

**Rocky Flats Stewardship Council Board Meeting Minutes**  
**Monday, January 8, 2007**  
**8:30 a.m. – 11:00 a.m.**  
**Jefferson County Airport, Broomfield**

**Board members in attendance:** Lorraine Anderson (Director, Arvada), Shaun McGrath (Director, City of Boulder), Matt Jones (Alternate, City of Boulder), Lori Cox (Director, Broomfield), Mike Bartleson (Alternate, Broomfield), Bob Nelson (Alternate, Golden), Kate Newman (Alternate, Jefferson County), David Allen (Alternate, Northglenn), Karen Imbierowicz (Director, Superior), Martin Toth (Alternate, Superior), Jo Ann Price (Director, Westminster), Ron Hellbusch (Alternate, Westminster), Ken Foelske (Director), Jeannette Hillery (Director, League of Women Voters), Kim Grant (Director, Rocky Flats Cold War Museum), Roman Kohler (Director, Rocky Flats Homesteaders).

**Stewardship Council staff members and consultants in attendance:** David Abelson (Executive Director), Rik Getty (Technical Program Manager), Barb Vander Wall (Seter & Vander Wall, P.C.), Erin Rogers (consultant), Jennifer Bohn (accountant).

**Attendees:** Carl Spreng (CDPHE), Mark Aguilar (EPA), Rob Henneke (EPA), Dean Rundle (USFWS), Steve Berendzen (USFWS), Amy Thornburgh (USFWS), Doug Young (Rep. Udall), Jeanette Alberg (Sen. Allard), Shirley Garcia (Broomfield/Westminster), Linda Kaiser (Stoller), John Rampe (DOE), Frazer Lockhart (DOE), Scott Surovchak (DOE-LM), Bob Darr (Stoller/DOE-LM).

**Convene/Agenda Review**

Vice Chair Karen Imbierowicz convened the meeting at 9:05 a.m. Due to poor road conditions, the Board was one member short of the quorum needed for voting. Therefore, the agenda was modified so that items requiring Board action were postponed until later in the meeting.

**Executive Director Report**

- David began by noting that while 2006 was a year of transition and working to complete the regulatory closure process, 2007 will be a time for the Stewardship Council to further identify and strengthen its long-term role.
- Some of the big issues the Stewardship Council will address in 2007 will likely include the CERCLA 5-year review, completion of the regulatory closure process, the EPA de-listing process, possible re-introduction of a bill by Representative McKinley (which may necessitate a special meeting), changes within DOE and State personnel (due to changes in administrations), communicating with the new Governor and CDPHE, and also beginning to work with new U.S. Representative Perlmutter.
- David noted that Board Members need to be aware of the different interests and priorities of the different parties bring to the Stewardship Council. He reminded the members to be mindful of these differences. He also pointed out that the 2007 work plan includes a

provision regarding an annual assessment of the Stewardship Council's progress. Currently that assessment is scheduled for May. This assessment is meant to allow the members to look at how things are working, and if the priorities still making sense.

- The Stewardship Council has received official responses to its letter dated November 6, 2006, regarding communication issues for downstream communities. The responses from DOE, EPA and CDPHE have been distributed, and David feels that they were very positive.
- David moved on to a discussion about scheduling meetings for Stewardship Council members in Washington, D.C. with members of Congress and DOE. He is looking at two dates, each based around meetings that several members will already be attending. The first is Friday, February 16, after the ECA meeting. Lorraine and David will already be there for ECA, and other Board members could attend as well. The other date would be March 13-15, after the National League of Cities meeting. The Board needs to figure out who would be available to attend meetings on either of these dates. Lori Cox noted that the Wednesday after the National League of Cities meetings is their official lobby day. David noted that the cities should have enough people attending to split up and have different meetings. Shaun McGrath said that he is available on that Wednesday afternoon, but no other time. Kim Grant said he prefers the February date due to his schedule.

David asked the Board members if they would be comfortable with approving a message and talking points, and then allowing those who can attend at the chosen time be responsible for delivering it. Jeannette Hillery agreed that this would be efficient way of doing it. Shaun said he was also comfortable with it, and asked if there was any need for meetings at both times. Karen Imbierowicz said she would be there during the February meeting. There was a general agreement that the Stewardship Council will schedule some meetings during both timeframes for whoever is there at the time.

### **Consent Agenda**

A quorum of voting members was now present. The Board acted on the Consent Agenda which included:

- Approval of Meeting Minutes and Checks
- Resolution Regarding 2007 Meeting Schedule and Notice Provisions

Lori Cox moved to approve the consent agenda. The motion was seconded by Karen Imbierowicz. The motion passed 9-0. (Arvada, Boulder County and the Rocky Flats Cold War Museum were not present).

### **Public Comment**

Mark Aguilar (EPA) spoke about a recent article written by Leroy Moore with the Rocky Mountain Peace and Justice Center which stated that EPA had already de-listed Rocky Flats from the CERCLA National Priorities List (NPL). Mark wanted to clarify that this statement was inaccurate. Prior to de-listing, EPA will go through a 30-day public comment period.

However, the Stewardship Council will have even longer to comment, as the 'Notice of Intent to Delete' will be shared within a couple weeks. Since DOE must still complete construction of fencing, the timing will partially depend on weather issues. Rik Getty asked if Mark would talk briefly about the Peripheral OU. David Abelson asked instead if Mark would be willing to provide a more thorough briefing at the next meeting. Mark said he would be happy to give a briefing.

Barb Vander Wall noted that since this is a special meeting, the first official meeting of year will be in February. Prior to that meeting, Barb will request that all members send their list of designated members to her office. Also, at the February meeting, Northglenn will take over the rotating voting seat from Golden, and the Stewardship Council will be electing officers for the year. Shaun McGrath asked for a review of the process that will be used to elect members. Barb said they will simply ask for nominations and then vote. Lorraine asked if there should be a nominating committee. She then asked anyone who is interested to give her a call.

### **Approve Fiscal Year 2007 Work Plan**

The draft work plan was initially reviewed by the Board at the November meeting. A few non-substantive minor changes were made following the meeting. These minor changes helped clarify which actions fall under DOE and which fall under USFWS. This change was made in order to better identify in the work plan which issues fall under the DOE grant and which need to be paid for by other funds.

Shaun McGrath directed the group to page 3, bullet #10, regarding working with DOE on access restrictions. He asked what the intent of this section was. David said it could be a multitude of things. It could be working with DOE on signs or fencing, problems with signs, trespassing, or remedy effectiveness. He added that this was mostly a DOE issue, but they kept it under the USFWS section as well. Shaun stated his concern that this language was so flexible that one could read it to include working to open the DOE lands to broader access. Shaun recognized that was not the intent, but asked to include a clarification. David noted that broader access is prohibited under the Legacy Management Agreement, so the work plan language would be ruling out something that is already prohibited. But, he said he would add language stating that the Stewardship Council will 'work with DOE to restrict access, as included in RFLMA...'

Shaun McGrath moved to approve the 2007 work plan as amended. The motion was seconded by Lori Cox. The motion passed 11-0 (Boulder County was not in attendance).

### **Letter to State Legislators**

In May, following the Stewardship Council's decision to oppose Rep. McKinley's bill, the Board identified a need to communicate with the state legislature prior to the 2007 session. The plan the Board identified was to write to state legislators who sponsored Rep. McKinley's bill in 2006 and update them on the status of the cleanup and the ongoing discussions regarding signage for Rocky Flats. The letter was sent on December 15, 2006. The Board needs to ratify that decision at this meeting. David asked if there were any questions about the process that was used. There were none.

Karen Imbierowicz moved to approve the letter as written. The motion was seconded by Jo Ann Price. The motion passed 11-0 (Boulder County was not in attendance).

### **USFWS and DOE Update on Minerals Acquisition and Entrance Signage for Rocky Flats**

Negotiations over acquisition of certain minerals rights underlying the western portion of Rocky Flats are progressing. USFWS and DOE were asked to update the Board on the negotiations, as well as work on entrance signs for Rocky Flats.

Dean Rundle (USFWS) began by introducing Steve Berendzen, who is the new Project Leader starting today for Rocky Flats, the Rocky Mountain Arsenal and Two Ponds. Dean went on to note that the law creating the Rocky Flats National Wildlife Refuge requires DOE to transfer ownership within 30 days of EPA's release of the Notice of Intent to Delete, and the associated 30-day public comment period. The agencies are currently in the process of getting all of the legal documentation in order. Dean is confident that the lands for the Refuge will be transferred to USFWS following the EPA process. Refuge signs will be posted within 60 days after transfer of ownership. However, since there is no operating budget, the Refuge will not be open to the public but will instead go into a caretaker status. Caretaker activities will include law enforcement to prevent trespass, minimal endangered species monitoring, and weed management.

In terms of entrance signage for the refuge, USFWS has received public input and revised language is being sent to the Regional Director for approval. Dean hopes that it will be released this month on the website, along with the public comments. Dean said that they received great input, and that they have made significant changes, especially with regard to language regarding the Cold War. They also replaced the 'Is it Safe' section with 'What about Residual Contamination'.

Dean also said that the agencies are making good progress on acquisition of mineral rights, but that since this is on the agenda for later in the meeting, he would defer further discussion until then.

Kim Grant asked if there would be an operating budget in FY08. Dean said it was pretty unlikely because USFWS is in a downsizing mode. For example, they are in the process of reducing the regional office by 10%. Kim followed up by asking if the fencing and signage creation will go forward. Dean said they will post the boundary signs as the agency has already acquired them. Also, they still have an interagency agreement with DOE and some funding left from 2004. Amy Thornburg is funded through end of year. The Comprehensive Conservation Plan (CCP) states that, when funding becomes available, the Lindsey Ranch trail will be the first to be developed.

David Allen asked if USFWS will be doing any planning before an operating budget is secured. Dean noted that a full-time law enforcement officer is assigned to the site. Also, the new site manager will make the decision about any further planning. Future trail locations are pretty well

laid out in the CCP, but will require some additional planning before implementation. Dean stated that he knows that many in the community have an interest in working together on this issue, and that they will have this chance.

Jeanette Alberg asked if it was correct that the CCP will not be implemented until there is an operating budget. Dean said that would be his recommendation. He also noted that the Rocky Flats CCP won the Plan of the Year award within USFWS for FY06, which he said was a prestigious accomplishment. The jury was made up of professional planners in both government and the private sector. Dean said that an operating budget will come eventually, and USFWS will be ready to implement it.

Kim Grant asked if there was there a similar period of caretaker status at the Arsenal. Dean said that the statutes are different for the two sites. USFWS was required to manage the Arsenal as a Refuge during cleanup. This provision was not in the Rocky Flats Refuge law. Also, the Army funded the first ten years at the Arsenal.

Ron Hellbusch shared that he has been involved with the National Wildlife Refuge Association for some time, and that these funding problems are being seen nationwide. He suggested that, in the future, perhaps the Stewardship Council could discuss ways to provide advocacy and support for the Refuge when the Federal government cannot. He also noted that a coalition (including Rep. Udall) is being formed in Congress to address these issues.

Lorraine Anderson stated that USFWS has just a small amount of funding and that it is spread very thin nationally. She hopes the community and agencies will be able to work together to resolve issues and help make the Refuge a good asset for this area. Dean Rundle added that he has no doubt that USFWS will be able to take care of the land, and that it is not unusual for new refuges to not have operating budgets for an initial 3-5 year period. He offered his thanks to everyone and added that he looks forward to working with the community as the Refuge is developed. He concluded by stating that he is not worried about Rocky Flats, because of the dedication of the agencies and community, and because there is a great new refuge manager.

Steve Berendzen noted that he is looking forward to working with everyone and learning about the issues at this site.

Next, John Rampe provided an update on the acquisition of mineral rights at Rocky Flats. The 2006 National Defense Authorization Act identified four parcels to be acquired. However, the owner of one of the parcels, Charlie McKay, has declined to sell. The legislation requires DOE to buy the parcels at fair market value from willing sellers. The Trust for Public Lands (a non-profit organization) has been working with DOE and the parcel owners to negotiate the sales. The remaining three parcels comprise 85% of the land DOE was interested in. DOE closed on one parcel on December 29, 2006, which included 160 acres in the western buffer zone. Negotiations on the other two parcels are proceeding. Trust for Public Lands is working with gravel operators who hold leases in order to try to clear the leases for a purchase. According to John Rampe, DOE would prefer that leases be cleared before taking title, although is not a requirement. As of last week, DOE put the remainder of the allotted \$10M into the Department

of Interior's Natural Resources Damages Fund. The Natural Resource Trustees will work to make acquisitions and transfer funding.

Matt Jones asked what would happen if the McKay property becomes available in the future. John responded that the parties would have to meet and authorize the purchase, and would then be able to withdraw from the fund to complete the purchase. He added that there is a timing issue and money may not be available in the future if it is spent on other projects.

Ron Hellbusch asked for clarification that one purchase has been completed. John said that it had and added that DOE is expecting to complete the other two shortly. Ron asked how much land was involved in the first transaction. John said it was about 200-300 acres.

Jeanette Alberg noted that there seems to be a preference by the Trustees to prioritize these purchases if they became available in future. Also, the money in the fund is intended to be spent on Rocky Flats damages specifically and any withdrawals must be approved by the Trustees. A new agreement was just signed by agencies to guide the process to deposit and withdraw money from the trust fund. Also, the Trustees are required to work with the local community in deciding how to spend the money.

Lorraine Anderson asked how much of the \$10 million will be left in the fund. John Rampe said that, after the pending transactions, there will be a little less than \$5 million. Lorraine asked if it will be set up like an endowment so that only interest will be spent. John Rampe said that while the fund is in an interest-bearing account it is not the intent to live off the interest. The trustees hope to meet with the public to identify specific projects on which to spend the money.

### **Discuss and Approve Comments on the Rocky Flats Legacy Management Agreement (RFLMA)**

The RFLMA will be the post-closure regulatory agreement for Rocky Flats. The Stewardship Council was briefed on the document at the October and November 2006 meetings. This discussion will focus on addressing Board members' questions and approval of comments on the document

David Abelson noted that this letter came about from multiple sources. There was a staff assessment of the document, and also Shirley Garcia organized a meeting in mid-November to go through the agreement. The intent was to try to better understand the agreement and start flagging issues that would likely be of concern and to resolve them proactively. Staff also went back and looked at the matrix of communication recommendations that Broomfield developed and analyzed the extent to which the RFLMA captured these recommendations.

David concluded that, in looking back at the recommendations of all past stakeholder efforts, this is really a good agreement. It successfully maintains the consultative process that has been working here and most public issues are captured in this document. These include water monitoring, and communication and decision processes. While some changes can and should be made to make the agreement even better, if these changes are not made, David still believes it is

a good document. David sees no fundamental flaws. The objective for this meeting is to get the letter approved, since the comment period ends before the next meeting.

Lori Cox stated that Broomfield appreciates David's work on this letter. She said the letter covers all of their concerns, and they are very happy with it.

Jo Ann Price added that Westminster also thinks it is a very good letter and agreement.

Jo Ann Price moved to approve the comments on the RFLMA. The motion was seconded by Lori Cox. The motion passed 11-0. (Boulder County was not in attendance)

After the vote, Jo Ann Price asked about the section on Page 4 referring to the quarterly technical meetings. She was curious, since the Stewardship Council knew that it wanted these meetings, why it was not in letter. David said it was partly due to a timing issue. This letter was drafted before Christmas, and two of the three letters from the agencies received subsequently. DOE's letter stated that DOE-LM will be available after the public meetings as requested. David also said that in the future perhaps these meetings will not be necessary. Jeannette Hillery asked Jo Ann what she would like the letter to say. Jo Ann responded that, while she was not sure the letter was specific enough, she was fine with it as written.

### **Public Comment**

Jeanette Alberg announced that the Radiation Advisory Board may meet in Denver February 7-9, 2007. At these meetings, they may consider the Rocky Flats Special Cohort petition, which was submitted about two years ago by the Steelworkers. It will be known later this week if this topic makes it onto the agenda. If so, there will be a verbal public comment period at the meeting. She will email all relevant information to David for the Stewardship Council members.

David Abelson noted that, although former worker issues have not been brought to the Board recently, they are on the Stewardship Council's work plan. Staff has been tracking the issues and believe that the Congressional offices are really doing a good job assisting the workers as much as possible. Karen Imbierowicz asked if it would make sense for the Stewardship Council to send a letter to the Radiation Advisory Board in advance of the upcoming meetings. Jeanette Alberg and Doug Young both responded that this would be a good thing to do. Doug added that, while sending a letter would be very helpful, having someone from this group could read a statement from the Stewardship Council in person would be even better. David will talk with Doug and Jeanette and figure out the best way to proceed. The Stewardship Council will be able to approve a letter and/or comments at the February meeting. Lorraine pointed out that she will miss the next Stewardship Council meeting.

### **Updates/Big Picture Review**

David noted that when USFWS releases the revised Refuge sign language, he will recommend that the Stewardship Council send a second letter to the State legislators. This letter will update them on the progress and changes, and provide this group's opinion and assessment of the changes.

The next meeting will be February 5, 2007. Topics will include officer elections, hosting the DOE Quarterly Public Meeting, an EPA briefing on the Rocky Flats NPL de-listing process, and the Stewardship Council's D.C. meeting packet.

The following meeting will be on May 7, 2007.

The meeting was adjourned at 10:20 a.m.

*Respectfully submitted by Erin Rogers.*