

**Community Advisory Group (CAG)
for the
Omaha Lead Site**

Minutes for Meeting Held
Wednesday, September 1, 2004, 9:30 a.m.
Nebraska Urban Indian Health Coalition
2240 Landon Court

OLS CAG Members Present:

Janet Bohm—*Citizen at Large*
Sue Casteel—*Agency for Toxic Substances and Disease Registry*
Tanya Cook—*Governor's Omaha Advisory Council for Lead Safe Neighborhoods*
Brenda Council—*Facilitator*
Jonah Deppe—*League of Women Voters*
Connie Determan—*MFG, Inc.*
Bob Feild—*Environmental Protection Agency*
Robin Kammandel—*Metro Omaha Medical Society*
Jeff McDermott—*Union Pacific Railroad*
Dr. Donna Polk-Primm—*Nebraska Urban Indian Health Coalition*
Dr. Adi Pour—*Douglas County Health Department*
Chris Rodgers—*Mayor's Office*
Marian Todd—*City of Omaha Planning Department*
Vernon Waldren—*Douglas/Sarpy County Extension*
Cheryl Weston—*Lead Safe Omaha Coalition*

Others Present:

Rita Brown—*Lead Safe Omaha Coalition*
Robert D. Catton—*Citizen*
Todd Crawford—*Senator Chuck Hagel's Office*
Suzie Echevarria—*Union Pacific Railroad*
Sonny Foster—*Senator Ben Nelson's Office*
Nancy Gaarder—*Omaha World-Herald*
Steve Kemp—*Nebraska Department of Environmental Quality*
Debbie Kring—*Environmental Protection Agency*
Carolyn McIntosh—*Patton Boggs*
Stacy Meacham—*MFG, Inc.*
Jennifer Rawley—*MFG, Inc.*
Steve Sanders—*Environmental Protection Agency*
Joe Smejkal--*Contractor*
Tom Thiele--*Contractor*
Che Thompson—*Lead Safe Omaha Coalition*

Ms. Council thanked Dr. Polk-Primm for providing the meeting room. Ms. Council announced that any donations to the Nebraska Urban Indian Coalition and the Hernandez

family were appreciated. Dr. Polk-Primm collected contributions for the Hernandez family.

Ms. Council asked for any corrections to the minutes from the August 18, 2004 CAG meeting. Ms. Deppe stated that on the last page, "EPA may want to look into ClearCorps" should read, "the CAG may want to look into ClearCorps." Ms. Todd stated that on page 9, "lead-based paint" should read, "chipped or peeling paint." Ms. Weston stated that on page 5, "provided questions to EPA" should read, "provided questions to EPA and the U.S. Army Corps of Engineers." Ms. Weston also stated that on page 6, in the second paragraph, Mr. Feild's response was incorrectly stated. Mr. Feild clarified his statement, saying that it should read, "Mr. Feild stated that State concurrence is not technically required. However, Mr. Feild stated that in order to proceed with the remedy, State concurrence is needed, because the State has to sign a contract in order to use the State's cost share." Mr. Feild stated that on page 5, in the second sentence of the last paragraph, "Mr. Feild" should read, "Mr. Felix." Dr. Polk-Primm motioned to approve the minutes. Ms. Weston seconded the motion. The motion unanimously passed.

Ms. Weston requested moving the Lead Safe Omaha Coalition presentation up on the agenda to accommodate a speaker needing to leave early. Ms. Council stated that the Lead Safe Omaha Coalition presentation would be moved up on the agenda.

Ms. Council stated that there has been much discussion about whether or not the Record of Decision can legally include a comprehensive plan and if the Record of Decision can include components that EPA does not have jurisdiction over. Ms. Council stated that Union Pacific's attorney, Ms. McIntosh, was present and asked for the opportunity to share information regarding the legality of including a comprehensive plan in the Record of Decision. Ms. Council asked the CAG if there were any objections to allowing Ms. McIntosh to speak. No objections were made.

Ms. McIntosh stated that it was her understanding that the CAG was familiar with other examples of Superfund sites that have implemented comprehensive plans. Ms. McIntosh stated that by virtue of precedence, there is an opportunity to include a comprehensive plan in the selected remedy. Ms. McIntosh cited Leadville, Colorado; Butte, Montana; and Libby, Montana as examples where comprehensive elements have been or will be included in Records of Decision. Ms. McIntosh stated that a section in EPA regulations authorizes implementing components typically out of EPA's jurisdiction, if deemed a health emergency. Ms. McIntosh stated that EPA guidance does not preclude lead-based paint abatement. Ms. McIntosh stated that EPA guidance recommends that other agencies provide lead-based paint abatement, but also strongly encourages EPA to implement a comprehensive approach. Ms. McIntosh stated that CFR 300.515 allows the State to request that the remedy be expanded to include components EPA would otherwise exclude, if the components are consistent with the remedy.

Dr. Polk Primm asked if Union Pacific Railroad supports a comprehensive plan. Ms. McIntosh stated that Union Pacific Railroad supports incorporating a comprehensive plan in the Proposed Plan and selected remedy.

Ms. Weston requested Ms. McIntosh provide the specific regulations and sections of EPA guidance referred to in her discussion. Ms. McIntosh stated that she would provide the citations to Ms. Weston and the CAG.

Ms. Kring asked the CAG to submit any comments on the Proposed Plan to her instead of Mr. Feild.

Dr. Polk-Primm stated that Ms. McIntosh's comments were in line with the Governor's comments. Ms. Cook stated that the Governor has always supported a comprehensive approach and that NDEQ is determining what is lawful.

Ms. Kring asked Ms. McIntosh, of the sites she mentioned, what the percentage of funding from EPA versus Potentially Responsible Parties (PRPs) was. Ms. McIntosh replied that Butte and Leadville were PRP-funded. Ms. McIntosh added that funding does not dictate what is included in a Record of Decision.

Ms. Deppe asked what was funded by the PRPs. Ms. McIntosh stated that in Leadville, the PRP funded the comprehensive plan. Ms. Weston stated that in Leadville, the comprehensive plan was already in place when the Record of Decision was issued. Ms. Weston asked if this was true at Butte and Libby. Ms. McIntosh stated that this was true for Butte, but that in Libby, the comprehensive plan will come together at the same time as the Record of Decision.

Dr. Polk-Primm asked if it is easy to gain the support of businesses, such as Home Depot, if a comprehensive remedy is incorporated into the remedy without focusing on the PRPs. Ms. McIntosh stated that the broader the base, the more publicity and support that will exist. Ms. McIntosh stated that an integrated approach creates the ability to reach out more and gain community support. Ms. Determan stated that in Bartlesville, Oklahoma, other corporate entities were able to donate to a comprehensive program.

Mr. Feild stated that the Records of Decision for Libby and Butte have not been issued and have not been through the review process. Mr. Feild stated that EPA supports a comprehensive remedy.

Ms. McIntosh stated that from reviewing the Proposed Plan, it appears that education outreach, interior testing, cleaning, exterior paint powerwashing, hepa vacuums, blood lead testing, and coordination with the medical community can be funded by Superfund. Therefore, the issue at hand is whether or not interior paint and plumbing can be funded by Superfund. Mr. Feild replied that Ms. McIntosh was correct and added that exterior paint is not addressed if a soil removal does not occur. Dr. Pour stated that it is also unclear if EPA can fund addressing windows.

Dr. Pour asked how a comprehensive plan has been funded before a Record of Decision is released. Ms. McIntosh stated that funding originated mostly from PRPs. Ms. McIntosh stated that in Butte, the county health department and HUD also provided funding. Dr. Pour stated that Douglas County Health Department is providing funding in Omaha, but stated that there are gaps where funding cannot be provided. Dr. Pour asked

if a PRP could provide funding before the Record of Decision is released. Ms. McIntosh stated that a PRP could provide funding before the Record of Decision is released if a consent decree is negotiated with EPA. Dr. Pour asked if this would allow the PRP to get credit for what they fund. Ms. McIntosh stated that generally the PRP would receive credit. Ms. McIntosh stated that in Leadville, credit was contingent upon selection of the comprehensive plan in the Record of Decision.

Ms. Weston asked if negotiation with Union Pacific Railroad has occurred in Omaha. Mr. Sanders replied that negotiation has not occurred. Ms. McIntosh and Mr. McDermott indicated that negotiations have occurred. Ms. Weston asked Mr. Sanders if negotiations have occurred. Mr. Feild stated that negotiations have occurred.

Ms. Council asked CAG members for any changes to the draft Proposed Plan CAG recommendations. The CAG reviewed the draft point by point, agreeing to the following changes:

- Recommend that the Proposed Plan include and allow funding through various entities for a comprehensive approach to achieve the remedial action objectives;
- State that the Omaha City Mayor's office would support establishment of a non-profit entity;
- State that the non-profit entity would propose to oversee the coordination and collaboration of all the programs and agencies involved in the remediation program at the OLS;
- Include pregnant and nursing women;
- Focus on the health risks of lead exposure to children and adults;
- Include education on how to remediate lead in the environment (including home renovation and remodeling);
- Provide blood lead screening and monitoring that places emphasis on increasing the number of children less than 7 years old that are currently tested for lead; and
- Recommend that the Preferred Alternative include implementation of exterior and interior lead-based paint hazard controls consistent with U.S. Department of Housing and Urban Development (HUD) *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing* (June 1995).

Dr. Polk-Primm motioned to submit the Proposed Plan recommendations to EPA with the discussed changes. Ms. Kammandel seconded the motion. The motion unanimously passed. Ms. Determan offered to incorporate the changes and email the updated version to the CAG for final approval before submission to EPA. Dr. Polk-Primm stated that a motion had been made and the recommendations should not go through additional approval. CAG members agreed.

Ms. Council stated that the Education Subcommittee met on Monday and would be presenting. Ms. Council also stated that Lead Safe Omaha Coalition staff was present to discuss the services provided by the Lead Safe Omaha Coalition.

Mr. Waldren presented a lead sources display to the CAG. Mr. Waldren provided an update on the Education Subcommittee, stating the Subcommittee is working on the educational plan for the comprehensive plan. Ms. Deppe stated that she has been in contact with McDonalds and that McDonalds may be able to use educational tray liners. Dr. Polk-Primm stated that she has gained permission for materials to be distributed through schools. Mr. Waldren stated that the next Subcommittee meeting would be held on September 14, 2004 at 1:00 p.m. at the Douglas/Sarpy County Extension office.

Ms. Brown, Ms. Thompson, and Ms. Weston presented Lead Safe Omaha Coalition services to the CAG.

Mr. Waldren announced that the Parliamentary Procedure Subcommittee would be meeting September 3, 2004 at 1 p.m. at the Douglas/Sarpy County Extension office.

Mr. Rodgers provided an update on the Contracting Subcommittee. Mr. Rodgers stated that the purpose of the Subcommittee meeting was to focus the Subcommittee's objectives and familiarize the Subcommittee with the contracting process. Mr. Rodgers stated that Ms. Weston would work with EPA to provide a list of contractors. Mr. Rodgers stated that next Subcommittee meeting would be held on September 15, 2004 at 8:00 a.m. at the Mayor's Office.

Ms. Council stated that prices for audio recording meetings had been researched. Ms. Council stated that the cost for recording meetings, the equipment, and Ms. Rawley's time would be at least \$798.00 per meeting. Mr. Rodgers stated that meetings could be recorded at Metro Community College, but the CAG would have to meet at Metro for every meeting. Dr. Polk-Primm stated that audio recording is unnecessary for this type of meeting. Ms. Cook stated that the purpose of audio recording would be to involve individuals who cannot attend meeting. Ms. Cook stated that individuals could bring their own tape recorders. Dr. Polk-Primm motioned to no longer pursue audio or video recording of meetings. Ms. Cook seconded the motion. The motion unanimously passed.

Mr. Feild provided an update of EPA activities and provided a summary handout. Ms. Weston asked if hydroseeding is still being pursued. Mr. Feild replied that EPA has a couple test plots for hydroseeding and is not looking for additional plots. Ms. Weston asked if the hydroseeding was done at the request of EPA or the homeowner. Mr. Field replied that the homeowners agreed to the hydroseeding.

Mr. Feild reported that the primary reasons EPA has been denied access are:

1. Homeowners do not trust the government;
2. Children do not reside at the property;
3. Homeowners do not trust the identity of the subcontractors; and

4. Sampling may impact the sale of the property.

Mr. Feild reported that sampling has been denied at nearly 900 properties. Mr. Feild stated that EPA needs to try a different approach and will work with local groups to gain access to additional properties. Ms. Cook asked what percentage of denials corresponds with each reason. Mr. Feild replied that access is most often denied because of lack of trust of the government.

Ms. Weston stated that she has provided EPA with suggestions for improving access. Ms. Weston stated that EPA could subcontract with the Lead Safe Omaha Coalition to gain access to properties. Mr. Feild replied that EPA would be willing to talk with anyone willing to help. Mr. Feild added that EPA is looking at ways to compensate local groups for their assistance.

Mr. Feild announced that if there were enough interest, EPA would provide free OSHA training to contractors. Mr. Kemp stated that medical monitoring is a greater expense than OSHA training. Ms. Weston stated that contractors are aware of the costs of medical monitoring. Ms. Council stated that she could announce this opportunity on *Kaleidoscope*. Dr. Polk-Primm asked if training could be provided by Metro. Mr. Rodgers stated that Metro could provide the training, but it would not be free.

Mr. Feild stated that the Record of Decision for the Vasquez Boulevard Superfund site was issued in 2003. Mr. Feild stated that lead-based paint is not a component of the remedy, but that Superfund dollars may be used to address exterior lead-based paint if other sources of funding are unavailable. Mr. Feild stated that EPA would continue to search for remedies at other sites that include addressing lead-based paint. Mr. Feild stated that Records of Decision do not specify who pays for what portion of an action. Mr. Feild stated that Records of Decision only specify what actions would protect health and the environment.

Ms. Weston asked when who pays for what would be determined. Mr. Feild stated that homeowners are generally not held responsible. Ms. Weston stated that Mr. Feild has been an asset to the CAG and thanked him for his effort to work with the CAG.

Mr. Kemp stated that NDEQ met with Union Pacific Railroad and is continuing to evaluate suggestions made by Union Pacific Railroad.

Ms. Council stated that she made a presentation about the CAG at an SAME meeting. Ms. Council stated that comments from the attendees were positive. Ms. Council added that she would be willing to make this presentation to other groups, if there is interest.

Ms. Council stated that the discussion of CAG questions on the Risk Assessment and Remedial Investigation would be postponed until the next agenda because a member who had expressed interest in the discussion was absent.

Ms. Council invited any members of the public to speak. Mr. Catton introduced himself and expressed concern about the amount of money to be spent on yard replacements. Mr.

Catton commended the CAG on looking into a comprehensive program that would include education and surveillance rather than removing yards. Mr. Catton stated that money should be spent on lead poisoned individuals, not soil replacement. Mr. Catton stated that EPA regulations are not based on good science.

Ms. Bohm stated that she has educated herself on ways to live safely with lead and that she disagrees with Mr. Catton. Ms. Bohm stated that she feels that soil at her property needs to be replaced and that individuals need to be educated about what EPA is doing.

Ms. Council stated that the next CAG meeting would be held on Wednesday, September 15, 2004 at 9:30 a.m. The meeting place was to be announced.

Handouts Provided for the Meeting (September 1, 2004):

Draft Minutes from 08/18/04 (Provided by MFG, Inc.)

Approved Minutes from 08/08/04 (Provided by MFG, Inc.)

Draft Letter to EPA from CAG Re: Proposed Plan

Draft Remedial Investigation/Risk Assessment Questions

Draft Benefits and Accomplishments of the Omaha Lead Site Community Advisory Group

Eliminating Language Barriers from Federal Programs

Letter to Ms. Kring from Mr. Linder Re: Comments on Proposed Plan

Comprehensive Plan for the Omaha Lead Superfund Site (Table)(Provided by Ms. Jonah Deppe)

Alegent Puts Excess into Community Health Fund (Provided at meeting by MFG, Inc.)

Attachments to Minutes:

Sign-In Sheet (hardcopy to be delivered)