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## A Facility Siting Activist's View

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# **Siting new disposal facilities in Maine in the 1990s**

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*The seeming paralysis in siting waste disposal facilities and other new facilities in Maine and other states underscores the difficulty of designing and implementing processes that will safeguard the environment and human health while sustaining economic development. Sherry Huber, director of the Maine Waste Management Agency, highlights issues that have surfaced during the initial efforts of MWMA to site a special waste landfill. Don Meagher of the Eastern Maine Development Corporation describes the lessons learned from his involvement in an effort to site a demolition debris facility. Bob Dunning, a Bridgton facility siting activist, offers some suggestions to government and industry officials on how to communicate better with facility siting opponents. Finally, Michael Cannata, chief engineer of the New Hampshire Public Utilities Commission, details the steps taken by New Hampshire's leaders to ensure a responsive facility siting process for new energy projects.*

### **A facility siting activist's view**

*by Bob Dunning, Self-employed historic restoration carpenter and cabinet maker, Bridgton*

Buckminster Fuller, in one of his books, said, "To a drowning man a car hood makes a good life preserver. But if you have to design the life preserver, it does not necessarily have to look like a car hood." That is the situation where we are right now. We have a vision of a facility siting process that we have had in the past. To make progress, we need to step back, to re-evaluate, to determine exactly what we want to do, and then to design a process to do it.

I call myself a facility siting activist. In some situations that will be participant; in some situations that is opponent. It is not always one or the other. When the Department of Energy (DOE) was here to attempt to site a high-level waste facility in 1986, I was an opponent because of the lack of trust in the DOE, lack of trust in their concept of deep geologic burial and belief in the unsuitability of the area. In the case of the GWEN Towers, the effort by the Air Force to site Ground-Wave Emergency Network towers in Maine, I opposed them because of lack of belief in the need. At the time, the Soviet Union was crumbling, and we did not really need those facilities. On other issues, such as low-level waste disposal and special waste landfills, I have taken more of a participant-type viewpoint. Parenthetically, I have the distinction of being just about the only person in Maine who will publicly state that he believes a low-level waste dump could obtain the sixty percent approval vote by the host community that is required under current legislation.

I would like to address the issue of facility siting paralysis from the perspective of the citizen who is confronted with a proposal for an unwanted facility in his or her neighborhood. This is often the source of the most obstinate and effective opposition to proposed facilities. It has been my observation that municipal opposition and, often, dramatic shifts in state policies will follow from effective and intense citizen opposition. I will go a bit afield for a while, but I will return with some recommendations to address neighborhood opposition through improvements in the siting process.

## Sources of local opposition

First, I would like to address the expectation by some siting proponents that neighborhood activists will exhibit the characteristics of the dreaded "NIMBY syndrome." To the credit of Maine agencies, primarily the Maine Waste Management Agency and the Low-Level Radioactive Waste Authority, they have almost never used that term. They have really endeavored to treat the public with polite respect and attention. That is not always the case. To people on my side of the fence, the NIMBY term is rather insulting. It is demeaning and it minimizes the concerns of people. The term conjures up images of neighborhoods eager to see a facility sited in any neighborhood but theirs, and it conjures up images of neighborhood activists who are reluctant to face the facts as presented by facility proponents. In fact, neighborhood activists almost never work to drive a proposed facility toward another community. Rather, siting processes generally create a deep empathy and a sense of cooperation among the communities targeted in a site search.

By contrast, on the issue of low-level radioactive waste disposal, there has been far more of a NIMBY attitude expressed by the Maine Legislature and the Governor's Office than by any community targeted by the Low-Level Radioactive Waste Authority. "Maine is not suitable." "It is not dry enough." Those are NIMBY-type concerns. Communities want to address the generation issues and the equity issues. When facing the facts as presented by facility proponents, neighborhood activists have shown an uncanny ability to wade through reams of technical data and to focus on the most faulty assumptions of the siting proponents. The current paralysis in facility siting may have more to do with those faulty technical issues than with some mysterious new capability of neighborhood activists to frustrate siting activities.

In any other context, except siting controversies, neighborhood activism is seen as a virtue and is praised as democracy in action. Town government, school activities, project DARE, and working to get people peddling drugs out of the community - these are democracy in action. But somehow fighting for your community is not. The EPA has estimated that there are as many as 25,000 to 30,000 sites in our nation eligible for consideration as Superfund sites. If these were spread out evenly across America, there would be one every 11 to 12 miles in every direction. Facility failure is common in America; people hear of it every day. Any reasonably well-informed citizen can be expected to be wary when a facility is proposed for their neighborhood, especially if they have knowledge of a similar facility failing somewhere before. Any business or state agency seeking to site a facility will be running not just on their own record, but also on the record of all those other existing facilities of the same type. Even new state agencies, such as the Maine Waste Management Agency or the Low-Level Radioactive Waste Authority, will be starting not at square one but several steps behind square one.

Citizens have seen three ways that facilities have failed. The first is by acts of God, like the recent break in the sewage pipe in San Diego. These are seen as wild cards that can rarely be defended against. They are the most unpredictable cause of facility failure but, ironically, they are often the easiest to fix. The second cause of facility failure is illegal action, where facility design or operations have not followed regulation or law. The deplorable way our Department of Energy has operated nuclear weapons facilities in eight states has damaged not only the environment and public health but also has severely affected the public perception of motive.

Citizens believe that those who site facilities have their own agenda and that public protection is not necessarily very high on that agenda. That lack of trust often extends to business. The third, and by far the largest, cause of facility failure and consequent environmental degradation is the inadequacy of government regulation. Past regulations and laws have simply not protected our environment.

The scientific method is an excellent way to establish facts and accumulate a body of knowledge. It is a lousy way to enforce social justice. Yet, increasingly, public regulation is a codification of the current state of scientific knowledge. Consider for example the breast implant issue. Twenty years could have been spent establishing data, and yet we are suddenly forced to decide whether it is appropriate or not. Or consider radioactive protection measures. In 1980, it was discovered that the A-bomb data was faulty and that far less radiation (ten times less radiation) had caused the same number of cancers. Therefore, radiation was ten times more dangerous than previously suspected. It was not until 1990 that the National Academy of Sciences addressed the issue and finally lowered the standards. What about all the people who were exposed to the higher levels in these ten years?

Underground steel fuel storage tanks are now recognized as a tremendous danger to groundwater, but when installed they were legal. Leaking municipal landfills, leaking radioactive waste facilities, and the larger issues of acid rain, ozone depletion and global warming, are all the result of legal activities. There may well be new efforts to address past failures and to set more stringent regulation, but citizens have little reason to believe that even the newest governmental regulations adequately protect them from unwanted consequences. Public trust is difficult to earn, but it is easy to lose.

### **Local values and the siting process**

Let me now return to neighborhood opposition to new facilities. Government and industry view environmental issues as legal issues. Forty-nine parts per million is legal, 50 parts per million is illegal. Neighborhood activists view these issues as value questions. "If 50 is bad for me, how can you expose my family to 49?" Or again, government says, "If we take this land by eminent domain, it will cost X dollars per acre." A landowner says, "My father planted that apple tree and I had these specific dreams for my land." Yet again, the government says, "By law we must have a site for this facility." The neighborhood activist says, "Who is benefiting from this facility while my neighborhood has changed forever?" Ironically, should citizens place values in dollars on those things that are important to them, they demean them. If they say, "That is the cemetery where my grandfather is buried, but for eminent domain purposes, I will sell it for \$5,000," it goes against the grain of what is important to people.

When a facility is proposed, neighbors are usually first stirred by these value questions. They feel the unfairness, the lack of trust, the threat to neighborhood and the threat of destruction of natural beauty. They soon learn that these issues are peripheral at best to those siting a facility. The neighbors then begin to examine the particular siting characteristics of their site versus other proposed sites. If those characteristics are unsuitable at their site, such as sensitive wetlands or poor soil conditions, their opinion of the technical competence of the siting agency falls. Where siting characteristics such as low population favor their site over others, it gives them the feeling

of political weakness. A profound paranoia often sets in and neighborhood activists see their site as the inevitable choice. In either of these circumstances, but especially the latter, a fierce resolve to oppose the entire siting process is born.

Those of you who were in Maine in 1986 may remember how we felt when the DOE was in town: Powerful, empowered, important. We were saving "our neighborhood." There is a fierce, good feeling in that Activists have that feeling wherever they are, even on smaller issues.

Trust is a function of actions that are good. In the absence of trust, control is a pretty good substitute. If I do not trust you, but I feel that I have control over the situation, I can deal with it. By ceding some control, you can then encourage trust. At least it gives you that window of opportunity. That is why we need to get back to people in communities. Along with privilege comes responsibility. In our communities today, those two are very widely divorced. They do need to be brought together. But I also am optimistic and I believe that people will accept that. If they understand that Joe Peer is going to lose his job if he does not have some place to put his special waste and we need those jobs in town, they will figure out some way to handle it, the best possible way to handle it.

Government and industry will not crack the problem of neighborhood opposition to facility siting unless and until they address these issues in the way neighborhoods address them. We must be much more aggressive in eliminating the need for new facilities. New facilities must be proven to be the real, last recourse. That may well mean compromises at the policy level that do not please some business and industry interests. Nevertheless, the status quo is not meeting either the public or the private interest. Second, we must recognize that past laws and regulations have failed to protect the public and the environment. New regulations must satisfy a much higher level of public protection and public expectation. Regulation and enforcement must be designed, not just to meet some acceptable level of risk, but to re-establish trust in the government's willingness and capability to protect the public. Third, industry ought to aggressively police itself. Every time a company breaks an environmental law or fails to be a good corporate citizen, it affects a host of other corporate images. Distrust is highly transferable. Fourth, public attitudes regarding permanent disposal have changed markedly in the last decade. Avoiding the risk of future facility failure by building in remediation capability is given a higher value than the benefits of attempting permanent disposal. Siting efforts must begin at the earliest possible moment to incorporate those public interests. Lastly, we must find some way to measure and consider neighborhood values in the siting process.

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