

Subcommittee on Strategic Forces

Hearing to receive testimony on the Department of Energy's Office of Environmental Management and Office of Legacy Management in review of the Defense Authorization Request for Fiscal Year 2004

April 2, 2003

Witnesses:

Asst. Secretary of Environmental Management Jessie Hill Roberson  
Director of the Office of Worker and Community Transition Michael W. Owen

QFRs

## QUESTION FROM SENATOR WAYNE ALLARD

### Respective Roles Regarding the Development of Stewardship Policies for Closure Sites

Secretary Roberson and Mr. Owen, the successful closure of a site necessitates incorporating long-term stewardship requirements into remedy selection.

Q1. What are the respective roles of Environmental Management and Legacy Management regarding the development of stewardship policies for closure sites?

A1. Ms. Roberson and Mr. Owen: The Department of Energy is addressing long-term stewardship with a Department-wide, corporate strategy. The Office of Legacy Management (LM) will lead the coordination and development of policy for the Department. The Office of Environmental Management will participate in the LM-led development of policy to provide perspectives on cleanup and remediation plans and strategies.

## QUESTION FROM SENATOR WAYNE ALLARD

### Respective Roles Regarding the Development of Stewardship Policies for Closure Sites

Q2. Secretary Roberson and Mr. Owen, if Legacy Management is charged with developing such long-term stewardship policies, what measures will be put in place to ensure the closure sites do not receive conflicting policy direction regarding remedy selection and related post-closure long-term stewardship needs and commitments from Environmental Management and Legacy Management?

A2. Ms. Roberson and Mr. Owen: Remedy selection and remedy maintenance, which includes long-term environmental surveillance and maintenance, are clearly interrelated activities. Therefore, Environmental Management (EM) and Legacy Management (LM) will work closely to ensure that EM's remedy decision policies and LM's post-closure policies are consistent. Thus, as part of the remediation process, EM will consider and make policies regarding active remediation, taking into account the long-term protectiveness and life-cycle cost of implementing a chosen environmental remedy, as required by applicable law and regulation. LM will consider and make post-closure policies regarding the long-term surveillance and maintenance.

## QUESTION FROM SENATOR WAYNE ALLARD

### Respective Roles Regarding the Development of Stewardship Policies for Closure Sites

Mr. Owen, Legacy Management will be charged with ensuring the long-term effectiveness of remedies and will house the long-term stewardship subject matter experts.

Q3. Given that the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) explicitly provides that the long-term effectiveness of remedies be considered when selecting remedies, does Legacy Management intend to be involved in the selection of remedies? If so, how?

A3. Mr. Owen: As part of long-term surveillance and maintenance activities, Legacy Management (LM) will evaluate the effectiveness of remedies for sites under its authority. Additionally, LM will work with and provide data to Environmental Management for its consideration in future remediation decision making.

## QUESTION FROM SENATOR WAYNE ALLARD

### Respective Roles Regarding the Development of Stewardship Policies for Closure Sites

Q4. Secretary Roberson, if Legacy Management does not intend to be involved in the selection of remedies, how will Environmental Management continue to integrate long-term stewardship into remedy selection and coordinate with Legacy Management?

A4. Ms. Roberson: Environmental Management is charged with putting environmental remedies in place that comply with applicable laws and regulations, such as the Comprehensive Environmental Response, Compensation, and Liability Act. Thus, long-term stewardship considerations are integrated into remedy selection as part of the regulatory process.

## QUESTION FROM SENATOR WAYNE ALLARD

### Respective Roles Regarding the Development of Stewardship Policies for Closure Sites

Q5. Secretary Roberson and Mr. Owen, given the aforementioned integration of remedy selection and long-term stewardship planning, when Rocky Flats personnel call the Department of Energy (DOE) Headquarters with stewardship planning questions, who answers the phone, Environmental Management or Legacy Management?

A5. Ms. Roberson and Mr. Owen: During closure and environmental remediation operations at the site, Environmental Management (EM) site personnel will continue to report and consult with EM personnel at Headquarters. However, EM and Legacy Management will work together in a consolidated effort to ensure that sound stewardship decisions are made during and after closure.

## QUESTION FROM SENATOR WAYNE ALLARD

### Respective Roles Regarding the Development of Stewardship Policies for Closure Sites

Q6. Secretary Roberson and Mr. Owen, similarly, will a long-term stewardship subject matter expert remain with Environmental Management, or will all responsibilities be transferred to Legacy Management?

A6. Ms. Roberson and Mr. Owen: Legacy Management (LM) will have personnel with long-term stewardship and long-term surveillance and maintenance expertise. Environmental Management's (EM) Office of Long-term Stewardship personnel will transition to LM. The offices of EM and LM will work closely together.

## QUESTION FROM SENATOR WAYNE ALLARD

### Rocky Flats Cleanup Agreement

Secretary Roberson and Mr. Owen, at Rocky Flats, DOE and the regulators have committed that the long-term stewardship plan will be adopted as part of the final closure documents. Further, under the Rocky Flats Cleanup Agreement, the Environmental Protection Agency (EPA) and Colorado Department of Public Health and the Environment (CDPHE) must, as a regulatory matter, approve the stewardship plan.

Q7. Which program office (Environmental Management or Legacy Management) will be responsible for developing, finalizing, and seeking the approval of the plan by the EPA and CDPHE?

A7. Ms. Roberson and Mr. Owen: Environmental Management (EM) is and will continue to be responsible for conducting all necessary cleanup and remediation activities, including developing required plans and finalizing regulatory documentation. However, Legacy Management and EM will work together to coordinate the development of Rocky Flats' long-term stewardship plan and other documents, as necessary, associated with the long-term care.

## **QUESTION FROM SENATOR WAYNE ALLARD**

### Rocky Flats Cleanup Agreement

Mr. Owen, currently all DOE-Rocky Flats staff work for Environmental Management, including site staff that focus on long-term stewardship.

Q8. Will Legacy Management staff be assigned to Rocky Flats prior to closure so that they can be involved in developing the stewardship plan?

A8. Mr. Owen: Not at this time. However, on-site Environmental Management staff will coordinate with Legacy Management staff to develop any required documents.

## QUESTION FROM SENATOR WAYNE ALLARD

### Criteria for Transferal of Site Jurisdiction

Q9. Secretary Roberson and Mr. Owen, what criteria will Environmental Management and Legacy Management use for determining when site jurisdiction should be transferred from one program office to another? What criteria will Environmental Management use to determine a site can be designated as closed?

A9. Ms. Roberson and Mr. Owen: The Department will use the draft revised Life-Cycle Asset Management process for transferring site responsibility between programs. This process is a detailed management tool for ensuring clear lines of accountability and authority for sites before, during, and after transfer. Environmental Management and Legacy Management personnel are familiar with this process as they assisted with its development and revision. The Department will determine a site's readiness to close pursuant to all applicable laws, regulations, and agreements.

## **QUESTION FROM SENATOR WAYNE ALLARD**

### Criteria for Transferal of Site Jurisdiction

Q10. Secretary Roberson and Mr. Owen, will Legacy Management have veto authority over the transfer of a site to its jurisdiction?

A10. Ms. Roberson and Mr. Owen: There is no "veto authority" between Departmental programs. Any issues that may arise regarding the transfer of sites from Environmental Management to Legacy Management will be discussed and resolved by the Department's senior management.

## **QUESTION FROM SENATOR WAYNE ALLARD**

### Criteria for Transferal of Site Jurisdiction

Q11. Secretary Roberson and Mr. Owen, how will disputes be resolved?

A11. Ms. Roberson and Mr. Owen: Issues or disputes between Environmental Management and Legacy Management will be resolved by the Department's senior management.

## QUESTION FROM SENATOR WAYNE ALLARD

### Cost-Estimates for Post-Closure Long-Term Stewardship Plans

Mr. Owen, currently, DOE field offices, including Rocky Flats, are required to develop cost estimates for implementing post-closure long-term stewardship plans. Presumably, these cost estimates will be updated annually.

Q12. Assuming Environmental Management continues to develop the cost estimates, what will be Legacy Management's role in this process?

A12. Mr. Owen: Legacy Management will review and analyze cost estimates to ensure they are adequate to meet requirements.

## **QUESTION FROM SENATOR WAYNE ALLARD**

### Cost-Estimates for Post-Closure Long-Term Stewardship Plans

Q13. Secretary Roberson, conversely, if Legacy Management assumes responsibility for developing these cost estimates, what will be Environmental Management's role in that process?

A13. Ms. Roberson: Environmental Management's role is, and will continue to be, development and selection of remedies, taking into consider the long-term effectiveness and cost of the selected remedy.

## **QUESTION FROM SENATOR WAYNE ALLARD**

### Cost-Estimates for Post-Closure Long-Term Stewardship Plans

Q14. Secretary Roberson and Mr. Owen, likewise, what steps will Legacy Management and Environmental Management take to ensure the cost estimates are factored into remedy selection analyses? This last question is extremely important because CERCLA mandates that both cost and long-term effectiveness be factored into remedy decision-making.

A14. Ms. Roberson and Mr. Owen: The Comprehensive Environmental Response, Compensation, and Liability Act, as well as the Resource Conservation and Recovery Act, require the Department to develop and analyze remedial options while considering the long-term implications and cost. Environmental Management takes into account and considers the long-term effectiveness and cost of all remediation decisions. In addition, Legacy Management will review and analyze cost estimates to ensure they are adequate to meet requirements.

## **QUESTION FROM SENATOR WAYNE ALLARD**

### Legacy Management Tools and Staffing Resources

Q15. Mr. Owen, once a site has been closed and responsibility has been transferred to Legacy Management, what tools and staffing resources will Legacy Management have to maintain and repair remedies, and implement response actions?

A15. Mr. Owen: Legacy Management (LM) will request the financial resources and be staffed with personnel who have the knowledge and experience needed to conduct an effective and efficient long-term surveillance and maintenance program. LM will be staffed with existing personnel from DOE Headquarters and a number of DOE sites, including personnel from DOE sites located in Morgantown, West Virginia; Pittsburgh, Pennsylvania; and Grand Junction, Colorado. Much of that staff has long-term surveillance and maintenance experience as they perform these responsibilities at numerous sites today. LM's core staff will adjust accordingly to perform complex long-term surveillance and maintenance requirements at an increasing number of closure sites. Additionally, LM is currently factoring the estimated increase in site responsibility into future program budget, planning, and staffing profiles to ensure the office has access to the resources needed to properly manage legacy responsibilities.

## **QUESTION FROM SENATOR WAYNE ALLARD**

### Legacy Management Tools and Staffing Resources

Q16. Mr. Owen, is DOE's assumption that in shifting the Grand Junction Office to Legacy Management that Grand Junction will be charged with these critical responsibilities?

A16. Mr. Owen: The Grand Junction staff has been responsible for long-term surveillance and maintenance activities at numerous sites since 1988. This management and long-term surveillance and maintenance expertise will be drawn upon as Legacy Management goes about its responsibilities.

## QUESTION FROM SENATOR WAYNE ALLARD

### Legacy Management Tools and Staffing Resources

Q17. Mr. Owen, what tools and staffing resources will Legacy Management have to research and develop new technologies that could be applied to remedies to either improve the remedies or replace the remedies?

A17. Mr. Owen: Legacy Management will actively coordinate and integrate federal research and development (specifically the work of the Department's Office of Science into our program). Additionally, Legacy Management will use the draft Long-term Stewardship Science and Technology Roadmap as a framework for identifying research and development opportunities and for leveraging existing investments in long-term stewardship related science and technology.

## QUESTION FROM SENATOR WAYNE ALLARD

### Maintaining Physical Records

Q18. Secretary Roberson and Mr. Owen, which office (Environmental Management or Legacy Management) will maintain physical records regarding mission work, cleanup activities, and long-term stewardship?

A18. Ms. Roberson and Mr. Owen: In general, Legacy Management will be responsible for and receive custody of all Departmental closure site records as sites are transferred to LM for long-term surveillance and maintenance. Currently, Legacy Management and Environmental Management are coordinating these record management efforts with the Department's Chief Information Officer, the Office of Environment, Safety and Health and other affected responsible entities.

## QUESTION FROM SENATOR WAYNE ALLARD

### Rocky Flats National Wildlife Refuge Act of 2001

Secretary Roberson and Mr. Owen, under the proposal, Legacy Management, not Environmental Management, will be charged with managing Rocky Flats once the site is closed and delisted from the CERCLA National Priorities List. Per the Rocky Flats National Wildlife Refuge Act of 2001, DOE will be charged with implementing the Memorandum of Understanding (MOU) that is now being negotiated between Environmental Management and the U.S. Fish and Wildlife Service.

Q19. Should Legacy Management, the agency that will be charged with implementing the MOU, be involved in the development of the MOU?

A19. Ms. Roberson and Mr. Owen: The Environmental Management's (EM) Office of Long-term Stewardship staff, which will be transitioning to Legacy Management (LM), has participated in the past, and will continue to actively participate, in the development of the Memorandum of Understanding (MOU). LM will continue to work with Environmental Management (EM) staff on the MOU and will coordinate with EM on any agreements that provide for or affect the management of sites after closure.