

Rocky Flats Stewardship Council
Special Meeting – Natural Resource Damages Fund
Monday, April 7, 2008
8:30 – 11:30 AM
Rocky Mountain Metropolitan Airport Terminal Building
11755 Airport Way, Broomfield, Colorado

Board members in attendance: Lorraine Anderson (Director, Arvada), Clark Johnson (Alternate, Arvada), Lisa Morzel (Boulder), Carl Castillo (Alternate, Boulder), Matt Jones (Alternate, Boulder), Megan Davis (Alternate, Boulder County) Mike Bartleson (Alternate, Broomfield), Kate Newman (Alternate, Jefferson County), Shelley Stanley (Alternate, Northglenn), David Allen (Alternate, Northglenn), Bob Briggs (Director, Westminster), Ron Hellbusch (Alternate, Westminster), Jeannette Hillery (Director, League of Women Voters), Kim Grant (Director, Rocky Flats Cold War Museum), Ann Lockhart (Alternate, Rocky Flats Cold War Museum), Roman Kohler (Rocky Flats Homesteaders), Karen Imbierowicz (Director).

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).

Attendees: Hillary Merritt (The Trust for Public Land), Paul Kilburn (Jefferson County Nature Association), Mark Aguilar (EPA), John Dalton (EPA), Vera Moritz (EPA), Carl Spreng (CDPHE), Ken Lane (U.S. Senator Salazar), Dan Miller (Colorado Attorney General's office), Jason King (Colorado Attorney General's office), Steve Berendzen (USFWS), Mark Davis (State Land Board), Jeri Leingang (State Land Board), Matt Pollart State Land Board), Shirley Garcia (Broomfield), Kristan Pritz (Broomfield), Heather Cronenberg (Westminster), Claire DeLeo (Boulder County Parks and Open Space), Joy Lucisano (Jefferson County Open Space), Frank Kunze (Jefferson County Open Space), Scott Surovchak (DOE-LM), Jack Seader (citizen), Dale Eberharter (citizen).

Convene/Agenda Review

Chair Lorraine Anderson convened the meeting at 8:35 a.m. She asked Clark Johnson to briefly discuss a public hearing that Arvada was holding that evening about proposed development south of Rocky Flats. Arvada is in the very early stages of considering a 2,200-acre proposal for mixed use development on the south boundary of Rocky Flats. As part of this planning process, the City has identified trail corridors and trailheads, open space and park development requirements. For additional information, development packets are available online at Arvada.org. Karen Imbierowicz asked to see the area on a map. It is located north of Highway 72, between Indiana Street and Highway 93. Clark added that the first parts of the development are closer to Indiana and Highway 72. Karen also requested a future update on the outline development plan. Clark explained that right now the development plans are very preliminary, and will be much more specific in the future.

Natural Resource Damage Fund Discussion: Setting the Stage

David Abelson began by noting all regular Board business will be conducted at the May meeting.

On March 10, 2008, there was a working group meeting at which the attendees began preliminary discussions about plans for the Rocky Flats NRD funds. At this meeting, several items came up requiring follow-up. At a March 25 meeting with Congressmen Udall and Perlmutter and Senator Salazar the attendees discussed ways to leverage resources, and possibilities for making integrated plans.

At today's meeting, the group will hear more about (1) status of other minerals at Rocky Flats, (2) status of land ownership on lands surrounding Rocky Flats, (3) development plans for lands directly south of Rocky Flats, and (4) migration corridors on east side of Rocky Flats. David said that the group is looking to create single map with information about all of the current ownership, uses and plans for the site. David said some other issues, such as the proposed Northwest Parkway and wildlife corridors on the east side of the site, will be discussed at future meetings.

David Allen interjected that it would be helpful for him to understand Stewardship Council's role in these projects. David Abelson responded that, if there is agreement within the Board on a path forward, then it will need to figure out a role. Lorraine Anderson said the Board may become an advocate for a particular issue when there is an agreement among the members. David Allen followed up that he is concerned about putting time and resources into something if the Board cannot accomplish anything in the end. Lorraine said that the final product will be something that the group supports.

Dan Miller (Colorado Attorney General's office) updated the group on NRD funds and Trustees' evaluation criteria and decision-making process. He explained that the Trustees approached the Stewardship Council for input because of its involvement in and knowledge of Rocky Flats issues. They see this group as a valuable forum for discussion, input and ideas. At other NRD sites in the state, the Trustees have observed situations in which communities have come together and were able to leverage resources that would not have been available if the entities were working separately.

Dan gave a quick review of the criteria which the Trustees will use in their evaluation of projects for using NRD funds. Also, the Trustees have contracted with Stratus Consulting to assist in evaluation of any proposals. The key criterion is that the proposed action will restore, replace or acquire the equivalent of the injured natural resources. Other criteria include compliance with applicable laws; consistency with the Rocky Flats Refuge conservation plan; attainment of a reasonable degree of public acceptance; and consistency with other policies. Also, the funds are not to be used for operations and maintenance work.

The next phase of the decision process will be to gather more information about the proposals. Dan said the most of the proposals are still very conceptual, and do not yet have estimated costs. He also noted that there is a fair amount of overlap among the proposals. Common areas of interest include the State Land Board parcel and plans for wildlife corridors. The Trustees do not have a specific schedule in place. They will try to figure out next steps at their meeting this

week. Matt Jones asked to see the decision criteria specified for future discussions. Dan added that the Trustees are under no obligation to spend all of the NRD funds now, and that it would be possible to do additional project solicitations in the future. However, the Trustees have an informal goal of making decisions in about a year.

Hillary Merritt (Trust for Public Lands) worked with DOE to obtain mineral rights that were deemed 'essential'. She provided an overview of areas for which the mineral rights have been purchased, and where those parcels are located. Most are in the northwest portion of the Rocky Flats site. She also mentioned the areas which have unwilling sellers, and therefore were not purchased. Other areas do have willing sellers and may be purchased in the future. Lisa Morzel asked if the Trust for Public Lands or DOE had estimated costs for the areas that are believed to have willing sellers. Hillary said this will be discussed later in the meeting. Mike Bartleson asked if there was just one unwilling seller. Hillary said there was just the one, and that this owner wishes to continue leasing the mineral rights. Trust for Public Lands will continue to negotiate with those potential sellers who are willing to work with them.

At this point, Chair Lorraine Anderson asked the members of the audience to introduce themselves.

Briefing from State Land Board

Various parties have expressed interest in evaluating using NRD funds for restoring and/or acquiring Section 16, the State Land Board's property neighboring Rocky Flats on the southwest. Matt Pollart, Front Range District Manager for the State Land Board, briefed the Board on this parcel.

Matt noted that the State Land Board manages three million acres of surface land, and four million acres of mineral rights. The State Land Board dates back to the Enabling Act of 1876. The Act granted Colorado statehood, and granted sections 16 and 36 of every township to the State Land Board to be used as a school trust. There was also land set aside for public buildings, penitentiaries, and universities. The Colorado Constitution set out how the lands were to be managed. In 1996, Amendment 16 changed the goals of land trust from generating maximum profit to generating 'reasonable and consistent interest over time'. This amendment also established a 'Stewardship Trust' of lands for the purpose of providing long-term financial benefits to the State. During the first round of nominations in 1998, the public nominated 620,000 acres, and the Board designated 217,943 acres. In December 2000, after a public nomination process that included more than 200,000 acres, the Board completed the designation process by bringing the total acres in the Stewardship Trust to 295,672. Once land is in the Stewardship Trust, it can be removed only by a vote of four out of five of the Land Board Commissioners.

The State Land Board owns Section 16, which is located on the eastern section of Rocky Flats' southern boundary. Approximately 100 acres of this parcel along Woman Creek are included in the Stewardship Trust. The State has generated revenue from Section 16 through grazing, oil and gas, gravel, open space, and recreational leases. Previous leases included coal and clay mines. The land is heavily encumbered by right of ways across the parcel. These include

Denver Water, Public Service, railroad, and others. The Land Board is prohibited from selling mineral estates in this area.

Joy Lucisano asked what uses are included in a recreational lease. Matt answered that this type of lease typically includes such activities as horseback riding, hiking, and wildlife watching. Shirley Garcia asked for the attendees to receive copies of this presentation. Joy Lucisano asked if the Land Board records their leases. Matt said leases are recorded in their Headquarters office in Denver, but that a public information request is required in order to access them. Lisa Morzel asked how the State Land Board handles the mineral rights on these properties. Matt responded that they are leased in order to collect royalties to be used for K-12 schools. He noted that the revenue last year was \$40 million. David Abelson asked who replaces properties that have been disposed from the system. Matt said that the State Land Board does this themselves. Shirley Garcia asked about the value of Section 16. Matt said that they have not done an appraisal, so they do not know at this point. David Abelson asked what factors are considered in an appraisal. Matt said that properties are appraised at their highest and best use. Joy Lucisano asked whether the State Land Board has any non-development leases. Matt said that they do. David Abelson asked if there was any other information that Matt could get the Board about Section 16 such as current leases, scope, value, and long-term plans. Matt said he can do this if the Board submits an Open Records request, and added that the turnaround time is about three days.

Presentation of Proposed Projects

Eight parties presented their initial ideas for use of NRD funds.

City of Arvada proposal – Kim Grant discussed Arvada’s proposal to restore the Lindsey Ranch and surrounding areas. Arvada believes that their proposal offers an opportunity to use Natural Resource Damage (NRD) funds for restoration of native prairie habitat and wildlife, while at the same time leveraging a potential State Historical Fund grant for restoration of the historic barn and outbuildings on the site. Jefferson County Open Space (JCOS) and Great Outdoors Colorado (GOCO) funding could also potentially be used for internal soft surface trail enhancements within the refuge and to provide external linkages to local and regional trail systems. Kim passed around a recently-performed assessment of this historic property. The assessment found that the barn is the most significant structure on the property. There is also some Preble’s habitat on the boundary of the ranch, as well as some tallgrass prairie. Full restoration of the property and its features, including the natural landscape, could exceed \$1 million. The project could be undertaken in phases, with initial efforts focusing on native prairie grassland restoration and preservation of the unique wooden barn on the site. They look at this project as a way to jump-start other activities on site. Also, these actions do not benefit any one entity, but the area as a whole.

Lisa Morzel suggested that the Lindsey Ranch could be listed as state or national landmark. David Allen asked how the project fits in with long-term plans for the Refuge. Kim said he thinks it would complement USFWS plans. He said Lindsey Ranch preservation is mentioned in the Refuge CCP, and that it is considered a historically-significant project onsite. Steve Berendzen (USFWS) said that the Lindsey Ranch barn is designated as a historic structure, but that USFWS has not committed to saving the house. They are definitely focused on restoring

habitat. Karen Imbierowicz responded that she would be reluctant to advocate spending the limited NRD funds on restoring prairie/habitat if this project will already happen. Clark Johnson pointed out that this planning is really a balancing act. Although USFWS has stated that this restoration is a priority, it has no funding. Therefore, it is possible to look at NRD funding as possibly jump-starting what USFWS wants to do. David Abelson noted a broader question about prioritizing restoration vs. acquisition. He encouraged the Board to explicitly discuss this issue at the May meeting.

City of Boulder proposal – Matt Jones presented the City of Boulder’s proposals for land acquisitions as well as habitat restoration. This proposal would conserve the habitat block and viewshed leveraging off USFWS, Jefferson and Boulder County and City of Boulder open space lands. He pointed out that such an opportunity is rare along the urbanizing mountain front. Potential partners include Jefferson County, Boulder County, State Land Board, GOCO and conservation organizations such as The Nature Conservancy. Potential acquisitions include: Section 16/State Land Board property; McKay properties just west of the Rocky Flats Refuge; parcels immediately west of open space lands to the west of Rocky Flats (Lippencott and Reynolds Morris); and the parcel on the southwest corner of Highways 93 and 72.

Boulder’s other proposals are restoration-focused. They would be looking to improve wildlife connectivity; enhance riparian habitat critical to diverse wildlife including federally threatened species such as Preble’s meadow jumping mouse, northern leopard frog and neotropical migratory birds; and potentially decrease auto-wildlife collisions on state highways. Potential partners include Jefferson County, Boulder County, Superior, Broomfield, Colorado Department of Transportation, Colorado Division of Wildlife, GOCO and conservation organizations such as Terra Foundation.

Dan Miller asked about the differing cost estimates between Boulder City and County for the same projects. Matt noted that the figures presented so far are just rough estimates. Jeannette Hillery asked Boulder to consider whether overpasses may be better than underpasses. Matt said that they are open to discuss this idea.

Boulder County proposal - Meagan Davis noted that Boulder County shares similar priorities with the City of Boulder. Their first priority is the acquisition of fee interest or conservation easements on part or all of Section 16. Second-tier priorities are acquisitions on the east side along Highway 93. Claire DeLeo discussed the County’s proposed wildlife corridors along Rock Creek and Coal Creek, on the north and northeast boundaries of the site. Barriers to wildlife movement are currently in place. Boulder County would also like to focus on propagating tall grass species to use for restoration. In summary, acquisition is highest priority for Boulder County, but they also believe various restoration projects can also be funded.

Karen Imbierowicz asked why there is need for fencing along creeks. Claire said it was to manage livestock grazing. Matt Jones added that it is a way to protect the Preble’s mouse habitat from cattle. Claire also noted that the County has funding available to match NRD funds.

City and County of Broomfield proposal – Mike Bartleson began by noting that, although Broomfield also supports the restoration of Section 16 and enhancement of wildlife corridors, it

is proposing two additional projects. First, Broomfield proposes the acquisition of two open space parcels (totaling 80 acres) adjacent to the northeast corner of Rocky Flats, situated just south of Highway 128 and east of Indiana Street. These parcels are also adjacent to Broomfield's Great Western Reservoir Open Space site that is approximately 755 acres in size. These two Proposed Open Space sites are listed in Broomfield's Open Space, Parks, Recreation, and Trails Master Plan as priority sites for acquisition because of the close proximity to larger open space areas such as the Rocky Flats Wildlife Refuge and the Great Western Reservoir Open Space site. The cost for these acquisitions would be approximately \$4 million and Broomfield would be interested in exploring cost sharing.

A second, smaller project would involve weed management and restoration/planting in parcels across Indiana along Woman Creek and Great Western Reservoir Open Space. The budget for these projects would be approximately \$30,000.

David Abelson asked how Broomfield's proposed acquisitions would be affected by the proposed Northwest Parkway, and whether there were any plans for the road authority to obtain open space as part of their planning. Mike said he was not aware of any such plans. Kristin Pritz, Broomfield Open Spaced director, added that they would not purchase these parcels and then build a road through them. If, in the future, a road went through existing open space, they would have to compensate for the taking of this land.

Jefferson County proposal – Kate Newman presented three project proposals from Jefferson County. The first project would consist of developing one or more wildlife underpasses/overpasses along Indiana Street on the eastern boundary of Rocky Flats. Jefferson County sees this as a valuable project because Indiana Street fragments the habitat and movement of wildlife from the Refuge on the west to open space areas to the east.

The second proposal is to make improvements that would develop a wildlife underpass for State Highway 93, improve the riparian vegetation along Women Creek and provide a crossing over the Boulder Diversion Ditch. It would also consist of acquiring long term property rights that would preserve the 105 acres that the State Land Board set aside in their Stewardship Trust Program.

Jefferson County's final proposal consists of acquiring the surface rights of approximately 106 acres from the State Land Board, through a long term lease or purchase. In addition, the project would also acquire a long term lease for the mineral rights since the State Land Board cannot sell these rights. This is needed to protect the surface rights. This parcel is located in the southwestern corner of Section 16 approximately ¼ mile north of the intersection of State Highways 93 and 72. This parcel contains one of the few areas of the xeric tall-grass prairie grassland community and some of the oldest soil types found in Jefferson County. This grassland type is rare and if disturbed, it is unlikely that it could be reestablished to its original condition. The acquisition of this parcel would serve to replace similar grassland areas on the Rocky Flats National Wildlife Refuge that have been disturbed by mining in the past and preserve one of the few remaining remnants of this rare grassland community.

City of Westminster proposal – Heather Cronenberg reiterated the City’s support for using Natural Resource Damage (NRD) funds for acquisition of lands surrounding Rocky Flats to protect wildlife corridors and provide a buffer for the refuge. In particular, the City proposes using NRD funds to acquire properties located on the east side of Indiana Street within unincorporated Jefferson County. Preservation of these parcels will help to create a continuous wildlife corridor from Rocky Flats to Standley Lake Regional Park. The City is planning to conduct an assessment of these areas and will update the Board on the results. They are willing to use their open space funds to leverage NRD funding.

Westminster also supports enhancing wildlife crossings along Highway 93, Indiana Street, and also as part of the design of the Northwest Parkway, as well as restoration of the xeric tallgrass prairie community in Section 16.

David Abelson noted that the Rocky Flats National Wildlife Refuge Act includes a 300-foot right-of-way for a future road, such as the Northwest Parkway.

Jefferson County Nature Association proposal – Paul Killburn noted that JCNA is not seeking to spend any funds, but that they have a particular interest in preserving those portions of Section 16 that have been minimally disturbed and that support unique xeric tallgrass prairie or riparian habitat for Preble's meadow jumping mouse and for an elk migration corridor. They are proposing that the surface and mineral rights in the northern and western portions of Section 16 be acquired or otherwise protected from disturbance.

Trust for Public Lands proposal – Hillary Merritt presented TPL’s proposal for the acquisition of mineral rights on approximately 314 acres buffering the northwest boundary of the Rocky Flats National Wildlife Refuge. Acquisition of these minerals will prevent future sand and gravel mining on the NREL wind technology site and provide an additional buffer to the Wildlife Refuge. The estimated value of the mineral estate is \$1.5 to \$2 million, and TPL will seek half of the acquisition funds from NREL.

Lisa Morzel asked if NREL wind operations would continue. Hillary said that she assumes they would. David Abelson asked if there any plans for DOE to fund acquisition of these mineral rights. Hillary said there are not.

Scott Surovchak noted the difference between permitted vs. non-permitted areas for mineral extraction. Also, in some areas, there are not even minerals there. Most of the minerals are on the west side. Oil and gas may be present in other areas, but this extraction is not as disruptive.

Review Presentations and Discuss Next Steps

David Abelson opened the floor to allow for dialogue among the Board about any consistent or compatible themes in the proposals. He also asked the Board to identify areas for additional information, such as Section 16, GOCO legacy grants, and Board goals and priorities for evaluating these projects.

Lorraine Anderson suggested that, since there seems to be agreement on Section 16, staff should find out more information about what can be done there. David Allen noted that there is also a consensus about enhancing wildlife crossings, but that the difficulty will be in creating a framework for agreements. Jeannette Hillery said that she thinks prairie restoration is something that can be done, as are the wildlife corridors. She does not see a lot of necessity for acquisition as part of these projects. She is not as sure that the acquisition of Section 16 is as doable, although it is a priority. Matt Jones noted that \$4.5 million does not go very far. Lisa Morzel stated that it is difficult to discuss moving forward without knowing the costs for each proposal. She also expressed her support for prairie restoration and wildlife corridors. Matt Jones stated that GOCO Legacy grants average between \$1 and \$10 million. Hillary Merritt pointed out that the next round of Legacy grants will not be available for another three to four years. Kim Grant added that multi-jurisdictional cooperation and connectivity are key elements for Legacy grants.

David Abelson suggested that the Board create a list of priorities. This list can be used to start trying to leverage NRD funding and also other funding that may come up in future. He added that it would be helpful between now and the next meeting for the entities with proposals to have some discussions on how these projects relate to each other and begin to try to define this as an integrated project if possible. At the next meeting, the Stewardship Council will continue discussing and piecing together ideas.

Bob Briggs suggested that Adams County be included in discussions, since connectivity issues are involved. Westminster's Open Space staff will make this contact. Lisa Morzel said she would like the Board to be able to refer to a larger-area map, possibly encompassing connections with the Rocky Mountain Arsenal.

The May 5 Stewardship Council Meeting will include:

- Continue discussing use of NRD funds; Host LM quarterly public meeting; Stewardship Council briefing materials for newly-elected officials; Records Management; Board audit.

The meeting was adjourned at 11:15 a.m.

Respectfully submitted by Erin Rogers.