

US EPA ARCHIVE DOCUMENT

**Meeting Minutes**  
**Fairmont Community Liaison Panel**  
**March 7, 2002**

Attendees: Michael Cummings, Mayor Nick Fantasia, Karen Gribben, Bea Hunter, Kevin McClung, Bruce McDaniel, Barbara Metcalfe, John Parks, Charles Reese, Robert Sapp, Chief Rick Starn, Richard Wood and Marcella Yaremchuk.

ExxonMobil  
Representatives: Art Chin

Contractor: Frank Markert, IT Corporation

Agency  
Representatives: Carrie Deitzel and Hilary Thornton, U.S. Environmental Protection Agency (EPA); Tom Bass, West Virginia Department of Environmental Protection (WVDEP).

Guests: Jason DeFrance, Jared Excavating; Griff Fowler; Donna Hartley; David Jones; Jim Martin; Carl Robison; Cathy Rodriguez; Richard Rodriguez; Andrew Sutton, *Times West Virginian*; and Doug Taylor, Environmental Strategies Corporation.

Facilitator: Roberta Fowlkes, Ann Green Communications, Inc.

Minutes: Shallon Jones, Ann Green Communications, Inc.

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The regular meeting of the Fairmont Community Liaison Panel (FCLP) was called to order by facilitator Roberta Fowlkes at 5:30 p.m. Guests introduced themselves. The agenda was reviewed. The Purpose Statement and Meeting Agreement were reviewed. The minutes of the December meeting were approved as distributed.

**Unfinished Business**  
Project Update

Art recapped project activities to date:

- Potential problem areas at the site were investigated.
- The Waste Management Engineering Evaluation/Cost Analysis (EE/CA) Report was prepared.
- EPA issued an Action Memorandum (after public comment period) approving construction of a landfill and at least 10 percent recycling of wastes when feasible (more than 10 percent if possible). Art noted the Kipin Process fits into the scope of the original memorandum.

Next steps include:

- Development of Process Area EE/CA Report (about 80 percent complete).
- Review of Process Area EE/CA by WVDEP and EPA, public comment period, and an Action Memorandum.
- ExxonMobil will then prepare a Response Action Plan for the entire site (i.e., Waste Management and Process Areas), (Groundwater will be dealt with separately.)

Art said “hot spot” removal is anticipated in the process area because there is not widespread contamination there. Materials such as coal tar and coal can be utilized. He said whatever action is determined for recycling will probably occur in early summer.

Art reviewed sampling results (discussed in previous panel meeting).

He said an ecological evaluation was conducted by AMEC Earth and Environmental last fall and findings were included in the Process Area EE/CA Report. Art said they look for what sort of habitat exists there, what if any wetlands exist, vegetation and ecological receptors.

Art reviewed findings:

- In the soil, all compounds detected are normal constituents of coal.
- Compounds above the detection level were compared against standardized criteria. (EPA Region III Risk-Based concentrations). Levels are only exceeded in two places.
- The principle contamination in the groundwater is located in the upper confined portion of the aquifer. Contamination in the groundwater is coming from the contamination in the soil.
- Contaminants were observed in two surface water samples and in one seep sample.

Art said ExxonMobil is concluding:

- There is no unacceptable human health risk associated with the soils in the process area. He said one chemical in the process area exceeded the EPA criteria.
- There is no unacceptable ecological risk associated with the soils, based on the absence of significant habitats, wetlands and receptors. The 8-foot high chain link

fence with barbed wire is a deterrent for larger species. And, the activity that will be going on with the remediation for the next 12 months acts as a further deterrent to animals coming onto the site. The chance that a receptor would eat the coal and extract all the chemicals from it is very low.

- There are potential concerns with contamination in groundwater, surface water and the seep.

Art cited the following recommendations:

- There is a need to either consolidate/cap or to recycle using the Kipin Process contents of the north and south landfills. The Kipin Process eliminates potential risk associated with the landfills. If the option is to consolidate and cap, an engineered cap with controls to prevent water infiltration into the waste will be constructed. Exposure is mitigated by geosynthetic layers over the waste. He said if they remove the landfills, no one can be exposed to it. He said the acidic and metal discharges in surface water that they see occasionally will be eliminated with the consolidation/capping or removal of the waste.
- Hot spot removal action will involve excavating and utilizing coal in the coal storage area. He said if coal tar is found, it will be excavated and dealt with appropriately.
- The groundwater remedial action will mitigate the source of contamination of the surface water/seep in the Light Oil Storage area.
- The final site grading will include a surface water management component to ensure that surface water does not pond on the site.

In response to questions, Art said:

- Most likely it will be June or July before fieldwork will begin.
- The plan is not new to anyone, and he hopes there are no major modifications to the plan being submitted.
- In the worst-case scenario the project may take six years from the start. Completing in five years would be difficult but not impossible.
- Hilary said the average length of time for completing a Superfund project is 10 to 12 years.
- The project entered the XL program in May 1998. Formal approval for the program came in December 1998.
- The two hot spots are within 100 to 150 feet of one another.
- The Response Action Plan can be drafted now, but it may have to be modified after the public comment period. Hilary said an FCLP meeting will be held within the 30-day comment period.
- There is a minimum BTU requirement for material going to Grant Town, but there may be enough material onsite so that additional coal does not need to be brought to the site.
- Toxic Characteristic Leachate Procedure (TCLP) assays have been performed on waste samples from the two on-site landfills and only one limited area is believe to contain RCRA hazardous waste.

- In one to two weeks, the Process Area EE/CA will be submitted to the agencies.
- The agencies will need approximately one month to review it.
- A copy will be placed in the repository.
- A public comment period will be announced in the Federal Register and in local newspapers.

#### Settlement Between ExxonMobil and the State of West Virginia

Tom Bass summarized site history and negotiations for the settlement. (Tom's slides are attached.)

- Concurrent activities are the landfill removal evaluation, the federal past cost recovery negotiations and the Phase II EE/CA for the Process Area.
- Negotiations became deadlocked a year ago with federal EPA cost recovery. Project managers and Art discussed how to go beyond the stalemate.
- Flexible and innovative solutions were sought. Exxon's concern was not about money, but about fairness. Exxon's position was that the cost EPA was seeking was excessive.
- A solution was identified utilizing the state to assist the local community. The state will file a complaint and issue a consent decree with ExxonMobil, which would include establishing a trust fund for the redevelopment of the site and a settlement for natural resource damages. Two million dollars will be put into a trust to be utilized as a redevelopment tool for the property. He said the property will be transferred to a trustee once a prospective purchaser agreement is put into place. Tom said the proceeds from the sale of the property would go to the City of Fairmont.
- Interest from the \$2 million will go to WVDEP to fund environmental activities that would otherwise have no funding source..
- The only outstanding issue is who will be the trustee.
- Having a trustee knowledgeable of the interests of the community is being considered. (e.g., the FICC, local banks and the West Virginia Economic Development Authority).

Tom opened the discussion for any concerns about the proposed options, and for input from panel members. Comments and responses to questions follow:

- The trustee would manage the money and the property and would draw a management fee.
- There are restrictions on how the money can be handled and on what the \$2 million can be used for. ExxonMobil's interest is that the money be used solely for the redevelopment of the property. For example, if the trustee decides marketing is a good use for the money, then they could hire a consulting firm with that money.
- WVDEP and ExxonMobil will meet March 11. They hope to identify the trustee by the end of the month.
- Under the final project agreement, the criteria ExxonMobil had was to bring the site to a redevelopable stage. ExxonMobil has funded phase one of the redevelopment

program proposed by North American Realty Services (NARAS). Phase two (marketing the property) was never part of that consideration, but could be funded with the \$2 million trust fund if the trustee so desires. The trust could choose to use NARAS to continue.

- Robert Sapp said he would hate to see any money go to anything except to improve infrastructure on that property.
- Tom said there are restrictions built into the trust, and he will review budgets before money is spent. He said someone in WVDEP is going to act as a safeguard and will concentrate on environmental restoration. He said they will act as an auditor. The money is not being handed off to the third party.
- Tom said if the trust goes to the Economic Development Authority (EDA), then it makes it a little easier. He said EDA works with the WV Development Office.
- Robert expressed concern that the Office of Development six months ago said it wasn't interested in their project. Tom said they had a change of politics and direction.
- Robert said he has put his total faith in ExxonMobil, and they as well as the state have done an admirable job. He said he doesn't have that trust with the other agencies being discussed.
- Marcella Yaremchuk asked if it would be local banks in charge of the \$2 million. Tom said he is trying to keep everything centralized in the Fairmont community.
- She said she would like FICC to be considered because they have Fairmont, Marion County, and West Virginia first on their agenda.
- Rich said he would not have any problem with the EDA handling the money. He said they have a very good track record, but they don't do development, and neither does the West Virginia Development Office. He said they do marketing, but they have never developed an industrial park. He said he has the same problem with a bank. He asked about joint trusteeship.
- Bruce McDaniel said panel members Rich Wood and Charlie Reese do this for a living and could share their ideas. He said they need to be sure that whoever the trustee is has the community's interest at heart and has the capability to redevelop the site.
- Karen Gribben reminded those members that the Development Office would not place the site on the website. She said she would hate to see the panel and the community taken out of the process. Most panel members have been involved for four years, and what has kept them going is the fact they are going to see some employment for Marion County.
- Bruce noted there are only two local banks in the community.
- Tom said WVDEP's preference is to put it into one of the state systems and let them manage it. He said they are in discussions with those groups now. Also, there would have to be someone locally doing some of the marketing.
- Charlie said the state office meets in Charleston, and part of the \$2 million would have to be used to hire someone to come to Fairmont to work on this project. He said with a local bank, meetings could be called within five days if something needs to be addressed. He said he works with the Development Office and has a good

rapport with them, but they are interested in the entire state. The North Central West Virginia political pull in Charleston is not very strong. He said he agrees with Bruce about the banking. He said it took him eight months to change a loan rate for the Chamber of Commerce because of the participation of three banks that were not local.

- Rich asked about criteria for the trust. He said if the money goes through the state, it is discounted by 30 to 50 percent for any construction.
- Charlie said it would be in the trust that they would have to pay minimum wage for prevailing wage rates.
- Art said their goal is to put their intent in the document and name a trustworthy trustee.
- Andy Sutton asked if a board could be formed with part of the members of FCLP to have some panel input on this. Charlie said most trustee funds do have a board of directors. Tom said right now they haven't approached any entities other than those discussed.
- Art said an existing entity would already have liability insurance. ExxonMobil will continue to have liability for the environmental aspects of the site.
- Tom said they couldn't use the money to buy adjoining property. The criteria do not preclude getting additional money to help with redevelopment.
- Hilary said federal Superfund funds were used to perform cleanup from 1993 to 1996. He said some of the money was reimbursed by ExxonMobil.
- Tom said the site is zoned industrial, plus there will be institutional controls on it. For example, there will be no child daycare or schools.
- Tom said once the agreement is in place in the trust, it cannot change. He said there will be three signatures (ExxonMobil, WVDEP and WV Dept. of Natural Resources); then it will be entered into the federal court system.
- Tom said the trust company will own the property and will sell it. Bruce asked what happens if the property is given away instead of sold. Art said in this case the city would not received any funds from the sale.
- Charlie asked if a portion of the fund could be used to pay the B & O tax. Art said yes.
- Tom said any proceeds left after the sale of the property and the settlement debts will go back to the state.
- Tom said WVDEP will use the interest for investigations where they may have a potential problem and no money to address it. It allows WVDEP to be able to investigate sites. Karen asked if a portion of that money could stay with the trust. Tom said they discussed that in great detail. He said if the site can't be marketed and sold with \$2 million, another \$10,000 to \$20,000 will not make a difference.
- Tom said all budgets and audits are to be approved by WVDEP. He said anything submitted is still part of the Superfund process and will go in his files. He said he has no problem making this available to the panel.

Roberta said the good news is that Fairmont is going to have a piece of property to market, \$2 million to use to get it there, and the proceeds potentially from the sale that

could come back to the city. She said Tom has gotten a lot of feedback to take back to his meeting, and she thanked the panel for their thoughtful opinions.

#### Communication Update

Robert said he is concerned about the issues expressed by Grant Town residents regarding their requests of the Department of Air Quality for air monitoring in their community. He asked if Air Quality could be “nudged” to put some monitors in place. He said he felt if there are problems, they should be identified now before material goes from the site to the power station.

Tom Bass said the Department of Air Quality has discussed this with Grant Town residents. He said he will relay this concern to the Director of Air Quality but that he cannot commit to a response.

Karen suggested that a community update/fact sheet be prepared after the Process Area EE/CA Report is submitted.

#### Update on Project XL Annual Report

This discussion was moved to the April meeting. (A copy of the summary is attached to be read before the next meeting.)

#### **Next Meeting**

Roberta said the next meeting will include a project update, an update on the settlement with the state, a report on the Project XL Annual Report and a communication update.

#### **Critique and Adjournment**

The meeting was adjourned at 7:46 p.m.

**Next Meeting: Thursday, April 4, 2002**  
**Circle W. Building**  
**5:00 p.m. – Dinner**  
**5:30 p.m. – Meeting**