

*Below is a copy of the **Letter of Resignation-in-Protest** that was read by three members of the Portsmouth Site Specific Advisory Board (SSAB) at the Department of Energy's public meeting in Piketon on August 6, 2009. The three who resigned in protest were Sierra Club members who had long been active in the struggle for the development of renewable energy, environmental justice, and the genuine environmental cleanup of the contaminated Portsmouth Nuclear Site (Piketon A-plant). Other Sierra Club members in attendance made public comments about the critical need to focus on energy efficiency and sustainability. The SSAB was formed on June 30, 2008. The term was two years; the 3 three resigned after one year.*

Dr. Inés R. Triay, Assistant Secretary for Environmental Management
US Department of Energy
1000 Independence Ave., SW
Washington, DC 20585
6 August 2009

Dear Assistant Secretary Triay:

When we accepted our appointments to the Portsmouth Site-Specific Advisory Board, officials with the Department of Energy (DOE) told us that our board would play a meaningful role in the decisions guiding the clean-up and future use of the Piketon site. Recent events, however, have proven that DOE has failed to protect the board's operation from significant conflicts of interest, and has colluded in blocking the SSAB from any meaningful role in the most important decisions impacting the site and our larger community.

With sadness and disillusionment, we submit our resignations as committee chairs and members of the SSAB. Sadness, because we know there are competent, hard-working individuals employed at the OEPA, the Ohio Department of Health, the US Department of Energy, and its contractors and we were encouraged by the chance to work with these individuals to fulfill the mission of the SSAB. However, overshadowing all is our recognition that the SSAB mission has been thwarted by DOE's failure to abide by federal regulations and guard the SSAB from conflicts of interest.

The problem of conflicts of interest became particularly clear with the recent announcement that SODI, USEC, and their other business partners plan to construct a nuclear reactor at the Piketon site. The SSAB was never consulted regarding this matter, which clearly impacts future land use, cleanup levels, and the board's reason-for-being. Future use planning involving the nuclear reactor took place in secret over a span of months prior to its announcement on the 18th of June, during which time the SSAB was developing a recommendation in favor of locating a new DOE alternative "Energy Park" at the site, as well as a more general recommendation on future-use principles. As members of the Future Land Use Committee, we were deceived by DOE officials and members of our own board who had significant conflicts of interest. We believe the proposed reactor project is at variance with one of the board's recent recommendations, which specifically advised, "that the future use of the Piketon site never include the interim storage of spent nuclear fuel (High-Level Radioactive Waste)." As no permanent storage facility for spent nuclear fuel is currently accepting such high level radioactive waste, the proposed reactor will of necessity include the interim storage of spent nuclear fuel at Piketon.

The DOE's *Conflict of Interest Guidance* states that SSAB members are not to be employees of DOE contractors, yet some board members are employed by DOE contractors or hold positions with the DOE-funded community re-use organization, known as SODI. When SSAB members expressed concern that the DOE's hiring of SODI's Executive Director to oversee the board posed a conflict of interest given that SODI proposals would be coming before the SSAB for recommendations, DOE dismissed our concerns. DOE guidance requires that DOE officials and SSAB members refrain from participating in any matter "that is or gives the appearance of being motivated by the desire for private, professional, or financial gain." After one committee meeting, during which SSAB members

pressed DOE on this conflict-of-interest matter, we requested a copy of the audio recording of that meeting and were told by the DOE contractor responsible for the administration of the board that the recording had been "lost."

The problem of conflicts of interest has also shown itself with DOE's handling of SODI's proposal for a transfer of 340 acres from DOE to SODI. When we questioned DOE about soil tests on the 340 acres, which indicate the presence of plutonium, neptunium and other contaminants, DOE officials downplayed or denied the existence and source of these contaminants. Requests for documents related to the transfer have sometimes been ignored for months or never fulfilled. Copies of the current lease agreement between DOE and USEC, Inc, as well as correspondence between USEC, DOE, and SODI concerning the 340 acres, were repeatedly requested and only provided after months of delay. Instead of facilitating our advisory activities DOE has acted in ways that obstructed and undermined our efforts.

DOE and SODI have also failed to follow Federal property transfer regulations, specifically *10 CFR 770*, which requires SODI to identify a specific use for the transferred land, specific economic development to be furthered by the transfer, and specific information supporting the economic viability of the proposed development. The proposed transfer documents, which have been made public to-date, include none of these specific requirements. And when we have suggested that the transfer is at variance with the site's existing *End State Vision*, adopted by DOE in 2005, DOE officials have both denied the variance and, at the same time, indicated that these future use principles, which were created with community input, were not binding on future use planning. Since the formation of the SSAB in the summer of 2008, we've continually requested the services of Perspectives Group to work with our committees and shareholder communities because we recognize that the broader community must work together to develop a shared vision of the local stakeholders and of the agencies managing the cleanup. For that shared vision to develop there must be a high level of community participation and a decision-making process that allows for broad-based participation. This is not happening. Stakeholders remain opposed to each other on questions of future land use, methods for disposition of contaminated materials, and other issues, yet these stakeholders aren't even meeting together. Perspectives Group has successfully assisted other SSABs and similar citizens' advisory boards with community participation, decision process planning, facilitation, and other needed training. We believe that DOE's inaction on our requests violates the spirit of the *Federal Advisory Committee Act*, which governs the operation of the SSAB and calls for broad public involvement and access to the training needed to carry out our mission. We can no longer remain on this board, contributing to the false impression that the *Federal Advisory Committee Act* is being properly enforced and that public money is being appropriately spent to ensure an open, procedurally fair process where all stakeholders have a voice in making informed decisions.

Lastly, DOE has sanctioned violations of the SSAB's operating procedures, which require that each board member serve on at least one committee. Yet, DOE has allowed exceptions to that rule and dismissed our concerns.

Altogether, due to DOE's failure to properly implement federal regulations and safeguards against conflicts of interest, the mission of our SSAB has been essentially sabotaged. For these and other reasons we submit our resignations, effective immediately.

Regards,

Lee Blackburn
Andrew Lee Feight, Ph.D.
Lorry Swain