JOHN WALKER’S INTERVIEW WITH JOHN GERVERS

EUREKA COUNTY, NEVADA
YUCCA MOUNTAIN LESSONS LEARNED PROJECT

held in

RENO, NEVADA

June 10, 2011
(10:34 Begin Tape 1)

MS. CLANCY:  This is Gwen Clancy running the camera today.  It is June 10, 2011, and we are in Reno, Nevada.  And, conducting the interview today is John Walker.

MR. WALKER:  Hi.  I’m John Walker.  We’re here today to do the Lessons Learned video project for Eureka County, and we’re here to interview Mr. John Gervers.

MS. CLANCY:  Okay, rolling.

MR. WALKER:  John, tell me about your background and what you do for Eureka County, and how you came to be involved with the nuclear waste issue.

MR. GERVERS:  Well, background, I have had several careers, including working in international banking, and I was with the U.S. Diplomatic Service for seven years, and then I came to New Mexico and was casting around for something new to do, and I went to a hearing on the Waste Isolation Pilot Project.  And, there was plenty of stimulating, shall we say, objections that were going on, and so I thought hey, this is an interesting issue, what’s going on here, and so before I knew it, I think what happened was that one weekend I sat down and wrote up some of the socioeconomic impacts that might come from siting a waste repository down at—near Carlsbad, impacts on Carlsbad and on the local region and on the State of New Mexico.

And, the next Monday morning, I gave this paper to
my office director, and he gave it to the Secretary of the
Department of Energy and Minerals, who was just heading off
to give testimony before a Congressional committee. And,
when he came back, he said, “That was really helpful, and I
think we need to have a WIPP person here, so you’re it.”
And, so, that’s how it all started.

So, a couple of years later, I was selected to be
the principal staff person to the governor’s task force on
nuclear waste, and work for three secretaries of the
departments. And, during that time, I spent a lot of time
actually giving speeches around the state and went off to
Washington and gave testimony myself. So, that’s how it got
started. I was working as a representative, essentially
doing the same sort of thing that Bob Lexus did for many
years in the state as the coordinator of the State of New
Mexico’s Program on WIPP.

MR. WALKER: So, just to interrupt, that--

MR. GERVERS: In terms of what I do for Eureka
County, I spend a lot of time in Washington, D.C., and my
official function is to monitor the development of nuclear
waste policy at the national level, and to keep Eureka County
informed of the ways in which this might impact their
interests back in Nevada.

So, I’m kind of the outside guy. That means that I
spend a lot of time interviewing people back in Washington,
talking with people who represent the Department of Energy. I used to work with the Director of the Office of Civilian Radioactive Waste Management, who was basically in charge of the program, and also with other people who are in the upper echelons of the Nuclear Regulatory Commission, the Environmental Protection Agency, and then of course people who primarily staff on Capitol Hill, who were working for the various energy committees, or appropriations committees to determine the direction of nuclear waste policy and how it might affect Yucca Mountain.

And, then, in addition to that, I would also talk with the lobbyists for the nuclear industry, and that was really quite interesting because I developed some quite close relationships with some of the people there. And, you know, my feeling has always been that you talk to everybody, and everybody has a slant on this, and they also have perspective and also information about what’s going on. So, if I talk with the folks from the nuclear industry, they will tell me things that I won’t hear from the environmentalists, and vice versa. So, that’s kind of the way that this has worked in Washington.

MR. WALKER: Excellent. When did you first become aware of the Yucca Mountain Project, and what was your reaction, John, to that?

MR. GERVERS: Well, after I worked for the State of
New Mexico for a couple of years, that responsibility came to an end, and I started working for the State Planning Council on Radioactive Waste Management, and the offices were in Washington, D.C. And, then, I worked for the National Governors Association for a while, and it was during that time that I came on a trip out to the Nevada Test Site, and, so, we were bringing a group of state representatives out to basically hear more about what was going on in the field. And, that was probably my first exposure to Yucca Mountain, and that would have been about, I’m thinking, 1981 or ’82.

And, we came out, we made the tour out to the mountain. At that time, there was no tunnel or anything, so, you just went out to the mountain and up on the top, and looked around and saw the volcanic cones out in the distance, and various things of that sort. And, I remember there was one person, one representative from the State of Rhode Island, and he looked around and he said, “Wow, this is really a barren wasteland. This is the perfect place to put the nuclear waste.” And, of course, I could see that some of the people from Nevada were saying--they weren’t too happy with that idea. But, in any event, that’s when I first got involved with Yucca Mountain.

MR. WALKER: Very good. Just to follow up, John, tell us about the early history of the Nuclear Waste Policy Act, and why you think it ultimately came down to Nevada as
the only site that Congress selected in 1987.

MR. GERVERS: Okay. Well, you know, I was very much involved with that, starting with the State Planning Council. We put together a report which formed the basis---many of the recommendations formed the basis for the legislation that found its way into the Nuclear Waste Policy Act.

And, the principal thing that we were interested in at that time was the concept of so-called Consultation and Concurrence, is what it was originally called, C and C, and that found its way into certain provisions in the Nuclear Waste Policy Act that provided for the affected states and tribes initially to obtain resources from Congress to be able to look at the various potential impacts from the repository, to basically track what the Department of Energy was doing, and also to engage in public outreach to citizens. And, that Act was passed in 1982.

And then there were some famous amendments in 1987 which, among other things, brought in the affected units of local government. It started out with just Nye County, Clark County, and Lincoln County. And, subsequently, there was a lawsuit by Esmeralda County and Inyo County, California which resulted in the Ninth Circuit saying well, these are also impacted communities and, therefore, they should be given the same rights as the first three.
And, then, the Department of Energy said, well, we're not going to go through this again, so let's just say that anybody who is contiguous to the Nye County, which is the site county, should be included and should be given the opportunity to become an affected unit of local government. And, there were one or two counties who said who us, you know, what have we got to do with this. But, nonetheless, it worked out, and there have been ten counties ever since then that have been involved.

I might say that the decision by the courts to include Inyo County, which is the downstream county from the repository, and the base of which—or where any water that comes from the aquifer under the repository actually surfaces in Death Valley, and Death Valley, of course is in Inyo County. So, that brought them into it as well.

Now, what happened in 1987 was a great misfortune in a way, because in 1982, the crafters of the Nuclear Waste Policy Act, and this is particularly Moe Udall from Arizona who was the Chairman of the relevant committee at the time, they tried very much to balance the interests so that it would be a fair process. Among other things, they said that there would be a western repository and then that there would be an eastern repository, and this was intended to allow for some sense of equity between the two regions of the country, particularly since most of the nuclear reactors that would be
generating the waste are located in the east. And, at least the first repository was slated to go to the west.

So, they initially identified six states, Nevada of course was one, Washington state on the Hanford reservation, Utah in salt beds, Mississippi in salt domes, Louisiana in salt domes, and Texas also in salt beds. And, then working on the second repository in the east, they were looking primarily at the Canadian Shield granites. And, so, that brought in initially I think 17 states in the east, and that was gradually winnowed down to about six. And, the western states were winnowed down from six to three, and that was Texas, Washington, and Nevada.

So, what happened? In 1986, the people of New Hampshire were very concerned that a Republican Administration at the time was asking them to consider becoming a possible site in the Canadian shield granites in Northern New Hampshire for a nuclear waste repository, and the people were outraged, and they really started protesting a lot, and as a consequence, George Bush the first, who was coming up for potentially for election after the Reagan Administration was completed was very alarmed, and said this isn’t going to do because that’s the first place that I have to go to as part of the political process to get elected.

And, so, the Department of Energy was persuaded to suspend the second repository altogether. And, so, all work
stopped on all of the second repository states, primarily because of that sensitivity about the politics in New Hampshire.

And, the next year, the Congress took up this issue and, well, there were originally 17 states that were under the gun, and all of their representatives thought it would be a great idea for them to be eliminated. And, that’s what Congress did, they eliminated the second repository in the east. So, what that did basically was it upset that balance that had been so carefully crafted in the original Nuclear Waste Policy Act between the east and the west of the country, the regional equity.

And, so, that part of it was already determined, and then the other part was what are we going to do with these three remaining sites, Washington, Texas, and Nevada, and the proposal was, I think that Senator Johnston, who was very active on this at that time, came back from a tour of Europe and discovered that nobody else was looking at three sites at the same time, and, so, he thought well, this is really just a waste of money and we should be trying to winnow down these sites a little more quickly.

But, the key to the three sites, that originally was six, was that you look at these sites on the basis of their technical capabilities, and you’re making a determination on technical merit, and that’s what happened
when they eliminated Mississippi, Utah, and Louisiana, and they went to Washington, Texas, and Nevada.

So, what then happened? That proposal to winnow these down in one more year went into Conference Committee with the House, and the House at that time was led by Jim Wright, I think, from Texas, who was the speaker of the House. And, the Majority Whip was Congressman from Washington State, whose name I can’t remember right now. But, in any event here were two very powerful people representing Texas and Washington, and in those days, Nevada wasn’t represented by anybody very powerful in the Congress. And, so, when that Conference Committee met, there was nobody in the room from Nevada, and there were representatives, very powerful people from Texas and Washington, and what they said was we don’t want it. Give it to Nevada. And, at the end of the day when that conference was over, Nevada came out as being the only site to be considered from hence forward.

And, so, it became known in Nevada as the “Screw Nevada” bill, and justifiably so because really that’s what happened. It was a political decision, and what it did was it undermined one of the principal concepts that had been crucial to the Nuclear Waste Policy Act of 1982, which was some kind of regional equity and selection on the basis of technical merit. And, so, this was probably one of the key things that undermined the sense of trust in the Federal
Government’s effort to try to find a nuclear waste repository site to dispose of the nation’s nuclear waste.

MR. WALKER: That’s a really good summary, John. Let’s move on to the next question.

(10:50 End of Tape 1)

(10:35 Begin Tape 1-1)

MR. WALKER: I’ve got kind of a long question here. Of course, you’re familiar with the WIPP project in New Mexico, and with Yucca Mountain. Often these sites are compared. How are they similar and different? Do you think that WIPP has been a success? Why or why not? And, what kind of future nuclear waste planners, or what did the nuclear waste planners, what have they learned about the WIPP experience?

MR. GERVERS: That’s all? Okay.

All right, well, yes, I do have a perspective on WIPP because, as I mentioned earlier, I was the coordinator for the WIPP program for the State of New Mexico for a couple of years when it was first being considered, this was back in the early Eighties, and WIPP actually took a long time to get off the ground. It was actually constructed by 1989, but it didn’t get opened until 1999. And, ten years of basically going back and forth on various issues that were of concern to the State of New Mexico.

So, one of the parallel is that both the State of
New Mexico and the State of Nevada have had an active role in attempting to ensure the safety of the facility. But, what was different between the WIPP project and the Yucca Mountain project was that New Mexico had a history of involvement with basically things nuclear, and they also had, very importantly, a local community that was very much in support of the facility, and saw it as a way of generating jobs and incomes in the local area.

This is not too different from what has happened actually in Nye County. But, the main difference was that the State of New Mexico was very sensitive to the fact that there were national laboratories and nuclear weapons labs, two of them, Sandia and Los Alamos in the State, and also--

The State had an active uranium mining industry, which had an impact, I think, upon the willingness of the State to consider a nuclear waste repository within the State’s boundaries.

There was a division, basically, within the State. People around the capital in Santa Fe, and also up in Taos were quite energized in their opposition to the facility. And, the people in Carlsbad were very much in support of it, and their situation was such that they had been dependent upon potash mining for many years, and the potash mines were
closing because of competition from Canada, as it turned out, and, so, a lot of the young people from Carlsbad were moving away. They were having to go to Albuquerque or to Denver in order to get jobs.

And, so, for the city fathers of Carlsbad, anything like this was a potential blessing if it would bring up to a thousand jobs to the community. And, so, they actually went to the old Atomic Energy Commission and said to them you’re interested in salt beds, why don’t you look at our salt beds. And, the AEC came down and looked at the salt beds, and, you know, there was local support for this, and why don’t we give it a try. And, so, that was one of the things that I think that really distinguished the WIPP project.

There are similarities in a way between Carlsbad and Nye County, because Nye County is a rural county, also dependent largely on mining, has also been looking for other industries that would potentially provide jobs and incomes for the area. And, so, in that regard, they are similar.

But, I think what really distinguished New Mexico from Nevada was what I referred to before in terms of the history of the Congressional decision-making process, where they abandoned the dependence upon the technical evaluation, and went to basically a political decision. That same kind of dynamic did not exist in New Mexico, so it didn’t poison the well in the same way that it did in Nevada. The way that
things started at WIPP was that the House Armed Services Committee wanted to find a repository for defense waste, and they also wanted to find a place that would be outside the jurisdiction of the Nuclear Regulatory Commission. And, the NRC had responsibility for high-level wastes, both from commercial reactors and also from high-level defense wastes that came from construction of weapons. So, what they decided was that they would focus in on the transuranic wastes, and transuranic wastes are very long-lived, but they are cold, whereas the high-level wastes are hot wastes and generate heat and are also very long-lived.

And, so, that was the basis for the decision to go with transuranic wastes at WIPP. And, I think at some level, that helped because people in New Mexico knew that this was not the really hot wastes that were being considered for that repository, and certainly the Department of Energy encouraged that by saying these are just low-level wastes and they described, you know, a slightly contaminated booties and things like this, and you will hear a lot about gloves and booties, and things of that sort, to try to make people feel secure that this was not going to be something that would be excessively dangerous. In Nevada, they didn’t have that advantage because it was going to be a high-level waste repository, and was going to take waste from both the commercial reactors and from the weapons side of it.
MR. WALKER: We’re talking about WIPP.

MR. GERVERS: Well, I think that it’s important to understand that WIPP is now considered to be a success. It went through some difficult periods earlier, and long delays, lots of court challenges, and all kinds of things like that. But, since it began in 1999, it has been managed in such a way that there have been no incidents essentially. A couple of truck drivers got lost and went down the wrong road, but there’s been nothing that has really had a major impact upon the health and safety of New Mexicans.

And, so, New Mexico has become more comfortable with the WIPP, and the people of Carlsbad think that it’s, “the best thing since sliced bread,” because it’s produced a number of jobs for people in the area. And, I think the key learning from this experience is that the siting of a controversial nuclear waste facility must have local support, and the locals must feel empowered in some way to have some influence over this.

Now, I’m not saying that—in WIPP, perhaps the empowerment issue was not an issue because the Carlsbad City Fathers were so enthusiastic about having the economic
development benefits from the WIPP site, that they really didn’t question the Department of Energy too much. So, I do think, however, that the lesson to be learned is that you must have local support for any kind of a controversial site of this type.

MR. WALKER: Let’s move on to the next question.

John, now, you’ve been the federal liaison for Eureka County and for Clark County and Inyo County. Tell us about your experiences and reflect on some of the highlights and lessons learned from that work.

MR. GERVERS: And, actually, I was the liaison for White Pine County and Esmeralda County at various times, so about half the counties I’ve represented over a period of time.

I think that it’s important to understand that there are quite some major distinctions between these counties. Eureka County’s primary concern was about a potential railroad line running through the county. And, Clark County had a wholly different issue, and being basically a visitor-based economy, they were very concerned about the possibility that the Yucca Mountain Repository would involve some kind of an incident, either in the transportation to the facility, or in the actual operation of a facility, that might scare away the tourists and cause huge costs to the county as a result of that.
And, I think if we look back to 911 and see what happened when people are afraid of getting into airplanes, and the impact that that had on Clark County’s economy as a result, where people just stopped coming and the hotels were laying off people right, left and center, they lost billions of dollars as a result of that. And, their concern in Clark County was that the same sort of thing would happen if there was to be a transportation incident, let’s say a cask fell off a train, or there was a truck accident, or something like that, it doesn’t take much for the national media to get ahold of that. And, of course, Clark County was concerned about the large population in Las Vegas and the possibility that they might be exposed to radioactive releases.

But, I think most of all, what was concerning Clark County was that there might be something that would cause a major economic cost to their local economy. And, that was not the same for Eureka County, and to a much lesser extent, Inyo County. Inyo County was more concerned about the groundwater effects, and the possibility that there could be contamination of the groundwater coming in.

So, those are the kind of major distinctions between the three areas. But, one of the things I have to say is that there also have been major distinctions between those three counties in terms of the way in which the program was managed. And, in Eureka County, the county was very
fortunate to have a consultant actually, who started right at the very beginning and has been part of the management of that county’s program all the way through, right up to the present day, Abby Johnson.

And, in Inyo County, by contrast, there were multiple directors of the program down there, and they, in turn, were responsible to multiple planning directors, who changed almost every couple of years, and so as far as my function was concerned, I became sort of the historical memory of the Inyo County program, because there was nobody there that was there, you know, back in 1990, or whenever it was.

So, Clark County took a whole different approach to this, in that they developed quite a large in-house staff in order to do various functions like reaching out to local citizens and carrying out certain impact assessment work, and stuff like that. So, it has been quite a different experience working for those three counties, with different interests and different management structures.

MR. WALKER: Excellent. Let’s move on to the next question.

MR. WALKER: --of the Blue Ribbon Commission on America’s nuclear future since its inception. Where are they
headed, and what do you think of the major recommendations and directions so far that the Commission has taken?

MR. GERVERS: Well, maybe we should talk about why we have a Blue Ribbon Commission at all. Because when the--well, this is a little bit more political history, if that’s okay.

During the run-up to the 2008 Presidential Elections, Candidate Obama went to Senator Reid and said, “What is it that your state would really need in order for them to want to vote for me?” And, he said, “Promise that you will close down Yucca Mountain if you get elected.” And, so, Senator Obama made that promise to the people of Nevada. And, then, he did get elected. Not only did he get elected, but he also got the support of Nevada as one of the states that was in his corner.

So, once in the White House, Senator Reid, who as everybody knows is currently the Majority Leader in the Senate, went to President Obama and said, “Okay, time for you to live up to your pledge.” Sometimes, you know, when Presidents make campaign promises, they find a way to, shall we say, to work around them, and to wiggle out later. But, in this case, President Obama really needed Majority Leader Reid’s support for a number of principal issues that were on his agenda, and so, he said, “Okay.” And, so, the Department of Energy was told that the repository program at Yucca
Mountain was going to be terminated. And, not terminated on the basis of technical reasons, but rather because it wasn’t workable. And, ultimately, what the Department of Energy came to the point of saying was it isn’t workable because the people of Nevada are not supportive of this program.

And, so, part of what was done by the Department of Energy, as often happens when a decision is made, a commission was appointed to look at alternatives to Yucca Mountain, and to try to come up with some recommendations as to how to move forward from here.

They were specifically told not to get involved with any sites. So, they weren’t allowed to talk specifically about Yucca Mountain, except for lessons that might have been learned from Yucca Mountain that could be applied in the future. And, so, just recently, they came up with about maybe ten recommendations. These are the recommendations that were put forward by the subcommittees in May and will probably form part of the recommendations that are made to the Congress and to the President.

And, I would like to comment just briefly on a half a dozen of these, because I think they have some relevance to the interest of Eureka County, and of course to other counties in Nevada and to the state itself.

The first one was that the government should proceed expeditiously to develop one or more repositories,
and one or more interim storage facilities. And, I would say, my comment is that the success in siting either a repository or an interim storage facility will depend on the ability to find a technically suitable site that is acceptable to the people who live nearby. And, that’s the core requirement.

The second recommendation was that a single purpose organization is needed to develop and implement a program for transportation, storage, and disposal of wastes. This is aimed directly at the U.S. Department of Energy, and I think the Commission felt that the Department of Energy had basically lost the trust of the people of Nevada, and as a consequence, there would have to be some other kind of a structure. And, so, I would like to comment on that as well.

MR. WALKER: Okay, great. We’ll just change tapes.

(10:47 End of Tape 1-4)

(10:47 Begin Tape 2)

MS. CLANCY: Tape 2.

MR. GERVIS: Okay. I agree that the Department of Energy should be replaced in any future siting effort, because basically, I feel it has forfeited the trust of Nevadans. And, the Department of Energy, as an off-shoot from the old Atomic Energy Commission, has a basic institutional culture of being mission oriented, and wanting to proceed in a very directive way. It’s called “decide,
announce, defend.” And, this approach really doesn’t work, and it hasn’t worked in Nevada.

Nevada is not the only place it’s been tried. It was tried in Germany and it failed. It was tried in France and it failed. It was tried in the UK and it failed. It was tried in Sweden and it failed. It was tried in Japan and it’s still failing. And, in most of those other cases, they had to start all over again. And, instead of coming in and doing a lot of investigations of the geology and then going off and saying okay, this is the best place to go, and then trying to negotiate with the host area, they tried to basically just power ahead. And, the Department of Energy frequently would take people out to the Nevada Test Site, to the Yucca Mountain site, and would say guys, this is a done deal, you know, we’re going ahead with this, and get used to it. And, that is not the way that local people like to be treated.

They want to be consulted. They want to be given an opportunity to influence the way that decisions are made, not just comment on documents and then have their comments ignored, as they often were by the Department of Energy, but to have an opportunity to meaningfully make an input into the process. And, the Blue Ribbon Commission, to its credit, is recommending that there should be an opportunity for local governments and people to have this kind of responsibility.
And, I will talk a little bit more about that in just a moment.

So, I do think that the idea of a single purpose organization, not just an office in the Department of Energy, is better suited to working with local communities. And, it also would give them an opportunity to start fresh, and to try to develop trust from the very beginning by involving the stakeholders, by consulting with people right from the very start. And, DOE has lost that trust. They forfeited that trust. And, so, unfortunately, I don’t think that they have the potential to be able to manage any further nuclear siting initiatives.

The next recommendation was that the new nuclear waste organization must have assured access to the Nuclear Waste Fund, which is the fund in the federal treasury that the rate payers contribute money for the costs of disposal of nuclear wastes that are generated by the power plants in their areas. And, that, of course, is something that has to be assumed, is there has to be adequate money.

But, I think I would like to say that as far as the local governments are concerned, that it is equally critical that there be a reliable source of funds for them to undertake their responsibilities for identifying the impacts from the potential facility, for reaching out to the public and keeping them informed, and, of course, for participating
in a decision process with the organization that has been created. There must be money for that.

And, in general, there has been money provided by Congress, but there’s been a lot of discussion about how much and under what conditions. And, for years, the Appropriations Committees kept adding conditions, that you couldn’t use it for any kind of legal action, for example. And, the Department of Energy took that and said well, that means that you aren’t going to be able to participate in the Nuclear Regulatory Commission’s licensing proceeding, because that’s a legal context and you have to have lawyers to defend your contentions, and things like that. So, we can’t allow you to use the money for that.

So, we had to go to the Appropriations Committee and say it ain’t going to work, and it doesn’t work to have the Department of Energy have full authority to determine whether or not the ways in which we spend our money is consistent with their interpretation of our responsibilities. We have to make that determination. And, so, the Congress did make those changes, and as a consequence, we have generally had support from Congress for the activities that have been undertaken.

There was one time in 1995, ’96, ’97 when Congress, in its wisdom, decided that the money that was being provided to the local governments, and to the State of
Nevada was, in their view, being used to obstruct the facility, and they didn’t think that that was worth supporting, and it went on for a couple of years, and then Senator Reid got onto the Appropriations Committee and became the ranking minority member, and he said this won’t due, we have to have money for these people to be able to undertake the oversight programs that are authorized by the Nuclear Waste Policy Act. So, the money was restored, and it continued on until this year.

Another of the Blue Ribbon Commission’s recommendations was that siting processes should be consent-based, transparent, phased, adaptive, and science-based. Of course, we agree with the science-based part, and that’s essentially where the focus has been in the past. It’s always been on the science. But, the aspect of it being consent-based, that means that the local people should have some say in the key decisions. And, I think I can say that I am delighted to see that the Blue Ribbon Commission is acknowledging this and is recommending that future siting initiatives should be consent-based.

And, what they mean by that is that the local community has a right to opt out of the siting process at any time that they feel either a loss of confidence in the process, or they feel that there are issues that they cannot resolve. And, this is different from what was in the Nuclear
Waste Policy Act, which allowed a veto by the state government, a veto which in 2002 was exercised by the State of Nevada and was then overridden by the Congress. They passed a resolution that said that Yucca Mountain should be the only site to be considered for potential repository and should be subject to the Nuclear Regulatory Commission licensing process. So, that’s different from being able to opt out at the local level.

And, I think that it makes a lot of sense, because at the local level, they’re thinking not only about health and safety, but also about economic issues, and there are certain benefits that the local community can see coming from this, and they have to balance that against the potential risks that they are being asked to accept. Whereas, at the state level, it can very easily get politicized in terms of the image of the state, and how the state wants to be seen by other states. Does it want to be seen as the nuclear waste repository dump site, for example.

And, so, I think the pressures that would build on the state to exercise a veto are much stronger, and I think that’s what the Blue Ribbon Commission has identified. They’ve seen that distinction between the political level constraints at the state level, and the local government’s interest in a balance between benefit and risk.

The next recommendation is that the Nuclear
Regulatory Commission and the Environmental Protection Agency need to collaborate on developing site independent safety standards. What that basically means is that the Blue Ribbon Commission is recommending that there should be generic standards that would apply across the board. And, actually, EPA developed generic release standards for repositories, and those were applied to the Waste Isolation Pilot Project.

But, when it came time to apply them to the Yucca Mountain side, it was found that the site could not meet those generic requirements, and, so, the Congress, in its wisdom, directed EPA to develop a site specific standard for Yucca Mountain. Well, that’s all very well, but that is not a good way to maintain the trust of people in Nevada, because they could very easily ask well, why is it the people of New Mexico are getting better protection than the people of Nevada, because if this site can’t meet the requirements that the EPA has set up, then it shouldn’t be considered any further.

So, the Blue Ribbon Commission I think has recognized that, and has recognized that it’s very important for public trust and confidence to have a standard that applies across the board, and doesn’t just apply to a particular site.

The next recommendation that I would like to mention is that affected units of government should have
specific roles, responsibilities, and authorities, including a meaningful consultive role in important decisions. And, I’ve mentioned that myself. And, direct authority over aspects of regulation, permitting, and operations needed to encourage public confidence. And, all I can say is bravo, absolutely. That’s exactly what the affected units of government need to have, is to have that opportunity for influence over the decision process that affects people’s lives.

The final question that I think has relevance to the counties is the Nuclear Waste Technical Review Board should be retained as a valuable source of technical advice and review. The Technical Review Board was established in the Nuclear Waste Policy Act Amendments of 1987, and its intention was to provide an independent review body to look at the activities of the Department of Energy, and to comment on them, and to ask the Department of Energy to come before it and to explain what it was doing. And, the Technical Review Board was also going to make recommendations to the Congress about its findings.

And, I think this is an absolutely critical function for any successful repository siting effort, is there must be some kind of an outside organization that has credibility. And, this group, the members of this group are nominated by the National Academy of Sciences, and the White
House makes a determination as to which ones will actually be serving on the Board. And, that has worked reasonably well, and there has been a certain amount of reflection of the political orientation in the White House as to what kind of people have been appointed to the Board.

And, at times, there have been people who have been more critical of the way in which the Department of Energy has proceeded, and at times, there have been people who have been less critical and more willing to accept that Yucca Mountain is going to go forward and, so, let’s look at it in perhaps a little bit more friendly fashion than another group might have. But, in general, I have to say that the Technical Review Board is a great idea and should be an essential part of any future repository siting effort.

We talked a lot about Yucca Mountain and how it was, basically it was born of politics in 1987 at a time when the decision was made on political grounds as opposed to technical grounds. And, the irony of it is is that the termination of Yucca Mountain has also been made on political grounds rather than on technical grounds. And, there are technical grounds for saying that the site may not meet the necessary criteria, but nonetheless, the fundamental decision that has been made at this point is a political decision, and that’s a reflection of the way that this facility siting effort started back in the 1980s.
(11:02 End of Tape 2)
(10:49 Begin Tape 2-1)

MR. WALKER: John, in the course of our interviews for this project, we have heard from many people about the lasting health effects from nuclear testing in Nevada. How do you think the legacy of nuclear testing includes the Yucca Mountain issue, if at all?

MR. GERVERS: Well, I think it’s fairly interesting that the perception in Washington, D.C. is that Nevada was willing to accept the nuclear testing at the Nevada Test Site, and so why aren’t you willing to accept the Yucca Mountain facility? Why is there so much hostility to this?

And, basically, it’s because in Nevada, there were some assurances that were given by the Department of Energy about the nuclear testing, that the fall-out would be no more than an inconvenience, and you have to brush it off your car, and things like this. And, that turned out not to be true. And, so, that effectively undermined confidence in the Department of Energy’s ability to manage a similar type of facility or a nuclear waste facility in Nevada.

And, I think a lot of people in Nevada also knew that about the same time that Yucca Mountain was being considered, that the nation was beginning a clean-up program for the various DOE defense sites around the country, Oak Ridge, Hanford, Savannah River, Los Alamos, and that this was
costing the nation a huge amount of money, something between, it’s almost $6 billion a year has been spent on cleaning up the mess that was made by the Department of Energy at its respective sites.

And, so, people in Nevada looked at that and said well, can we trust these guys to be able to do it right in Nevada when they have made such a mess of all of these other sites? And, so, those factors basically had an impact upon people’s willingness to trust the Department of Energy to take on the implementation of the Yucca Mountain site in Nevada.

MR. WALKER: John, could you give us a take on the Japanese nuclear disaster still in holding, and how will it affect the repository and nuclear power industry generally?

MR. GERVERS: Okay, this is not something that’s specific to Yucca Mountain. But, the main part of the Japanese disaster at Fukushima was the concern about what was happening to waste that was in the spent fuel pools in water, because they’re very hot, they’re generating a lot of heat and radiation. So, keeping them under water tends to absorb some of that heat and radiation, and some of that water was escaping and was contaminating the local groundwater, and so forth.

So, there has been some discussion here in the United States about the need to move fuel from the spent fuel
pools to some other form of storage. And, it could be
interim storage in silos in basically on-site dry cask
storage, as it’s referred to, or it could involve the
shipment of waste to a centralized interim storage facility,
and ultimately, to a repository.

It doesn’t really solve all of the problems by
doing that, because if a reactor continues to operate, it
continues to produce spent fuel, which has to go into the
spent fuel pools for five years before it can be taken out
and moved to a dry cask storage unit. And, this has been an
issue that has come up before when there has been a great
clamor in Congress for moving the waste away from the 103
different reactor sites around the country, and sending it to
a repository, the idea being that you will get it out of
town. But, in actual fact, you don’t get it out of town
until you close the reactor, because they’re going to
continue to be producing additional waste.

There are about 50 percent, a bit more than 50
percent of the reactor sites in the United States have dry
cask storage associated with them already, and the other 50
percent continue to use their spent fuel storage pools for
keeping the waste, even after the five years that is
absolutely necessary. And, the Nuclear Regulatory Commission
has given them the authority to re-rack their pools so that
they can concentrate more waste in those pools. The Japanese
didn’t do that. And, so, the Fukushima, the risks that were created at Fukushima could be much greater in certain cases in the United States with similar kinds of reactors, and with spent fuel pools that are crammed with waste.

And, so, the movement to try to move that waste out to dry cask storage is certainly one that needs to be looked at by the Congress. And, the nuclear industry is obviously concerned about the cost of doing that, and of building these additional dry cask storage units. But, ultimately, if they continue to operate the reactor, they’re going to need to do it anyway. So, that, in my view, is not a very good excuse for not moving forward on dry cask storage.

(10:56 End of Tape 2-1)

(10:53 Begin Tape 2-2)

MR. WALKER: --Skull Valley and Goshute Landing, Utah has been licensed as an independent spent fuel storage facility. Do you think that ultimately will be used for that purpose? And, tell us your impressions on how that process has gone.

MR. GERVERS: It’s a very good question about whether it will ever be used for that purpose. But, we’ll get to that.

A private fuel storage site was an initiative taken by the nuclear industry, and particularly by what was Northern States Power, was the guiding force behind this
idea. And, it’s outside the Nuclear Waste Policy Act. This is not something that is covered by the provisions of that Act. It’s an independent, private effort.

And, one of the things that this site would do is it would provide a surface storage pad where there would be these concrete silos again that are similar to what we were discussing before in the case of on-site storage, only there would be multitudes of them, and they would be able to take up to, I think, 40,000 metric tons of waste. And, so, it was anticipated that it would provide relief for some of the utilities that were struggling to find a sufficient space for the waste on-site.

So, in order to do this, they had to go to the Nuclear Regulatory Commission and get a license to build this facility, and in actual fact, it wasn’t expected to be very difficult because NRC has done this time and again for on-site storage, and so they had it down pretty much pat, and it wasn’t complicated because they weren’t looking at the deep underground effects on the geology and water tables, and all that kind of thing. And, it was also going to be of limited duration. It was going to be for 20 years, and then extend maybe another 20 years.

And, so, the process with the Nuclear Regulatory Commission, despite the apparent simplicity of the project, turned out to be very long and drawn out and complicated, and
it took them eight and a half years to get through the licensing proceeding. And, we always thought that was rather interesting because Congress had specified that the licensing proceeding for Yucca Mountain should be three years, with the possibility of one additional year if needed. And, here was a simple interim storage site that took eight and a half years to get to a final license from the NRC.

Well, be that as it may, when the site received its license, it then had to receive certain permissions from the Bureau of Land Management and from the Bureau of Indian Affairs. The Bureau of Indian Affairs had to approve a lease for the actual use for the Department of--excuse me--for the private fuel storage people’s use of that land, and the Bureau of Land Management had to approve the actually a transfer station that would take it from one rail line to roads coming into the site. And, there’s a history to this, as there is often in these nuclear waste stories. There’s a political background to it.

In 2002, when the Department of Energy put forward the Site Suitability Recommendation for Yucca Mountain to the President for his approval, and the state vetoed it and then it went to Congress for them to override that veto, Senator Reid was hoping that the two senators from Utah who did not want to see the private fuel storage site sited in their state would join with him in opposing a resolution to proceed
with Yucca Mountain. And, this was in 2002, and the Bush
White House went to the two Republican senators from Utah,
and said, guys, if you will give us your vote in favor of
Yucca Mountain, we will guarantee that there will be no
action taken by the federal government to pursue the private
fuel storage site in the State of Utah. And, so, they
accepted that bargain, and they voted to proceed with Yucca
Mountain, much to the frustration of Senator Reid.

And, then, three years later when the NRC license
came through for the private fuel storage site, the BLM came
up with a finding that it was not acceptable to use the--that
there were certain risks associated with the transfer
station, and they couldn’t give their approval, and the BIA
did not approve the lease that was necessary on the Skull
Valley/Goshute land. And, so, the private fuel storage site
came to a crashing halt, even though it had a Nuclear
Regulatory Commission license.

And, so, it sat that way until last year, for about
five years. Everybody thought it was dead as a doornail.
And, then, the private fuel storage sponsors had gone to the
court to say, you know, we don’t think there was sufficient
evidence being used by the BLM and the BIA for the decisions
that they made, and we would like to ask for you to remand
those decisions to BLM and BIA. The court agreed and
remanded the decision back to the BLM and the BIA.
And, this opened up a whole other interesting dynamic, because now there is a Democratic President in the White House who has no residual commitments to the Republican senators from Utah, and who has just taken a difficult decision to terminate Yucca Mountain without having any real alternative to offer. And, it is quite likely that the Blue Ribbon Commission is going to recommend that centralized interim storage is the way to go.

And, so, it’s quite possible that people could look at the private fuel storage site and say hey, this has a Nuclear Regulatory Commission license already, and maybe what ought to happen is for the BLM to reconsider its decision, and find a justification for going in the other direction. And, the same for the BIA in terms of the lease on the Skull Valley/Goshute land. And, this would solve a lot of people’s problems. It would solve the problems that the Obama Administration has with having terminated the Yucca Mountain, it would solve the need for some kind of centralized interim storage, especially for closed reactors that are just sitting there with waste on site, and it has the infinite benefit of having already gone through eight and a half years of licensing and having received a license.

So, I thought myself that maybe there was a pretty good chance that PFS would come back to life again. And, so, I discussed this with the chief lobbyist from the Nuclear
Energy Industry recently, and he had some interesting things to say. He said no, we’re not interested in PFS anymore because PFS was developed at a time when the practice was to ignore the local communities’ view and just to basically move forward, and we don’t want to do that anymore. What we want to do is we want to work with communities, we want to be able to present proposals for interim storage to them on the grounds of economic development benefits and the potential for it being a win/win for both sides. And, so, PFS just doesn’t meet that criteria. And, I thought, well, that’s interesting, and maybe that’s true that the industry has taken a different view.

And, then, what this person said was, “And, after all, we have plenty of willing communities around the country who would like to take this, especially in Southern New Mexico.” And, in New Mexico now, at the state level, the governor has left the door open to the possibility of interim storage or expanding the WIPP mission beyond the transuranic wastes to the point that there would be some other facilities potentially at that site. So, with that caveat, I still think there’s a possibility that PFS could be resurrected, but I think we may have moved on.

(11:03 End of Tape 2-2)

(10:55 Begin Tape 2-3)

MR. WALKER: --a major portion of your career
working on nuclear waste issues. You’ve followed every
budget blip and proposed bill thoroughly, and you’ve sat
through hundreds of Congressional hearings. What kept you
engaged, involved and excited about this work?

MR. GERVERS: Sometimes I would ask myself that
question. But, I think fundamentally, it’s what has kept me
really engaged in this issue is that it is a major policy
issue that involves a controversial decision that has to be
made by the national government in order to support a major
source of energy in the United States. And, so, the siting
of a nuclear waste repository is something that essentially
it has to be done at some point in some place in order to
close the fuel cycle and to allow the reactors that are
producing 20 percent of our energy nation-wide to have
someplace to be able to send the waste that results from that
process.

And, it’s controversial because it involves certain
environmental risks, it involves risks to health and safety.
It involves risks to shall we state sovereignty. And, so,
there are many complex elements of this decision process.
It’s all about the institutional interactions between the
federal government and the state governments and the tribal
governments and the local governments, and that’s tricky
territory, even if you don’t entrust the responsibility to a
“decide, announce, defend” agency like the U.S. Department of
And, so, it’s been this challenge to the nation that has kept me fascinated by this extremely controversial project. And, there have been times when, you know, there seemed to be a certain circularity in the process where it would head off in a direction, and then there would be delays and then people would have to go back and start over. And, so, some of that—I think after about the first ten years, I began to feel that maybe I’ve been here before, and yet at each point where I began to feel that there would be another surge forward.

And, most recently, it’s been the whole debate on the termination of Yucca Mountain, and the implications of that and what alternatives might be out there, and the Blue Ribbon Commission deliberations. The Blue Ribbon Commission has really been like old home week for many of us who have been involved with this now for 30 years. And, many of the faces who were there right at the beginning in 1979, were in consultation and cooperation when it was first being debated, are still around at the end of our careers. And, so, the Blue Ribbon Commission has had some fertile fields to explore by inviting people to come and testify before the Commission, and I did that myself, and provided some views about the potential direction that a new effort to site nuclear waste facilities might go.
And, I think that that’s what’s kept me interested. 
And, certainly the whole effort to try to identify the lessons that have been learned over the years, and to the extent possible, to impart those to the Blue Ribbon Commission, and to make a meaningful contribution has been most interesting. Eureka County put forward a Lessons Learned document to the Blue Ribbon Commission at the end of March, and it was very timely and had a number of recommendations that I think--

(11:00 End of Tape 2-3)

(10:56 Begin Tape 2-4)

MR. GERVERS: Eureka County put forward a Lessons Learned document to the Blue Ribbon Commission at the end of March, and it was very timely and had a number of recommendations that I think were well conceived and helpful to anybody who might in the future want to try to replicate the experience of Eureka County.

MR. WALKER: John, this has been a long and an excellent interview. I’d like to thank you for doing this. Any last thoughts you would like to give us?

MR. GERVERS: Well, I think that the one thing that I would like to leave from this discussion is the importance of involving the people at the local level in any kind of a decision process. And, the countries right now that are in the lead for developing a successful nuclear waste
repository, Sweden and Finland, and both of them have started from the premise that they are going to consult with the local communities and involve them at every stage of the decision process. And, Canada has--Canada is one I didn’t mention before, but they started out with “decide, announce, defend” and ended up with no sites. And, as a consequence, they have gone back to the drawing boards and tried to develop something that is fundamentally rooted in the values of the community, and trying to identify what is important to people, and so I think that’s the way to go.

And, I think that any future effort should be placed in the hands of a group of people who are committed to reflecting the local interests, the local views, and to listening, as well as speaking about what is important. And, in that way, I think that this country has an opportunity to succeed in a future siting exercise.

I’ll just mention one thing that came out in a hearing just a week or two ago when some of the members of Congress were suggesting that if you were to give any authority to local communities, then there won’t be any siting of anything anywhere. And, one person supporting that said, “In this internet age, you can see how quickly information can be spread around, so that opposition could grow very easily and organically, in the way that it did in the Arab spring (phonetic).” And, I think the man has a
certain point there, that we are in a more delicate situation now. But, nonetheless, if you can get the confidence of the community and can develop trust, that is the only way that this kind of a facility can be successfully sited. You cannot shove a controversial facility like this down the throats of people without their consent. And, that is inconsistent with the kind of Democratic country that we are, and I certainly hope that any new legislation that comes out will reflect the need to hear from the local people.

         MR. WALKER: Thank you very much, John.

         MS. CLANCY: John, do we have your permission to use this footage for archival purposes and clips on the web?

         MR. GERVERS: Oh, certainly.

         (11:00 End of Tape 2-4)
TRANSCRIBER’S CERTIFICATE

I hereby certify that the foregoing has been transcribed by me to the best of my ability, and constitutes a true and accurate transcript of the mechanically recorded proceedings in the above matter.

Dated at Aurora, Colorado, this 12th day of July, 2011.

s/s Mary Chevalier
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