



PADUCAH GASEOUS DIFFUSION PLANT CITIZENS ADVISORY BOARD

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Paducah Gaseous Diffusion Plant Citizens Advisory Board Future Use Subcommittee Meeting Summary March 21, 2013

The Future Use Subcommittee met at the Environmental Information Center (EIC) in Paducah, Kentucky on Monday, March 21st at 5:07 p.m.

Board members present: Ralph Young, Ken Wheeler, Richard Rushing, Ben Peterson, Jim Tidwell, Diane O'Brien, Mike Kemp, David Franklin, Judy Clayton, Glenda Adkisson, and Tom Grassham

Board Liaisons and related regulatory agency employees: Tim Kreher, Kentucky Division of Fish and Wildlife Resources

U.S. Department of Energy (DOE) and contractors: Rob Seifert, Buz Smith, Tom Hines, Bud Sokolovich, DOE; Yvette Cantrell, Leslie Cusick, RSI; Eric Roberts, Jim Ethridge, EHI

Public: Bill Paxton

Future Use Subcommittee Meeting

Roberts opened the meeting and called for introductions. **Wheeler** suggested inviting Paducah Area Community Reuse Organization and Paducah Economic Development to future meetings of this subcommittee. **Roberts** then turned the meeting over to **Kreher** for a presentation on the West Kentucky Wildlife Management Area and its use by the public.

Wheeler: Tim, is this map the same map that we saw Tuesday night? (from EA public meeting)	Kreher: I'm not sure, but I can get a copy of this map to you if you would like.
Wheeler: I think it would be valuable to have the proposed waste cell sites as an overlay to this map.	Roberts: We can take care of that. Kreher: It also might be beneficial to have an overlay showing the bird dog trial trails on there too.
Smith: What percentage of bow hunters are turkey hunters and what percentage are deer hunters?	Kreher: Most bow hunters will purchase a permit for both and then not use one or the other as their time permits them to hunt.
Wheeler: Has there ever been any thought to extending some of the dog trails farther out to the north?	Kreher: That has been discussed. One of the biggest roadblocks to that is the fact that a large part of the area is owned by one farmer. You would have to have willing sellers and the funding to get it done.
Adkisson: Has there been a study done on the economic impact to this area by the visitors that come to the wildlife management area?	Kreher: We don't have that information specifically. A few years ago we estimated that for a weekend here, the average spent in the area by a visitor was in the neighborhood of \$400-450.

Adkisson: Do we have an estimate of how many people come for an overnight stay here?	Kreher: That is something I can give you a ballpark estimate on. I would have to do some figuring on, but I can get you an estimate.
Adkisson: If I am not mistaken, the tourism department would have some guidelines on how much is spent per person when they visit the area.	Kreher: That's right.
Wheeler: Buz, is there any interference between these activities and activities at the plant?	Smith: I have never heard of any problems along those lines.
Wheeler: Tim, how long is the use license good for?	Kreher: It is good for five years.

Roberts introduced **Cusick** and **Sokolovich** and then turned the meeting over to them for a presentation about the process of DOE property transfer.

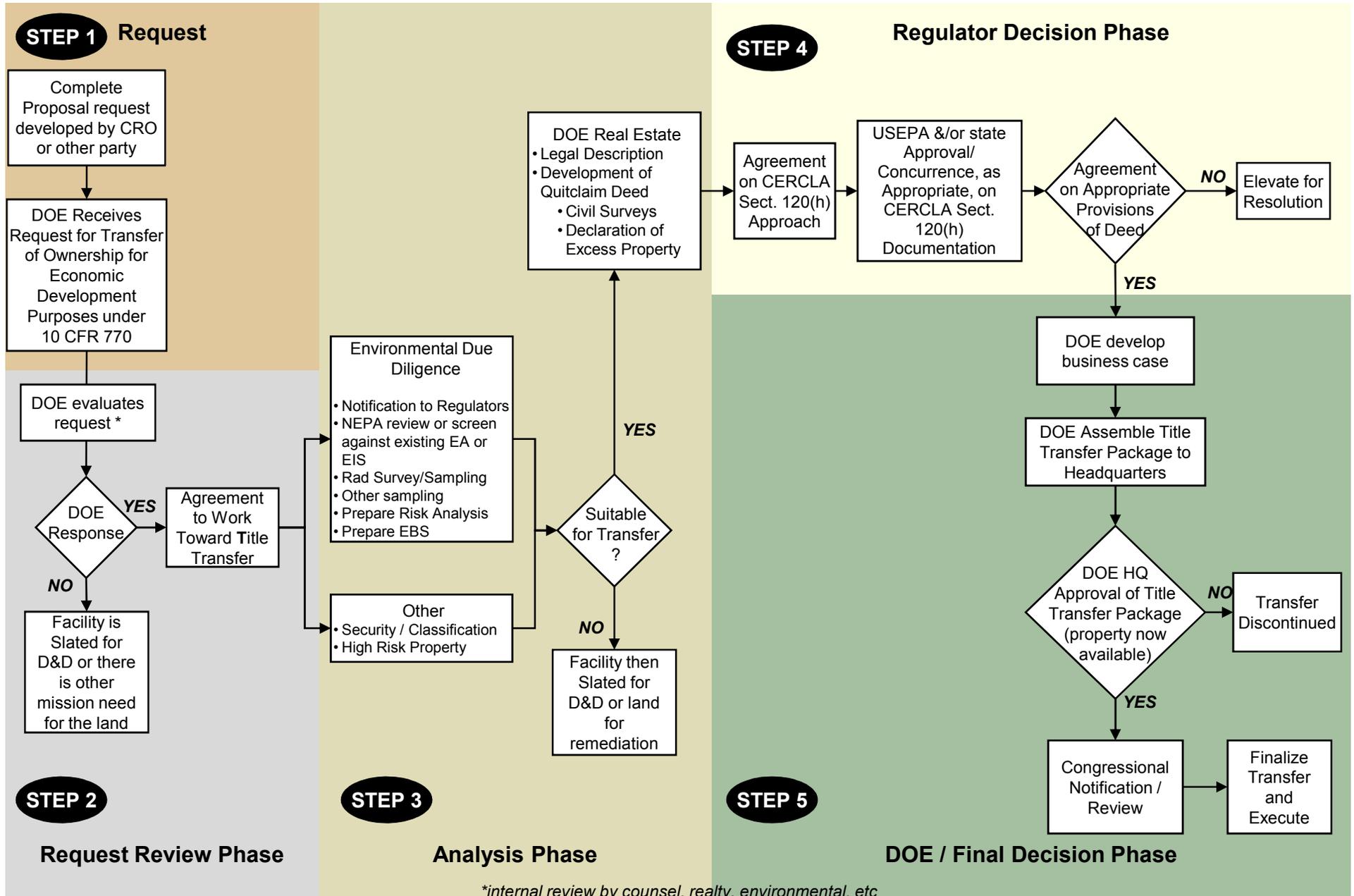
Wheeler: In our case, PACRO and DOE have an agreement?	Cusick: Yes.
Wheeler: Are you saying that can be ignored?	Cusick: I'm not saying that can be ignored, I'm saying that it is not limited to just the CRO. Sokolovich: Under 10CFR770, it lists agencies outside the local groups can make requests.
Paxton: So you are saying if an economic development prospect is working with Paducah Economic Development, and the state's economic development, and they want a piece of property at the site, then the three groups could negotiate with DOE?	Sokolovich: We hope that all the economic development arms of the local area are working together to make a request.
Paxton: If the prospect creates jobs and creates capital investment in the county, I can't imagine why Congress would disapprove. This is the first time that I have heard that you could negotiate outside of CRO.	Sokolovich: The reason you don't hear about it much is because we usually focus on the 10CFR770 process, which is a mechanism to transfer property for less than fair market value.
Kemp: Will DOE lease property or does it have to be transferred?	Sokolovich: It depends on what it is used for.
Kemp: Where is the cutoff point if it is leased instead of transferred?	Cusick: It really depends of several things, like what it will be used for. A lease usually goes through much quicker than a transfer, but DOE would still have to go through several of the same procedures.
Wheeler: Does the application have to say what the use will be?	Cusick: The more specific you can be the better.
Wheeler: Can you tell us the status of our pending request?	Smith: PACRO is working on one right now, but we haven't received a formal request.
Clayton: Are you specifically talking about inside the fence or outside the fence?	Cusick: Both.
Clayton: You refer to buildings inside the fence, but in the meeting Tuesday night (EA public meeting), you refer mainly to things outside the fence because what's inside the fence really isn't available.	Sokolovich: It's more immediately available being outside the fence. Cusick: The process to do due diligence applies to all property that DOE owns.
Peterson: Is there a difference between DOE's	Smith: If another company wanted to use the site

request for interest in the site and the proposals like the one from PACRO?	for a similar process, they could make use of the categorical exclusions and that would simplify everything, instead of trying to use the site for something completely different.
Kemp: If there is a portion of property where the remedial action involves land use restrictions, is that automatically preempted from property transfer?	Cusick: I am not aware of any. When you have a covenant deferral, the deed has restrictions in it, like groundwater use or digging below a certain depth. In that case you would need to coordinate with EPA. Smith: The bottom line is the federal government is responsible for cleaning it up.
Roberts: In the event a new entity comes in, at what point does DOE give up any particular health liabilities that might have been caused by previous uses of the land?	Smith: That would depend on how their attorney and DOE's attorney would work it out. EPA would have to certify it as a clean property to switch it over.
O'Brien: It was my understanding that they could transfer it with restrictions without the certification.	Smith: That's true, but for a clean title without any kind of restrictions, it would have to be certified as clean. Otherwise you would have restrictions that would keep the federal agency on the hook to clean it up. Cusick: DOE will transfer the land, but they own the contamination.
O'Brien: The attorney was fuzzy on all that (at the EA public meeting). I based my questions on what happened at Fernald. There was groundwater contamination and it went to the river. At first DOE said sovereign immunity, you can't sue me. It went to court and the courts ruled that DOE had responsibility to clean it up.	Cusick: It is very important to have a very solid baseline as far as what is known about a site, for both sides.
Tidwell: What does evaluate for resolution mean?	Cusick: Everyone has to reach a resolution on the kinds of restrictions that come into play.
Peterson: Time frame from step one to step five?	Sokolovich: It depends on a lot of things, but we are talking at least two years, start to finish. Cusick: And we are trying to work it down to 18 months.
Peterson: Is the impact to the community considered as much as the impact to DOE?	Sokolovich: I would say that the offices are focused toward what the community needs.
Roberts: If DOE is the only agency to put together the business case for a request, where is the check and balance to support the community's wishes?	Sokolovich: By the time we are putting together the business case, you should know that we are lobbying for the community. Hines: It is DOE's goal to transfer the property as soon as we can and reduce the footprint of the property that DOE has control of.
Tidwell: Could you explain the process of reaching a "no" decision after getting this far? (in step 5 of the Property Transfer Process Overview slide)	Sokolovich: In my experience, that has not happened. It could if something was not handled right or done in an earlier stage of this process.
O'Brien: Does a lease-purchase agreement speed the process along, or do you do lease-purchase agreements?	Sokolovich: I've never seen a lease-purchase agreement, but I have seen a lease with the intent that it is going to be transferred at some point in

	the future.
Kemp: What's the process if DOE wanted to transfer that property to another federal agency, specifically if Fish and Wildlife wanted to acquire that property, what would they have to do?	Sokolovich: If we were transferring the property to the state Fish and Wildlife department, the process would be the same. If we were transferring to another federal agency, that is done by law, but that is rare unless they have a mission need.
Wheeler: Is each case assigned a case manager throughout the process?	Sokolovich: We don't have case managers.
Roberts: Could we get a list of some of the things that are being transferred at other sites?	Smith: I can work on that.
Roberts: What the CAB needs to know about the process: you have to have a formal request, it takes a couple of years, a lot if it happens behind the curtain. You almost have to have a specific plan in place before you request a property transfer, correct?	Sokolovich: The more specific the better.
Roberts: Is there anything that can be started on the buildings without a defined plan in place or do you have to wait?	Sokolovich: You would have to know that the mission is done, or close to it, and the property is no longer being used. Cusick: It's case by case.

Meeting was adjourned at 7:42 pm.

Property Transfer Process Overview (under 10 CFR 770)



Note: The Analysis Phase generally begins once DOE agrees to work toward the title transfer

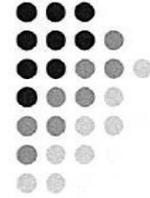
CERCLA 120(h) Process



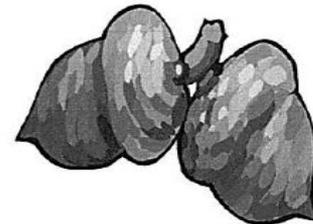
- Section 120(h)(3)(A) of CERCLA oversees property transfer from a federal agency (responsible for cleanup) to a nonfederal entity.
- It requires DOE to:
 - Include a covenant in the deed of transfer warranting that all remedial action necessary to protect human health/environment has been taken prior to the date of transfer with respect to any hazardous substances remaining on the property.
 - Demonstrate (under certain circumstances) to the EPA Administrator that a remedy is “operating properly and successfully” before providing the covenant.
- Covenant can be deferred so that property may be transferred before all necessary remedial actions have been taken if regulators agree that:
 - Property is suitable for intended use.
 - Intended use is consistent with protecting human health/environment.

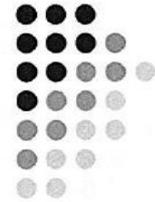


CERCLA 120(h) in a nutshell



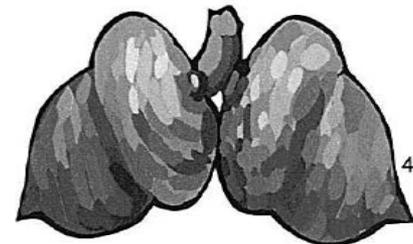
- CERCLA 120(h) is by far the most thorough review a transfer will undergo
- CERCLA 120(h) – applies to the transfer of federally-owned real property.
 - It isn't CERCLA for clean-up
 - Its basically environmental due diligence



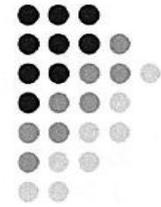


More on CERCLA 120(h)

- There are 3 main types of transfer under CERCLA 120(h):
 - 120(h)(2) – operating properly and successfully – for transfers that occur post-clean-up
 - 120(h)(3) - covenant deferral, for transfers that occur prior to completion of clean-up
 - 120(h)(4) – clean parcel determination/declaration – for transfers where no clean-up is needed



More 120(h)



- The type of transfer will vary from parcel to parcel
- Different types of transfers can occur at the same site
- The ultimate test of a 120(h) review is to determine if the transfer is protective of human health – for the intended use – and the environment

