



June 21, 2018

Chair
Bill Murphy

Vice-Chair
Mike Kemp

Board Members

Renea Akin
Charles Allen
Renie Barger
Cindy Butterbaugh
Victoria Caldwell
Judy Clayton
Nancy Duff
Celeste Emerson
Lesley Garrett
Tom Grassham
Shay Morgan
Cindy Ragland
Patrick White
Carol Young

Jennifer Woodard
DOE DDFO

Buz Smith
DOE Federal Coordinator

Board Liaisons

Brian Begley
Division of Waste Management

Julie Corkran
Environmental Protection Agency

Mike Hardin
Fish and Wildlife Resources

Stephanie Brock
Radiation Health Branch

Support Services
EHI Consultants, Inc.

Emerging Technology Center
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Paducah, KY 42001
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June 2018 Citizens Advisory Board Meeting Agenda

6:00pm

Call to order, introductions
Review of agenda

DOE Comments

-- 5 minutes

Federal Coordinator Comments

-- 5 minutes

Liaison Comments

-- 5 minutes

Presentation

- FACA and the EM SSAB -- David Borak

-- 20 minutes

Administrative Issues

- EM SSAB Chairs Letter to Anne White
- EM SSAB Chairs Recommendation Regarding the Energy Community Alliance Report on Waste Disposition
- Recommendation 18-XX : Support for Demolition of C-400 Cleaning Building
- Recommendation 18-XX : PGDP CAB Response to Regulatory Reform Initiative

-- 20 minutes

Public Comments

-- 15 minutes

Final Comments

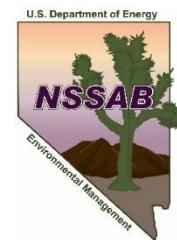
-- 10 minutes

Adjourn

FACA and the EM SSAB

June 2018 – Paducah CAB

David Borak, Designated Federal Officer, EM SSAB



Agenda

- The Formation of the EM SSAB
- FACA and the Guiding Principles for the EM SSAB
- Legal Requirements Under FACA
- DFO/DDFO Roles & Responsibilities
- Your Roles & Responsibilities
- Legal Considerations Under FACA
- Questions



What is the EM SSAB?

- Chartered in **1994** under FACA to involve local citizens more directly in DOE EM cleanup decisions
- There is **one charter** for the EM SSAB – currently eight local boards organized under the EM SSAB umbrella charter
- These eight local boards are brought together routinely at the EM SSAB **Chairs meetings**, where the EM SSAB is able to speak in one voice



- Made up of **representative** members, not necessarily experts
- Focus on **stakeholder values**
- DOE receives **independent input** and focus on **transparency to build trust**

Purpose of FACA

- Ensure that advice by advisory boards/committees is **objective** and **accessible** to the public
- **Formalize** process for establishing, operating, overseeing and terminating advisory boards
- Create the **Committee Management Secretariat**
- Require that boards **advise and recommend**, not decide and implement

Benefits of FACA

- Transparency and participation improves **citizens' trust** in government
- FACA requirements lend **credibility** to the boards' advice



FACA by the Numbers

- ~1,000 federal advisory committees in existence at any time.
- ~65,000 committee and subcommittee members at any time.
- ~60 executive departments and agencies that sponsor committees each year.
- ~1,000 reports issued each year.
- ~7,000 meetings held each year.



Key Players

- **GSA Committee Management Secretariat**
- **Department of Energy – Headquarters**
 - Committee Management Officer (CMO)
 - Designated Federal Officer (DFO)
- **Department of Energy – Field Sites**
 - Deputy Designated Federal Officers (DDFOs)
 - Federal Coordinators, and Local Board Staff
- **Board Members**
 - Chair and Vice-Chair
 - Members
- **Liaisons**

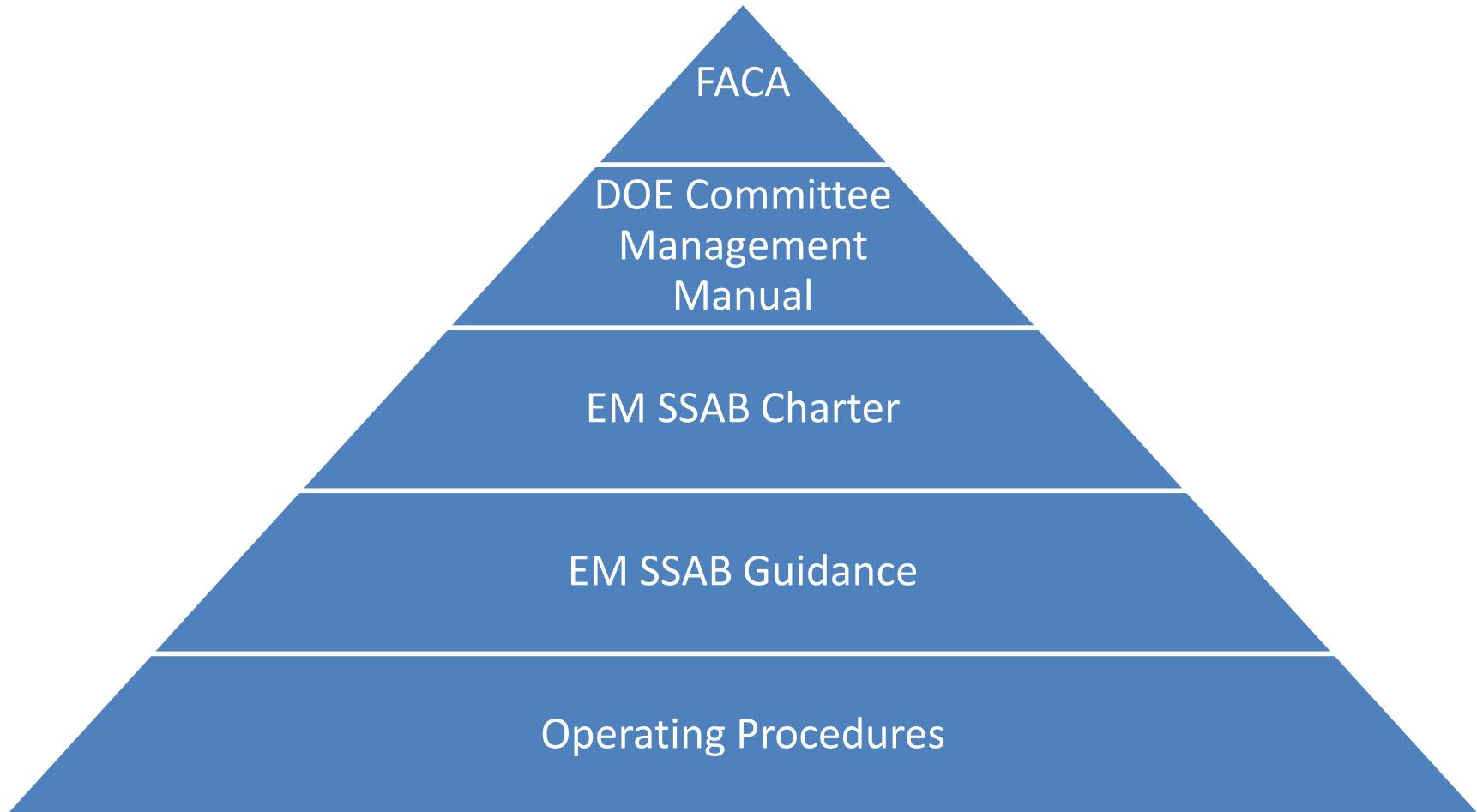


Basic Legal Requirements of FACA

- Requires a **charter** outlining the committee's mission and specific duties
- Allow for **open access** to committee meetings and operations
 - Meetings must be **accessible** to the public and **announced** in the Federal Register
 - Committee **documents must be maintained** and made available for public inspection
- Maintain a “**fairly balanced**” membership
- Provide an opportunity for **Public Comment**
- Violations?



Guiding Documents



DFO/DDFO Requirements under FACA

- Ensure **compliance** with FACA, regulations, DOE Guidance, and all related agency policies and agreements
- Approve **agendas** for each Board meeting
- **Organize** and **attend** every Board meeting
- Maintain required committee **records** (e.g., costs, minutes, membership)
- Prepare **Federal Register** notices
- Prepare **annual report** to the CMO summarizing Board activities
- **Nominate members** for appointment
- Ensure all **ethical standards** are met by Board members
- Ensure that meetings are held at a reasonable time and place, **accessible to the public**

Member Responsibilities

- To attend regular meetings and learn about the site's EM cleanup mission
- Provide recommendations at the request of site management and EM leadership
- To work collaboratively and respectfully with other Board members and liaisons
- To abide by the terms and conditions of the **EM SSAB Charter and guiding documents**
- Notify the DDOF of any potential **conflict of interest**
- Focus on the mission – collaboratively establishing a **work plan**



Conflicts of Interest

Conflict of Interest: EM SSAB members are **not** subject to the same federal ethics regulations as federal employees and Special Government Employees.

- **As a matter of policy**, however, DOE asks that you:
 - Refrain from any use of your membership, which is, or gives the appearance of being, motivated by the desire for private, professional, or financial gain;
 - Recuse yourself from decisions and discussions related to real or perceived conflicts of interest, act impartially, and avoid the appearance of impropriety; and
 - Seek immediate guidance, beginning with the DDFO, if you are offered anything of value such as a gift, gratuity, loan, or favor in connection with advisory board service.

Questions?

David Borak

Designated Federal Officer, EM SSAB

(202) 586-9928

David.Borak@em.doe.gov



ENVIRONMENTAL MANAGEMENT SITE-SPECIFIC ADVISORY BOARD

Hanford Idaho Nevada Northern New Mexico
Oak Ridge Paducah Portsmouth Savannah River

Ms. Anne Marie White
Assistant Secretary for Environmental Management
U.S. Department of Energy, EM-1
1000 Independence Avenue, SW
Washington, DC 20585

Dear Assistant Secretary White:

The EM SSAB appreciated the video greeting you provided to us at our recent meeting in New Mexico. We welcome you to your new position as Assistant Secretary and look forward to providing you with informed, clear and useful input and recommendations and invite you to attend our next EM SSAB Chairs Meeting tentatively scheduled for the EM Cleanup Workshop on September 11, 2018.

The EM SSAB is the largest, most diverse advisory board in the EM complex. We represent many thousands of citizens, public interest groups and tribal nations impacted by the EM legacy waste clean-up sites across the country.

Many of us understand that regulations are sometimes duplicative, cumbersome and overly restrictive. That being said, we encourage DOE to scrutinize proposed regulatory changes to ensure those changes are in step with each SSAB's core values, inclusive of the following considerations:

- Protect worker health and safety;
- Protect and restore the groundwater;
- Protect the environment – do no harm during cleanup or with new development;
- Involve the public;
- Secure sufficient funding;
- Maintain the integrity of the State regulatory agreements;
- Develop and deploy new technology, without impeding cleanup;
- Incorporate long-term stewardship needs in current and future cleanup decisions;
- Partner with local communities and workforce in order to maintain the skill set necessary to accomplish these cleanup activities.

We look forward to meeting you soon.



Susan Leckband, Chair
Hanford Advisory Board



Steve Rosenbaum, Chair
Nevada SSAB



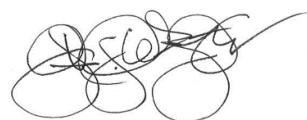
Dennis Wilson, Chair
Oak Ridge SSAB



Renie Barger, Chair
Paducah CAB



Gil Allensworth, Chair
Savannah River Site CAB



Gerard Martinez y Valencia, Chair
Northern New Mexico CAB



Bob Berry, Chair
Portsmouth SSAB



Keith Branter, Chair
Idaho Cleanup Project CAB

cc: Mark Gilbertson, EM-4
 Betsy Connell, EM-4.3
 David Borak, EM-4.32

EM SSAB Chairs
Recommendation to the Department of Energy
Recommendation Regarding the Energy Community Alliance Report on Waste Disposition

Background

The Energy Communities Alliance (ECA) sponsored the wide-ranging report “Waste Management: A New Approach to DOE’s Waste Management Must be Pursued.” These recommendations would, if implemented, bring about major changes in longstanding national policies regulating the categorization, treatment, and disposition of DOE legacy radioactive waste. The environmental management of such wastes would henceforth be based, not on origin, but on the radioactive characteristics of the waste and the resulting risks to human health and to the environment.

The report underlines the urgency of pursuing a new approach. According to figures cited in the report, DOE’s overall environmental waste liability has more than doubled to \$372 billion over the past 20 years, of which EM’s portion has grown over \$90 billion from \$163 billion to \$257 billion. Reducing the lifecycle costs of these radioactive wastes and the burden on local communities requires a new decision approach based on risk management.

The systemic problems of the DOE/EM program identified by the ECA report are clear and compelling. The present classification waste based on origin, rather than risk goes back to the beginnings of the nuclear weapons program. The economics of the program are currently unsustainable—somewhat akin to making the minimum payment on a growing credit card balance. The current classification categories in DOE Order 435.1 (Radioactive Waste Management) do not align with NRC domestic or IAEA international standards. In principle, transition to a risk management approach would result in less “over-classification” of waste and reduce the volume of wastes subject to higher levels of handling. According to the ECA report, costs would be significantly reduced—estimated at \$2.5 million per day.

The ECA report itself is based on much prior research dealing with the same problem. The ECA is composed of representatives of local communities hosting DOE facilities and thus has a degree of local “buy-in.” Furthermore, the report ostensibly has the support of the Waste Management industry, as evidenced by remarks by industry leaders at the 2018 Waste Management Conference in Phoenix.

However, while the report presents a coherent and consistent argument on behalf of a new approach, it would be difficult to determine the merits based on this policy study alone. The lack of empirical data is a significant drawback. There are no charts or figures in the study. The “new” system of classifying waste is not defined either in general terms or specific levels of radioactivity. Methods for determining or calculating the conversion of existing to new classes of waste are not presented. Global figures for total amounts of waste and total costs are presented narratively. But it is not possible to evaluate the differential impact by DOE facility or State. The WIPP facility plays a prominent role in the proposed solution as the recipient of significantly increased volumes and types of waste. But the specific amounts are not explained. WIPP is also expected to receive increased capital expenditures for expansion, but specific numbers are not provided. Information on the notional return on investment is not provided (except the vague estimate of \$2.5 million per day mentioned above). On the whole, the merits are asserted but not really evaluated or empirically justified.

The ECA Report sets forth policy changes to advance desirable and widely-accepted goals of cleaning up nuclear wastes nationally. But given the empirical shortcomings, the report should be regarded, at this juncture, as a worthwhile, but preliminary policy study. A pro or con recommendation on the merits of the proposal is not possible at this time.

Recommendations

1. The Chairs recommend that DOE/EM undertake a comprehensive analysis of the ECA report, including technical, financial, environmental, safety, transportation, and other implications of implementing its recommendations. This is for the purpose of evaluating the impact of such changes.
2. The Chairs recommend that DOE/EM evaluates the site-specific impact of implementing the recommended changes including both potential risks and benefits.
3. In undertaking its evaluation, the Chairs recommend that DOE/EM should address, at a minimum, the questions developed by the Chairs set forth in the attachment.
4. The Chairs recommend that DOE/EM provide a timeline for performing the analysis and brief its results on an ongoing basis to the Chairs and their respective SSABs for comment and input.

References

1. ***“Waste Disposition: A New Approach to DOE’s Waste Management Must Be Pursued,”*** Energy Communities Alliance, September 2017.
<https://static1.squarespace.com/static/55c4c892e4b0d1ec35bc5efb/t/59ce7384cd39c3b12b97f988/1506702214356/ECA+Waste+Disposition+Report.pdf>

Attachment

Relevant Questions Concerning the ECA Report

Technical

What would the “risk” based classification look like?

Are there precedents for such a classification?

Would it replace or complement existing DOE classification system?

If risk is substituted for origin, what would be the technical definitions, based on what criteria?

Do changes require new federal legislative action? If by regulation, could the changes be challenged in court?

Would regulations regarding exposure to radioactivity for workers and the public need to be changed, if waste is recategorized?

Materials

How much waste would be removed from the HLW category under new definition?

How would volumetric changes be determined, on average or by individual containers?

How much of new TRU & LLW derive from liquid waste?

How would TRU and LLW currently comingled with HLW be separated?

How much would be potentially directed to WIPP?

Would container volumes currently stored at WIPP be recalculated.

Provide charts/graphs showing quantities currently classified and quantities following classification.

WIPP

What is current WIPP capacity limit? What would be new limit if container contents were recalculated?

Is this a manual or algorithmic recalculation?

What legal changes would be required? Do changes require action by state legislatures?

What burdens does WIPP expansion impose on the sites? Transportation and transportation safety, personal exposure, traffic, roads, environmental?

How would those burdens be mitigated?

Cost/Benefit

What is the economic impact of the changes?

What is the return on investment?

What is the cost/benefit impact for DOE sites?



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DRAFT-Recommendation No 18-XX: Support for Demolition of C-400

Cleaning Building

Rev 1-June 6, 2018

Background

The C-400 Cleaning Building at the Paducah Gaseous Diffusion Plant was the primary source of trichloroethene (TCE) contamination in the groundwater underlying and extending northward from the plant site. Groundwater pump and treat systems near the plant boundaries have been in operation for a number of years to control the TCE plume migration offsite. Because of ongoing maintenance operations related to uranium enrichment, access to C-400 was not possible until enrichment operations ceased and facility control was returned to the Department of Energy (DOE) in October, 2014. While the plant was in operation, DOE implemented various techniques external to C-400 to reduce the TCE groundwater concentration as close as possible to the TCE source. A thorough characterization of TCE concentrations under the large C-400 building was not possible while enrichment operations continued.

Removal of the TCE source is the most effective way to reduce the level of groundwater contamination to a level acceptable for protection of public health and the environment. In May, 2018, DOE completed a draft engineering evaluation/cost analysis for demolition of C-400. The demolition of C-400 is necessary to provide site access for assessment of sub-slab soil and groundwater TCE concentrations so plans can be developed for removal or control of the TCE sources at C-400.

Specifically, the draft evaluation (*Engineering Evaluation/Cost Analysis for Demolition of the C-400 Cleaning Building in the C-400 Complex Operable Unit at the Paducah Gaseous Diffusion Plant*, DOE/LX/07-2425&D1) recommends the following:

- Disassembly and demolition of the above ground structure
- Stabilization of the concrete slab to minimize further contaminant migration

The estimated cost is \$36,400,000. The anticipated start date is November 27, 2018, and the work is expected to be completed within one year.

Recommendation

The Paducah Citizen's Advisory Board (CAB) concurs with the current DOE focus on C-400 in its environmental remediation plan. TCE contamination at C-400 likely poses the greatest environmental risk at the site, and remediation of this TCE source requires the most immediacy. Building demolition and waste removal is necessary to provide access to the entire site for a comprehensive remedial investigation to proceed.

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Therefore, the CAB recommends the following:

- DOE should work cooperatively with Kentucky and Federal regulatory agencies to minimize delays in the start and completion of the C-400 demolition work.
- DOE should proceed expeditiously to minimize schedule delays and cost increases once final agreements on the work plan are received from the Kentucky Department of Environmental Protection and U. S. Environmental Protection Agency.



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DRAFT-Recommendation No 18-XX: PGDP CAB Response to Regulatory Reform Initiative

Rev 1-June 6, 2018

Background

On December 7, 2017, the Secretary of Energy Rick Perry issued a memorandum stating the Department of Energy (DOE) is “committed to reducing regulatory burdens on American families and businesses.” The Regulatory Reform initiative is in response to Executive Order (EO) 13771, *“Reducing Regulation and Controlling Regulatory Costs”*, EO 13777, *“Enforcing the Regulatory Reform Agenda”*, and EO 13783, *“Promoting Energy Independence and Economic Growth.”*

DOE’s efforts to address this directive should be commended. Notable efforts to not only inform the public of internal programmatic changes, but also to seek advice and comment, include: (1) publishing in the Federal Register a request for information seeking input from the public and those significantly affected by DOE regulations, and (2) direct consultation with its many advisory committees, formed pursuant to the Federal Advisory Committee Act (FACA). In the aforementioned DOE memorandum, Secretary Perry gave direction to DOE’s FACA committees to “consider regulatory reform and to provide appropriate advice and recommendations on DOE regulations, guidance or policies.”

The Paducah Gaseous Diffusion Plant (PGDP) Citizens Advisory Board (CAB), as part of DOE’s FACA committees, has been actively engaged in Regulatory Reform discussions throughout this initiative. Both on the national and local level, the CAB has been informed of key programmatic enterprises that will help alleviate the burden of the current regulatory environment:

- Delegating NEPA compliance responsibility to the Heads of Departmental Elements,
- Addressing pertinent recommendations within EPA Superfund Task Force Report (<https://www.epa.gov/superfund/superfund-task-force-recommendations>)
 - Recommendation 18: Reinforce Federal Facility Agreements and Formal Dispute Timelines
 - Recommendation 30: Revise Federal Facility Enforcement Guidance
 - Recommendation 41: For Federal Facility Sites, Collaborate with Other Federal Agencies to Solicit Their Views on How EPA Can Better Engage Federal Agencies
- Integrating regulatory systems/ processes to communicate cleanup progress alignment among DOE; align priority setting and remedy selection; utilize available tools; explore regulatory flexibility; and review remedy decisions and agreements.

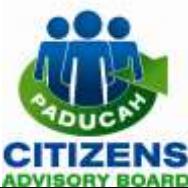
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Additionally, DOE has routinely sought the CAB's input for advice and recommendations concerning the Regulatory Reform initiative. In particular, the CAB would like to recognize Rob Seifert, Director of Environmental Compliance; David Borak, Designated Federal Officer, Environmental Management Site-Specific Advisory Board; Robert Edwards, Manager, Portsmouth-Paducah Project Office (PPPO); and Jennifer Woodard, Paducah Site Lead, PPPO, for their commitment to engage, inform and seek input throughout this process.

RECOMMENDATION

The PGDP CAB has a great deal of trust in the management of the Paducah site. The CAB understands that a newly approved lifecycle baseline is in place and this baseline provides a plan for completion of the environmental remediation at the Paducah site. While the CAB understands that funding issues can delay progress, internal burdens that extend the projected timeline are unacceptable. As stakeholders and partners with DOE, the CAB also cannot accept regulatory delays at Paducah or other DOE sites that will ultimately impact our cleanup and project timelines in document delays or field work.

The PGDP CAB recommends that DOE pursue any and all efforts to reduce the regulatory and financial burden that is ultimately borne by the American taxpayers. Additionally, the CAB looks to DOE, the Commonwealth of Kentucky, and the US Environmental Protection Agency to work cooperatively to avoid regulatory delays and holdups.



PADUCAH GASEOUS DIFFUSION PLANT CITIZENS ADVISORY BOARD

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Paducah Gaseous Diffusion Plant Citizens Advisory Board

Meeting Minutes

June 21, 2018

The Citizens Advisory Board (CAB) met at the West Kentucky Community and Technical College in Paducah, Kentucky on Thursday, June 21st at 6:00 p.m.

Board members present: Renie Barger, Bill Murphy, Mike Kemp, Victoria Caldwell, Carol Young, Patrick White, Nancy Duff, Shay Morgan, Renea Akin, Charles Allen and Celeste Emerson.

Board Members absent: Cindy Butterbaugh, Lesley Garrett, Cindy Ragland and Tom Grassham.

Board Liaisons and related regulatory agency employees: Julie Corkran, EPA; Brian Begley, Gaye Brewer, Chris Jung, Brian Lainhart, Commonwealth of Kentucky;

DOE Deputy Designated Federal Official: Robert Smith, DOE.

U.S. Department of Energy (DOE) related employees: Robert Edwards, David Borak, Jennifer Woodard, DOE; Jessica Vasseur, Four Rivers Nuclear Partnership, LLC (FRNP); Eric Roberts, Jim Ethridge, EHI Consultants (EHI).

Public: Mike Turnbow and Fran Johnson.

Murphy called the meeting to order and asked for introductions. He then reviewed the Agenda and indicated that the Administrative Issues would be covered first.

Murphy introduced a letter to Anne White that was written during the recent EM SSAB Chairs meeting just for the members' information.

Murphy then introduced *Recommendation Regarding the Energy Community alliance Report on Waste Disposition* which was developed during the recent EM SSAB Chairs meeting. **Roberts** explained the Recommendation further. The Board then was asked to approve or disapprove the Recommendation, and it was approved by a majority of the Board members.

Murphy next introduced *Recommendation 18-01: Support for Demolition of C-400 Cleaning Building* for discussion and vote. **Kemp** added to the explanation of the Recommendation and why he thought it was important for the future of the site. The Recommendation was passed by a vote of 10-0.

Murphy next introduced *Recommendation 18-02: PGDP CAB Response to Regulatory Reform Initiative* for discussion and vote. The Recommendation was passed by a vote of 10-0.

DOE Comments: **Woodard** reported work was being done to obtain the rest of the FY 18 budget. She also said that the Four Rivers Nuclear Partnership (FRNP) and Mid-America Conversion Services (MCS) both had appointed new Project Managers for the Paducah site.

Federal Coordinator Comments: **Smith** thanked everyone for attending the meeting.

Liaison Comments: **Begley** said that KY had been in scoping meetings for the C-400 project all week. **Murphy** asked if there were more meetings that need to be held for that project. **Begley** said that there were other meetings to follow, but the hopes were that everyone would have a good understanding of the issues and solutions when it came time to start the field work. **Murphy** then asked if FRNP would be doing the work or if they would bring in a subcontractor. **Begley** indicated that what they were working on now was the Remedial Investigation/Feasibility Study (RI/FS) for the project. **Woodard** added that deactivation was being done and the actual demolition would be done under the Federal Facility Agreement (FFA). **Young** then asked when the slab of the building would be removed. **Begley** said that an investigation would be performed first to understand the status of contamination and also having the slab in place would help keep any contamination that is under it from migrating during a rain event.

Kemp asked if the regulators and DOE were “happy campers” with the status of negotiations. **Corkran** said that she thought that all parties were focused on the same goal. She indicated that she thought that if DOE would add more projects to be done it would help obtain more funding to do those projects.

Presentation: **Roberts** then introduced **David Borak** for a presentation on the Federal Advisory Committee Act (FACA). **Barger** asked why some of the Boards in the DOE complex are called citizen advisory boards and some are called site specific advisory boards. **Borak** indicated that there was no difference between the two names. It was what the community decided to use when they were established. **Barger** asked if three board members were at a community function and started to discuss Board business, would that be considered a FACA meeting. **Borak** said that it would not because there wasn’t a quorum of the members in attendance.

Public comments: None

Murphy adjourned the meeting at 7:05 pm.

