meetings in impacted communities with site managers, contractors, utilities, and economic development entities.
  • Create public information centers and campaigns
  • Coordinate with local universities and community colleges
  • Develop websites and written materials for distribution outlining pros and cons of nuclear initiatives
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