



PADUCAH GASEOUS DIFFUSION PLANT CITIZENS ADVISORY BOARD

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Paducah Gaseous Diffusion Plant Citizens Advisory Board Meeting Minutes May 18, 2006

The Citizens Advisory Board (CAB) met at the CAB office in Paducah, Kentucky, May 18, 2006, at 6 p.m.

Board members present: John Anderson, Judy Clayton, Shirley Lanier, Bobby Lee, Linda Long, John Russell and James Tidwell

Board member absent: Allen Burnett, Chad Kerley, Janet Miller, Elton Priddy, Jim Smart and Rhonda Smith

***Ex Officio* members and related regulatory agency employees present:** Bill Clark and Jon Maybriar, Kentucky Division of Waste Management; Tim Kreher, Kentucky Department of Fish and Wildlife Resources; and David Williams, Environmental Protection Agency

Deputy Designated Federal Official present: Rachel Blumenfeld

DOE Federal Coordinator present: David Dollins

DOE-related employees present: Jeannie Brandstetter, Charles Callis, Kim Crenshaw, Bruce Gardner, Steve Kay, James Miller, Mike Paessun, John Powell, Steve Polston, John Razor and Elizabeth Trawick

Four members of the public attended the meeting.

Introductions

Board facilitator Steve Kay called the meeting to order at 6 p.m. He introduced Clayton and Tidwell, new members of the Board. He stated Elton Priddy, also a new member of the Board, could not attend this Board meeting due to commitments that were scheduled prior to his appointment to the CAB.

Agenda

Kay asked for proposed modifications to the agenda. He said the Chairs Meeting review would be postponed to the June meeting. **The Board adopted the agenda by consensus.**

Minutes

Kay asked for proposed modifications to the draft April minutes. There were none. **The Board approved the minutes as submitted by consensus.**

Deputy Designated Federal Official *Attachment 1*

Blumenfeld provided the project updates to the Board.

Federal Coordinator Comments

Dollins welcomed Clayton and Tidwell to the Board.

Ex-Officio Comments

Russell said he had received some correspondence that referenced drums containing hazardous waste material sent to the C-746-U Landfill for disposal that did not meet waste acceptance criteria (WAC). He said the landfill has had some design problems, Notice of Violations (NOVs), and now this issue is coming up. He said he is concerned that there is not sufficient oversight of the WAC at the landfill. Russell asked if the Board could receive some kind of assurance that the criteria are being met and that there is sufficient oversight from the regulators and DOE. Blumenfeld said anybody is free to make allegations but whether the allegations are true and substantiated by fact is a separate question and one that needs to be pursued through appropriate channels. She said contractors are required to operate DOE facilities in compliance with regulatory laws and requirements. She said the required WAC for the permit is in place and to the best of her knowledge, is being complied with. Blumenfeld said they are subject to regulation, inspection, and oversight by the state regulators. She said DOE and the regulators follow up on allegations and violations. Maybriar said the permit is held by the Solid Waste Branch but he is unaware of any violations of waste accepted under the solid waste criteria going to that landfill that did not meet WAC. If someone has information that they feel needs to be brought forward, he encouraged the information to be submitted to Tony Hatton, Bruce Scott or Ron Gruzsky. He said Kentucky does not normally go out and monitor things that go in each facility around the state but there are periodical spot inspections. Williams said he has received some complaints and he passed them on to a site attorney working with the Department of Justice

on an ongoing investigation of previous waste disposal practices. He said the complaints were also sent to their offsite landfill coordinator and the Resource Conservation Recovery Act (RCRA) permit oversight person.

Lee said she was made aware of a problem with the landfill at the task force meeting by Gary Vanderboegh. She said it sounds like it may be a subcontractor problem not labeling or screening waste to the landfill. She asked if there was any quality control at the landfill and who is overseeing the subcontractors at the landfill to ensure they are bringing waste that meets the WAC. Blumenfeld said there are specific approved procedures on site that each contractor is required to submit to DOE and comply with as a provision in their contract. Bechtel Jacobs Company LLC (BJC) had subcontractors that did work on site so those requirements would include their subcontractors. She said there is a requirement to characterize and certify waste and the waste packages go through that process.

Lee asked who guarantees that process is followed. Blumenfeld said what Lee heard was an allegation that the process was not followed and she said she did not feel comfortable going in depth in terms of trying to defend that. She said those are the requirements that are on site and DOE contractors are required to oversee quality and implementation. Blumenfeld said on a waste management program, a large part of what RCRA relies on is requirements to certify certain things and if someone is found to certify falsely, they are subject to personal criminal liability in the statutes as well as fines and penalties. The certifications have to be relied on and there are periodic inspections where records and activities are reviewed. If there are allegations, that would be looked into specifically.

Russell asked if Blumenfeld is aware of waste coming to the landfill that was rejected for disposal because it did not meet WAC. Blumenfeld said she did not recall having been told that but she does not look at the records every day. She said it would be her hope that if someone showed up with waste that did not meet WAC it would have been rejected.

Long said last month's minutes stated that analysis has been done to determine an acceptable safe level of radioactivity that could go into the landfill to be considered a non-radioactive facility. She said that doesn't make sense. Blumenfeld said it makes sense if you are familiar with the regulatory language. In a radioactive facility, there is waste that goes into it that has higher levels of radioactivity. The statement means you can put waste in the facility that has minimal levels of radioactivity but the analysis has been done to show that it at safe levels. It can go into a facility that is not designated as a radioactive waste facility because it is not required to be disposed of at a radioactive facility.

Lee said the CAB would be concerned if the landfill were taking waste that doesn't meet WAC. Blumenfeld said DOE would be concerned as well. Lee asked that the CAB be kept informed on this issue. Blumenfeld agrees and said she could almost guarantee if someone found that hazardous waste had gone into the facility, DOE would receive a NOV from the state. She said anytime DOE receives a NOV, she reports that to the CAB. Russell said one NOV had been received. Blumenfeld said DOE had received a NOV in the past but follow-up work had been done and the state was satisfied that no hazardous waste had gone into the

facility. She said the NOV's are typically allegations and then a pathway is followed to respond and identify any corrective actions.

Public Comments

Johnson, former DOE contractor employee, said the Paducah plant never complied with 5820.2a or 435.1 as far as having a waste certification program plan in place. He said Portsmouth and Oak Ridge developed those plans but Paducah never did. He said it was DOE's requirement to monitor those contracts and ensure those contracts were being met. Johnson said he tried to encourage DOE to develop this program in Paducah because of the trouble certifying waste to meet criteria for storage. He said the request for disposal allowing the transfer of waste from a generator to this facility certifying what was in the container was true. He said he couldn't find anyone to enforce that requirement because in his experience, for example, one drum labeled "auger cutting" might contain a hand held spray pump with water in it. Someone was violating a contract requirement and the contract was not enforced by DOE or the subcontractor. He said he testified to a criminal federal grand jury to that effect but before that he had told BJC and WESKEM attorneys the same thing and the language may have been taken out of 435.1. He said there used to be a template in there that told who was accepting or generating waste on behalf of DOE and how they were to do that.

Vanderboegh said he was the Landfill Manager for the C-746-S, T, and U Landfills for DOE until April 24, 2006. He said he has worked diligently with Blumenfeld to help get the landfill permitted to save millions of dollars to the taxpayers. He said he wanted to share with the Waste/Water task force some concerns over the last year of operation. Vanderboegh said he has shared these concerns with Mitch McConnell's office. He said the way the program operates is that he was the landfill manager and the primary individual responsible for the landfill and he would make recommendations to DOE the best he could, as a BJC or WESKEM employee.

It became very difficult for him to voice any issues that would then go forward to DOE. He said there was an intermediary group called BJC. He said to answer some of the questions that have been asked by the CAB members, these issues with the landfill are not allegations. He said he has seen waste coming in from BJC that is mislabeled and he has had to stop the truck or turn the truck around. He said he is now hearing that DOE was not aware of that. He said it is shocking because he thought there was a process in place that Blumenfeld just emphasized, for the contractors to be accountable for complying with WAC. Vanderboegh said he guarded that permit with his life because Blumenfeld did not want to catch a NOV that came through the gate that ended up being a hazardous waste issue. He said what happened in the last month or two in the operation with BJC is that he had repeated activity that came to the landfill. He said it has nothing to do with his active whistleblower complaint, which he thought was an employee's concerns complaint. He said all he did was try to protect the landfill from taking the waste that is being discussed. He said in the last few months or weeks at the landfill, which Paducah Remediation Services (PRS) is not at fault, the same project people that are now employed with PRS brought free liquid waste to the landfill, that he had to contact the state and DOE on, because that is what the procedure says to do. He said Blumenfeld just indicated that she was not aware of that. Blumenfeld said

what she said was she did not recall; that does not mean that no one at DOE was notified or that site personnel was not aware. She said she could have received an e-mail; she has over 2,000 emails in her inbox. Vanderboegh said he understands that and he and Blumenfeld go way back to guard that landfill so nothing could come through that could cause a public outcry. Vanderboegh said waste was coming to the landfill brought by a BJC contractor mislabeling the waste boxes so they had to be turned around. He said on an inspection he made on the S-Landfill, drums that were in storage were being processed on a closed landfill, which was not appropriate. If drums are going to be processed on a closed landfill, it has to go through Frankfort and permission has to be granted to do so. The drums were crushed but were relabeled by the BJC generator as rad waste, which meant the drums were uncovered on a closed landfill and they suddenly scrambled to reclassify the waste stream. These may possibly be the drums to which Russell is referring.

Vanderboegh said he understood that Blumenfeld might not have gotten word of that but he start seeing these things happening such as the waste streams mislabeled, generators not wanting to comply with WAC and he gave warnings and those warnings became a workplace violence memo back to the president of his company. He asked where the controls were in the field to ensure that these things did not happen. Kay asked if these issues have been raised to the appropriate personnel. Vanderboegh said these issues were raised to the BJC people that are now employed with PRS. He said that was his point, nothing has changed for improve operations. These situations are real and will continue to happen. Bulk waste has been proposed for disposal in the landfill, which requires certain approvals and conditions, and when these are brought forward as a landfill manager, he has to comply with those requirements so DOE does not lose the permit.

The issues with the leachate are known there were many situations where he or his employees caught waste at the gate. He said there is a process on how this is reported and he doesn't know whether it got to DOE or the proper authorities in Frankfort. He said he knew the free liquid situation did because it instigated a new inspection process on how they were to accept boxes of waste and drums. He said the generator then stopped bringing liquids to the landfill, which is a violation, but the violation is not written so that put him in a situation where violations were happening but not recorded. Maybriar asked who Vanderboegh notified in Frankfort. Vanderboegh said Larry Hamilton from the Solid Waste Branch and Ron Gruzesky was the regulator who approved the liquids going into the landfill. He said a landfill manager is trained that you can't accept waste that contains free liquids, and then you have a state regulator who says there is no harm.

Russell said this advisory Board cannot concern itself with the investigation. He said its role is advisory but the Board should make a statement of their level of interest or concern in the quest of DOE due to the location of the landfill to ensure that the waste acceptance criteria is more than a compliant procedure on a piece of paper. It should be followed to a high degree of compliance from DOE and the regulators. Kay asked Russell if he would like to prepare a formal statement in the Waste/Water task force meeting and bring back to the Board in June for approval. Russell said yes.

Jurka said that in the Halbrook presentation last month one of the metals that he was looking at found in wildlife was mercury. She said people deny that mercury that is found in the ponds and sediments came from the Paducah Gaseous Diffusion Plant (PGDP). She said she asked him if the funding for the project was specific for the PGDP and he said yes it was. She asked if mercury is emanating from the PGDP on-site or off-site and has the site neighborhood ever been sampled for radioactive mercury or Mercury 203. Blumenfeld said she did not know that question was going to be asked and is not prepared to answer. Jurka said when she asks a question it is never answered so she was hoping it could be answered at the meeting. Kay said the question will be added to the action item list for a response at the next meeting.

Kreher said that in one specific site on the Wildlife Management Area, formally used in Kentucky Ordnance Works (KOW) days for WWII, there were fish found that has elevated levels of mercury, however, the origin of that mercury has never been identified, but because of the location where the ponds exist, it is believed that that particular contamination was originated from something on the KOW site and not the PGDP. He said there is a statewide fish consumption advisory for ponds and bodies of water all over the state regarding mercury. He said it is a common practice when looking at fish sampling almost worldwide that mercury is a contaminant that is tested for. On a statewide basis, mercury is a contaminant of interest and on a local basis, we know it has been detected at the site but it is not known if it is coming from the PGDP. Jurka said if the funding is so precious with regard to this site in particular, if mercury was not a contaminant that was specific to PGDP and the money is allocated for surveillance activities for the PGDP then she would expect there might be another contaminant that needed to be looked at instead rather than looking at documents compiled from mercury and other sources.

She said she still wanted to know if there is mercury coming from the PGDP and if Mercury 203 has been tested for on-site and off-site. Maybriar said the state has a contract with the University of Kentucky that sets up four stations on Little Bayou Creek and nine stations at Big Bayou Creek that specifically target certain effluence that may be more problematic for that part of the stream. He said they target those to try to reflect any contamination and sampling is done above and below certain outfalls that discharge process water to Big and Little Bayou Creeks for mercury. There are no levels of mercury coming from the PGDP facility in the fish, surface water or sediment. He said they look for mercury as a metal, but they do not look for radioactive mercury. Maybriar said mercury in the ponds may be atmospherically received but there is no runoff from the plant. He said they feel confident that the mercury is not coming from the PGDP. Jurka said the documents indicate the prevailing wind at the site blows toward the river. She said if it was coming from Joppa or Tennessee Valley Authority, it would be going towards Illinois, not towards Woodville Road where there are a number of ponds contaminated with mercury. She said those ponds have fish advisory levels and something is not correct.

Task Forces/Presentations

Land Acquisition Study Statement of Work

Blumenfeld said the Land Acquisition Study Statement of Work has been finalized. She said DOE has reviewed the comments and revisions have been made in response to some of the comments.

Williams said he would like to reiterate that the U.S. Environmental Protection Agency (EPA) Headquarters does have concerns on the general study. The Land Acquisition Study is viewed as a land use control and it does not replace any type of efforts of remediation of the ground water plume and to return the groundwater to beneficial use.

Waste Disposition/Water Quality Task Force

Lee said the Waste Disposition/Water Quality task force received updates on several ongoing projects and the task force will receive a one page summary sheet on the Southwest Plume at the next meeting.

Lee said Russell submitted additional requests on the overlays for the End State maps. She said the requests include showing the infrastructure, private residences and industrial verses other uses. She asked if the Land Acquisition Study would be developing any maps in their final report that might be useful for the CAB or if they could make a request to DOE for these maps to be included in the study. Blumenfeld said the overlays requested are not in the current scope for the study. The language for the scope of work is from the congressional mandate. She said the schedule has been adjusted due to comments and responses. She said DOE would provide a new schedule to the CAB.

Administrative Issues

Budget Review

Kay said the Executive Committee has not met to discuss the proposed requests by Burnett to indicate on the spreadsheet how much of the budget is EHI's and how much is Board expenditures.

Review of Workplan and June Agenda

Dollins asked to postpone the Site Management Plan presentation until July to allow time for EPA to submit their comments to DOE. He said PRS would make their presentation in July. Lee requested a presentation on the Southwest Plume Site Investigation report in June. Dollins agreed. Dollins suggested that the Land Acquisition Study be added to the June agenda to discuss the status of the study.

Kay asked Dollins to discuss the changes for the CAB's bylaws that were discussed at the Chairs Meeting. Dollins said he was not prepared to discuss that. He said there has been a limit set on the length of service for CAB members. He said the term has been changed from ten years to six but it is flexible for members that have already served longer than six years. Dollins said HQ is trying to draw on fresh and valuable input. He said there may be a change for members that have served their term to attend the Board meeting for newer members to draw upon their knowledge that they have gained from serving on the Board.

Kay said the CAB is still waiting for a letter from Mr. Murphie for the annual report. Dollins said he has made several phone calls to Lexington for the person that is suppose to be writing that. He asked that the support staff contact him to ensure this is followed up on.

Action Items

Brandstetter said the Oak Ridge Environmental Information System data was added to the Community Outreach agenda so that action could be closed. The Community Outreach task force issues have been added to the Executive Committee agenda. Dollins said he has contacted BJC for charges against the CAB's budget but that is still in transition. Dollins said Yvette Cantrell, PRS could be contacted for information on a Paducah Project organizational chart, the Web site for documents, and the discussion of news clips. Anderson suggested giving the CAB's list of needs to John Razor. Long said she was never contacted for sampling to be done on the fish in her pond. Maybriar said he would contact Bill Clark to check when he can do the sampling. He asked if she wanted her fish sampled or the sediment and surface water. She said the soil and water would be fine. Maybriar said he had spoken to Tony Hatton for information on radioactivity appearing in the leachate. He said he has not received a response at this time.

Subcommittee Report

Executive Committee

Kay said the letters in the packet from the Chairs meeting need to be discussed and voted on for Chairs signature. Dollins asked Brandstetter to follow up with Smith on the letters and they could be discussed and voted on at the next meeting. Brandstetter said there is not a designated time limit for the signatures.

Russell said he saw the article where Smith had received an award from DOE on National Volunteer week. Brandstetter said all members at the Chairs meeting received the award. Dollins said he was impressed with Rispoli, DOE Assistant Secretary for EM. He made himself available for questions during the Chairs meeting.

Kay said the Executive Committee meeting has been moved to May 30 at 2 p.m.

The meeting adjourned at 7:35 p.m.