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Terri Ann Smith
Billy Spencer
Lornita Swain

Deputy Designated

Federal Official
Dave Kozlowski,
DOE

Federal

Coordinator
Greg Simonton

Future Land Use Subcommittee Meeting
4 p.m. ♦ February 24, 2009
The Ohio State University Endeavor Center
1862 Shyville Road, Piketon, Ohio 45661

Agenda

1. Review of last meeting's summary
2. Election of subcommittee chair
3. Review of Operating Procedures
4. Proposed 340-acre transfer to SODI
5. SNF Recommendation
6. Concerns/Issues
7. Other
 - Review Action Items

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Piketon, Ohio
45661

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Future Land Use Committee

Meeting Summary

February 24, 2009

The Ohio State University Endeavor Center
1862 Shyville Road, Piketon, OH 45661

Members Present: Lee Blackburn, Gene Brushart, Ed Charle, Andrew Feight, Val Francis, Larry Parker, Billy Spencer and Lorry Swain

Members Absent: Dan Minter, Sharon Manson, Steve Martin, Terri Ann Smith

Executive Committee: Dick Snyder

DOE Representatives: Greg Simonton and Dave Kozlowski

DOE-Related Employees: Sandy Childers, LPP; Janie Croswait, RSI

Liasons: Brian Blair and Maria Galanti, OEPA

Community Members: Jennifer Chandler, SODI; Geoffrey Sea, SONG

Support Staff: Julie Galloway and Kate Timmons, EHI

Agenda:

Swain inquired if **Feight** had asked for the Energy Parks be included on the agenda. **Feight** stated that he had made that request for a preliminary discussion. **Kozlowski** stated that there is a workshop coming up on this topic on March 12 in Oakridge, but there is no new information that can be released outside of what is presented in the white paper. **Simonton** stated that the workshop is limited to 250 attendees. **Swain** requested that this be added as an agenda item so that the committee can provide input to be taken to the meeting. **Kozlowski** stated that they will look into the possibility of taking a representative of the committee to the workshop.

Feight moved to accept the agenda with the addition of the Energy Parks Initiative.

Summary:

Feight expressed some other issues with the summaries. There is no record of the debate and adoption of the Spent Nuclear Fuel Storage recommendation, which took up a large chunk of the meeting and forwarded to the board for consideration. **Feight** isn't also sure of point one under the review of summary "Clarify that Greg Simonton..." **Feight** stated that the comment was made by Minter saying that Simonton had never been employed by

SONIC. **Feight's** recollection was that **Simonton** served as the vice president of SONIC and as the project manager in the GNEP proposal. **Feight** asked **Simonton** if he wasn't paid is what was meant by not employed by SONIC. **Simonton** stated that he held those positions but was not paid.

Feight was concerned by the comment regarding historic preservation. **Feight** felt that the statement suggested that the board as a whole is concerned with how much time is being spent on historic preservation and that somehow the board thought that historic preservation was not about future land use. **Feight** stated that future land use and historic preservation are related. **Feight** feels with the way the summary reads, the committee agreed with that and endorsed the formation of a separate committee to handle historic preservation issues. **Feight** isn't opposed to it, but it wasn't debated and no recommendation came from it. **Swain** is concerned because it is the comment of one person and that there were other suggestions about how to deal with it. **Feight** is concerned because the summary doesn't relay what actually happened in the meeting. **Swain** indicated that the summary reads as if the committee came to a consensus, instead of it being the comment made by one person. **Galloway** inquired if the comment was attributed to **Minter**, would that eliminate the confusion. **Feight** feels that if the committee had closed minutes, then the comment should have been included. **Blackburn** stated that the comment was made at the close of the meeting, but had the committee had time to discuss it, then it might be an issue. **Swain's** concern is about how the comments are chosen. **Snyder** asked **Swain** if it would be better to have comments attributed to those who made them, not just reviewed. **Feight** requested that another draft of the Feb. 4 summary be distributed prior to the committee meeting.

Election of Committee Chair:

Snyder asked the committee if they wanted to keep a rotating reporter or choose a committee chair. **Swain** feels that even if a chair is selected, it would be good to rotate the reporting back to the full board, because it involves all the committee members and allows the community to hear from all of the committee; and besides, when we rotate people to report back, sometimes the reports will be different. **Swain's** preference is that even if a chair is selected, the committee should keep a rotating reporter. **Feight** feels that it's time for the committee to select a chair and would prefer a single chair over co-chairs at committee level and that having a chair would help the committee function a little more efficiently and ensure that the agenda items are taken care of. **Feight** volunteered to be the chair and was elected to the position.

Swain inquired if the committee is okay with a rotating reporter. **Feight** supports **Swain's** idea of a rotating position. **Francis** feels that the chair should be the first to report to the committee. After the chair, the reporting responsibilities will rotate alphabetically.

Review of Operating Procedures:

Feight stated that this evolves from the proposal from **Larry Parker**, and feels that some discussion is needed here. **Parker's** proposal involves membership of committees, ad hoc committees and taskforces. **Feight** stated that some clarification was needed on the process of non-SSAB members serving on committees and how that process worked. **Parker's** intent was when looking at the operating procedures that there is just one

statement that addresses non-board members be allowed to vote at committee meetings, but there is nothing in place about how community members are selected to committees, or how many community members a committee can have is included. **Parker's** written suggestion is just a starting point. **Parker** also addressed the issue of how many committees a board member can serve on, and if the intent is that a board member can serve on as many committees as they wish, the operating procedures should reflect that. **Charle** stated that the revisions do not include anything about the voting rights of board members who wish to attend the meetings. **Swain** stated that the operating procedures state that they can vote. **Brushart** asked what a non-board member is. **Francis** suggested that the wording be that a board member can attend as many committee meetings as desired. **Feight** responded that a non-board member is a member of the general public. **Kozlowski** suggested that the committee look at section 5.B of the operating procedures (page 5) which states "The Board will establish its Committees prior to the beginning of each fiscal year to reflect the Board's approved work plan for that year. Each Committee so established will submit before October 1st an annual work plan for approval by the Board and DOE." Kozlowski believes that at that point, membership is established for committees, but it does not preclude board members from attending any of the committee meetings. **Kozlowski** continued that leads up to the question, but it appears that you establish your membership, you're on the committee, but it is not very explicit on whether or not an attending board member can vote. **Swain** stated that **Parker** came onto a committee that he wasn't originally on in October; she asked if other board members could do the same. **Francis** stated that right now, it could happen. **Snyder** stated that participation and attendance is something and that right now, if a board member has a record of not attending or participating, that person must be reviewed to see if they should continue. Swain stated that we don't have a clause in our operating procedures on how to deal with these membership issues. **Feight** thinks that it may be a good idea that membership committee be established. **Snyder** added that any member from the public can come aboard and be a part of a committee, but the committee has to have a consensus that this individual can make a valid contribution to the committee and make decisions about allowing or not allowing members of the public to join committees. But, **Snyder** wonders how this will happen. **Snyder** asked if the committee should make a recommendation to the board and then the board vote on committee membership? **Spencer** stated that if people should show up to influence a vote, and he doesn't believe that any member of the public should be on the committee. **Spencer** continued that it is a committee that was established from the SSAB and to say that people from the public can come in and vote, than you've always got that possibility of being manipulated by people coming in and voting on a certain issue. **Snyder** suggested that an ad hoc committee be formed to look into this. **Feight** believes that there are larger issues to see how replacements are filled and how vacancies are filled, but **Feight** thinks that part A under **Parker's** proposal that reads

"Any Committee may invite a Non-Board person with special expertise to submit a request to be on a specific SSAB Committee. The preliminary selection of this person will be by a majority vote of the Board Committee members, which upon their approval will recommend the person to the SSAB for vote as a non-Board Committee member."

Feight stated that it sounds like the committee must issue the invitation. **Parker** stated that the intent was that there might be the situation that we would want somebody that has a special expertise and we could invite them to be a part of the committee. **Blair**

stated that it's how he sees his roll in the committee meetings as a part of the Ohio EPA and his experience from his work at the plant. **Blair** continued that he's a consultant to the committee, not a member of the committee, and will be available for as long as the committee wants. **Blair** added that the committee could invite someone to bring their expertise to the committees to help the members make their voting decision based on the input provided. **Feight** asked **Parker** what he thought if the committee moves to have the whole board to create a committee on membership and have their first agenda item to hash this out. **Parker** agrees that this is a broad enough item for that. **Parker** stated that it was his intent to bring this item to the committees, so that every committee would be able to provide input. **Feight** suggested that the result from the Future Land Use committee be to suggest that this would be handled by a standing committee on membership. **Charle** asked if it would help by saying that the committees could invite consultants instead of implying that they are inviting members to the committee; then there would be no question about the outsiders voting. **Parker** stated that the wording came from the original operating procedure draft, that there was a line that read "a non-board member of a committee," and that's the only place it appears. **Blackburn** stated that there are a number of issues here and the committee could spend a lot of time going over this.

Blackburn made the motion to forward this to the board with a recommendation to add an ad hoc committee for membership be set up. **Charle** seconded.

Swain reminded the committee that the board has an operating procedure, and the community understands that anybody can serve on a committee. She feels that this discussion should take place in the full SSAB meeting and not come up with a separate committee because we have an operation procedure in place. **Blackburn** stated that whatever the membership committee will be discussed before the full board. **Francis** said whatever comes out of that committee has to be discussed before the full board, but it might streamline the process a bit. **Swain** stated that when the committee talked about the operating procedures that anyone can serve on a committee, and now, I'm hoping that the community gets to speak in the public comment sections of the board on that, if they understand that we're about to change the operating procedures and they can't volunteer to serve on a committee. **Swain** doesn't want this to happen without the board listening to the community. **Kozlowski** stated that the operating procedures were received from EM and all the SSAB's are working through this. **Kozlowski** recommends that it be researched to see how these sections have developed over time and get some history on the committee membership issues to have as a back-up, so at least the committee can consider that; agrees that the language is vague as it's currently written. **Kozlowski** stated that the board now has the basis of an executive committee with the election of a committee chair, so that might be an avenue to solicit input from all the committees in addition to considering it for the SSAB ad hoc. **Kozlowski** stated that there are limits to the changes that can be made to the operating procedures. **Francis** stated with the way the procedure is written, that the committees could be held in closed sessions, though doubted that this was something that was wanted. **Swain** stated that FACA guidelines state that all meetings must be open to the public. **Francis** stated that openness is desired in this process. **Parker** stated the committee is looking to make a change with **Swain's** comment with the rotating reporter and that the in the operating procedure it states that

“If a written summary of the Committee meetings is prepared, the chair of the Committee will provide it to the Board,” so we’re looking to make a change to that.

- **Motion:** To forward this to the board with a recommendation to add an ad hoc committee for membership be set up.
 - **Motion carried.**

Proposed 340-acre transfer to SODI:

Feight stated that he was the one who requested this to be put on the agenda. He continued that there are a number of issues that, as Future Land Use committee, need to be thinking about is transferring this property the best for future use; he thinks that there’s an assumption that it is a good idea to transfer it to SODI. **Feight** added that there are issues that what is going to be done on this property, and as future use, the committee has some interest here. The committee needs to know what is on the land or what is in the soil there.

Blair has been involved in this topic for about 8 years, when the first request from SODI came in about 7 years ago. The parcel of land is in the north east part of the facility and is an undeveloped piece of land, with no DOE facilities on the site, though there was some development prior to 1953, most likely homesteads. Some areas have been used for “borrow materials,” such as taking soil to cap landfills, but these areas are re-grassed. The process is outlined in the handout, and there are two areas of concern in which the Ohio EPA gets involved. In two areas of CERCLA in 120 H, that deals with the determination of transferring any land from a DOE facility to see if there are any contaminants at that piece of property by way of air deposition, which is the primary concern. Based on the limited testing done years ago, there were some contaminants out there the data that was reviewed indicated the presence of some transuranics. **Swain** inquired if the information from Resnikov and Bird’s assessment used by the EPA. **Kozlowski** stated that those results were not used. **Blair** stated that the data that they’ve looked at has been validated through the EPA’s methodology and the samples have been taken by either the DOE or by the US EPA with the Ohio EPA and the DOE present. He continued that the EPA has a large data set, but it hasn’t been determined yet what the background locations are. The studies are not complete yet. **Brushart** inquired if any excavations have been done in that 340-acre parcel. **Blair** has to believe that there has been some due to the firing range, roadways and the railroad. He continued that the EPA is not aware of any storage areas on this site. He stated that the EPA is in very preliminary discussions with the DOE about the natural resource damages that have occurred at the site and that there is a provision in CERCLA that allows the trustee of natural resources to recover the value or to mitigate the damage of the natural resources at a facility. **Blair** continued that one idea they had was the protection of some of the habitat that is currently owned by DOE as mitigation for some of the lost habitat due to site development, and get some credit for the mitigation. **Swain** inquired that if there are wetlands on the 340-acres, would that be an example. **Blair** agreed that it could be an example. He continued that mitigation is one possibility and there are other things that are being discussed in lieu of that. He continued that development is part of the discussion, and is important to this group. **Francis** asked if they will be doing more testing or if they will be assimilating the data they have now. **Blair** stated that they will be assimilating data first and hopefully they the notes on where the data was taken so they could do their evaluation.

Feight inquired about the procedure for public comment in committee meetings. **Timmons** stated that committees do not have public comment periods. **Feight** called for suggestions on how to handle public comment. **Parker** stated that there is always the possibility that someone can make a written comment to the committee. **Snyder** inquired if this particular agenda item will be recorded at the board meeting where there is a public comment period. **Feight** stated that the people can talk to all of the committee. **Charle** stated that if the committee is going to err, they should err on the side of openness, He can't see how it would cost the committee very much, and should it get out of hand we can always move forward.

- **Feight** motioned to grant two (2) minutes to the public person.
- **Committee member** seconds.
 - **Motion carried.**

Public Comment:

Geoffrey Sea is very happy to hear what Blair has to say and thinks Rocky Flats is a really good model for what the broader community would like to see at Piketon. What they did at Rocky Flats was to have an industrial core that was devoted to new industrial purposes, and then had an outer ring that was turned into a wildlife habitat area. Very successfully, it took a special act of Congress to make that happen. We are going to looking to do the same thing here and will eventually take an act of Congress to determine the final redevelopment plan for Piketon. As for the 340 acres, I want to point out that there are two other parallel processes in addition to the flow chart that we need to bear in mind. One is historic preservation in regards specifically to that 340 acres. He spoke with the Ohio Historic Preservation Office on Friday with David Snyder, who is in charge of Piketon for that office. The last time they had any communication with any party (DOE , SONIC, or SODI) was 2001. And that includes when SODI did a site characterization survey to study the regulatory framework for this site. They have never contacted the Ohio Historic Preservation Office. That Office has submitted a letter, which I will forward to the board, regarding the 340 acres preservation issues on the site. They identified 9 pre-historic sites on this 340 acres including one that is a potentially significant site, meaning it potentially qualifies for listing in the Register of Historic Places.

Childers stated that there are not 9 prehistoric sites on the 340 acres. If you were to look at the phase one archeological study, most of those were farmstead remnants. **Feight** spoke with the Ohio Preservation Office yesterday and certainly Sea is correct that there are historic preservation processes at work, and I believe there is going to be some sort of public meeting on historic preservation. **Kozlowski** stated that there is a presentation that is being planned to outline the DOE's planned and current activities. **Feight** spoke with David Snyder, who is the Archeology Reviews Manager, and he would be willing to share copies and to come talk with the committee. If that is something the committee would like to do, we will continue to keep the 340-acre item on the agenda for another meeting.

Blackburn stated that we're talking about the transfer of the 340-acres, and so far, we have had the request from SODI and there has been an indication from USEC, but haven't

seen anything since. Can the committee can get a copy of USEC's response as well as DOE's intent on the transfer, and additionally if the committee can get a copy of the Phase I study that's being discussed here, and he understands that there may have been a second phase of this study done. **Feight** would be interested in seeing any and all archeological reports that have been done on the sites. **Kozlowski** stated that one of the studies the DOE has contains some sensitive information on specific locations, but we will share with you that we can. **Galloway** indicated that a copy is in the board office, and due to its size, the committee members are encouraged to visit the EIC to review the document. **Kozlowski** stated that the DOE does intend to do this, and there will be public hearings on this process. It is a two-step process, and is illustrated in the packet of information handed out. It lays out the process that the DOE will go through. It is still very early in this process. **Blackburn** asks that the board be kept apprised of the progress. **Kozlowski** stated that DOE received a response from USEC with conditions and will confirm if there is no proprietary information included.

Spencer inquired if SODI has a written copy of their intentions for the land. **Kozlowski** stated that the DOE has their original request and includes light industrial reuse and economic development. **Feight** would like to point out the Energy Park Initiative language references this property as a possible site for the Energy Park. **Blair** recommends to the group to consider the "Agreement of the appropriate provisions of the deed," because prior to transfer is when you can have some influence as to what is done out here. That is the time to establish through the EIS and then prior to transfer, how do you want to influence this before it gets transferred. **Francis** stated that there was an interesting conference about green energy, there seems to be an interest in this country about new developments of energy, natural gas and other things. This 340 acres is probably a very important piece of land for future use for some type of development. **Spencer** inquired that if everything went smooth, what kind of timeline would we be looking at to get to the "Agreement on appropriate provisions of the deed." **Kozlowski** stated about 12 months if everything goes smooth.

Snyder inquired if the announcement for the environmental assessment has been issued. **Kozlowski** stated that it was published in the paper. But the DOE doesn't have a draft available yet, but once it's ready, it will be issued, too. **Blair** stated that it's important for interested people to review it, too, and comment on that draft you look at the recommendation, it has been changed. **Feight** inquired if a motion could be made that the committee's original recommendation be forwarded to the board.

- **Blackburn** made a motion that the original recommendation be submitted to the board as is. **Francis** seconds.
 - **Motion carries.**

SNF Interim Storage Recommendation:

Brushart inquires what the difference is. **Blackburn** knows that there was a "never" in here, instead reads "the Piketon site shall not be considered..." and he doesn't think that "considered was in there. **Swain** stated that the original one said that "The Portsmouth EM SSAB recommends that the future use of the Piketon site never include the interim storage of spent nuclear fuel (High-Level Radioactive Waste)." She doesn't know what process was used and it was changed, but it's a little more cumbersome and it's a lot

weaker. **Francis** inquired if the board requested that Mr. Murphie wordsmith the recommendation. **Galloway** stated that she attached as a note and someone may have accidentally accepted the change. **Swain** stated that Bill Murphie made a suggestion and she responded to his suggestion. His suggestion ended up in the minutes and my response did not. But there was certainly no process in which Bill Murphie's suggestion was adopted by anybody. **Feight** requested that he put that in writing for us, and he hadn't received anything. **Swain** hopes that the strongest, most direct, clear language be used and she thinks that appears in the original recommendation that got read. **Francis** stated that it was never the intent of anybody to change the language of the recommendation. **Galloway** stated that it just happened because someone accidentally accepted her comment.

Concerns/Issues:

- **Swain** inquired that for future meetings, that another room be available in case the Future Land Use committee runs over. **Galloway** stated that in the future, two rooms could be reserved. **Charle** inquired if the support staff support both committees. **Feight** stated that he will try to keep the meeting to the hour and a half time frame.
- **Kozlowski** stated that in the last meeting, they talked about the stimulus packages. He indicated that packages were submitted for Portsmouth and are not finalized yet. The information is still embargoed, however we are still in the mix. We do know the bill was signed and is being implemented. The same concepts we talked about before, accelerated footprint reduction, meaningful employment opportunities, that the work has to be completed by 2011, those are basically the criteria we submitted. As soon as we can present to that, we will. **Francis** inquired if it revolves around D&D. **Kozlowski** stated that it's looking at the opportunities at Portsmouth.
- **Swain** stated that in a press release that Hanford is already getting 2 billion, she read that the amount for Picketon is 60 million. **Kozlowski** stated that it has to be meaningful work, I'm optimistic that you'll find the projects acceptable.
- **Francis** inquired if they accelerated clean-up at Fernald. **Swain** stated that they did and the original projection was 28 to 30 years, and they did it in 14 years. **Blackburn** stated that they also accelerated Rocky Flats. **Francis** stated that his question is this a yearly thing that is dealt with or does the DOE say that it will be shortened. **Kozlowski** stated that in the case of Fernald and Rocky Flats, a lot of regulatory decisions were in place at the time, they actually said "let's finish it in ten more years," and the initial 10 plan came out of Fernald when we began issuing the records of decisions. We could then tell Congress that we knew what we wanted to do and it was just implementing it, then we went for the accelerated package. Where we are at this site is that we don't have any of those decisions in place and that's going to be the key function for the committees and the board as a whole that we want to get to that point where we have decisions for the entire site.
- **Swain** stated that in the background for the recommendation on accelerated which came out of the D&D, she pointed out that Fernald was accelerated, was

planned for 30 years and got done in half the time and 66% cheaper than planned. Rocky Flats was planned for 65 years and 36 billion dollars, it happened in 10 years and 7 billion dollars, I know we all feel strongly, but Dave, if 60 million is all Piketon gets, that's really disappointing. **Kozlowski** stated that it's a positive to be able to get a start on this stimulus. And based upon performance, there may be opportunities for additional funds from this stimulus package, because what you want to look at is are the other sites performing. One of the things we've been told, we're going to get a lot of oversight for our performance. Those that aren't performing, resources will be pulled back from them.

Energy Parks:

Feight stated that the Energy Parks item can be moved to the next meeting agenda.

Blackburn would like to see more information on the March 12 meeting, would like to know what is on the agenda. **Simonton** stated that Galloway could send the action items to Feight that way she won't have the confusion of what to include or not include. **Feight** stated that would be fine.

Other:

Swain would like to understand how the decisions are made, are they driven by DOE's guidance or are these political decisions. If we're going to have a commitment to accelerated clean-up, we need to have appropriated funding.

Swain asked if someone could someone volunteer to go to the energy park workshop? **Kozlowski** stated that it sounds like it's an open enrollment event, and if it is, we'll call and see if we can get someone down there. We'll try to secure a position and DOE will fund. **Swain** would like to have two members attend. **Simonton** stated that he would make a call to get the two seats reserved. **Feight** called for volunteers to attend the energy park workshop. **Blackburn** volunteered to go.

Action Items:

1. The committee requests an Energy Park Update.
2. The committee recommends to the full board to create an Ad-hoc/Membership committee.
3. Andrew Feight volunteered to become the committee chair.
4. The committee requests the status on the 340-acre transfer to SODI
5. Two Future Land Use committee members have been elected to attend an briefing on the Energy Parks Initiative

Next meeting: Tuesday, April 7, 2009 at 5:30 p.m.