

## **ROCKY FLATS STEWARDSHIP COUNCIL**

**Monday, April 7, 2014, 8:30 AM – 10:40 AM**

**Rocky Mountain Metropolitan Airport, Terminal Building, Mount Evans Room  
11755 Airport Way, Broomfield, Colorado**

**Board members in attendance:** Mark McGoff (Director, Arvada), Lisa Morzel (Director, City of Boulder), Tim Plass (Alternate, City of Boulder), Deb Gardner (Director, Boulder County), Megan Davis (Alternate, Boulder County), Mike Shelton (Director, Broomfield), Sharon Tessier (Alternate, Broomfield), David Allen (Alternate, Broomfield), Pat O'Connell (Alternate, Jefferson County), Joyce Downing (Director, Northglenn), Shelley Stanley (Alternate, Northglenn), Joe Cirelli (Director, Superior), Emily Hunt (Alternate, Thornton), Bob Briggs (Director, Westminster), Mary Fabisiak (Alternate, Westminster), Jeannette Hillery (Director, League of Women Voters), Sue Vaughan (Alternate, League of Women Voters), Arthur Widdowfield (Director, Rocky Flats Museum and Institute), Ann Lockhart (Alternate, Rocky Flats Museum and Institute), Ken Freiberg (Alternate, Rocky Flats Museum and Institute), Nancy Newell (citizen).

**Stewardship Council staff members and consultants in attendance:** David Abelson (Executive Director), Barb Vander Wall (Seter & Vander Wall, P.C), Erin Rogers (consultant).

**Attendees:** John Dalton (EPA), Vera Moritz (EPA), Charles Adams (CDPHE), Carl Spreng (CDPHE), Scott Surovchak (DOE-LM), Bob Darr (Stoller), George Squibb (Stoller), Paul Kilburn (Jefferson County Nature Association), Jean Tate (Jefferson County Nature Association), Heather Cronenberg (City of Westminster), Tiffany Hansen (citizen).

### **Convene/Agenda Review**

Board Chair Joyce Downing convened the meeting at 8:35 a.m.

Chair Downing noted that an Executive Committee meeting was held on March 3, 2014. Meeting attendees included the Executive Committee along with David Abelson. The purpose was to develop an agenda for this meeting. These meetings are open to public.

Bob Briggs moved to approve the February 3, 2014 Board meeting minutes (with one spelling change for 'Jehn Building') and the checks. The motion was seconded by Lisa Morzel. The motion to accept the minutes and checks passed 14-0.

### **Executive Director's Report**

David spoke about an upcoming event at the Arvada Center to mark the 25<sup>th</sup> anniversary of the FBI raid on Rocky Flats, which occurred on June 6, 1989. This symposium will take place June 6-8<sup>th</sup> and is slated to include photo exhibits and panel discussions. There will be a keynote panel that includes former Governor Roy Romer, former Congressman David Skaggs, Jon Lipsky (FBI) and others. David and Carl Spreng will discuss what is known about contamination at Rocky Flats today. He said there may also be stakeholder booths to provide an opportunity for dialogue and questions. The Stewardship Council may have a booth as well.

David said he had received confirmation of continued DOE funding for the Stewardship Council. He went over the requirement that DOE Legacy Management sites have a designated Local Stakeholder Organization (LSO), which this group fulfills. The primary avenue for stakeholder participation is the Stewardship Council and its Board meetings. David notes that the continued funding should be seen as an affirmation of the value of this organization moving forward. The Stewardship Council operates under a five-year DOE grant that includes an annual evaluation of the need for continued funding.

David gave a quick synopsis of January 2014 draft sitewide Environmental Assessment (EA) at the DOE wind test facility north of Rocky Flats. At a prior meeting, Joe Cirelli (Town of Superior) had wondered about this analysis and any potential impact on Rocky Flats. This EA concerns infrastructure maintenance and the adding of wind turbines. David said that the comment period closed in January and that he had reviewed the EA. He said it was a very standard analysis, and that there was nothing to flag for the Board.

### **Public Comment**

There was none.

### **Update on Natural Resource Damage Claims**

Various speakers were on hand to update the Board on the history and status of natural resource damage (NRD) claims at Rocky Flats, which were driven by CERCLA, the federal Superfund law. The purpose of these actions was to make the public whole for injuries to natural resources due to site actions by restoring or replacing injured natural resources.

The natural resources affected under this program include land, fish, biota, air, water, ground water, drinking water supplies, and other such resources owned, managed or controlled by the state or federal government. 'Injuries' are defined as adverse impacts to a natural resource caused by a release of a hazardous substance. Any damages come in the form of monetary compensation. At Rocky Flats, the claims totaled \$10.5 million. Those claims included acquisition of minerals rights, open space acquisition, and resource restoration.

Carl Spreng (CDPHE) spoke first and noted that Rik Getty had prepared a very good summary of these issues, which was in the Board's meeting packet. Carl stated that NRD claims under CERCLA have been applied at various other sites throughout the state, as well as other nuclear weapons complex sites around the country. He noted that the process had become contentious at other sites, even leading to some lawsuits, but not at Rocky Flats.

Carl said that the primary environmental impact at Rocky Flats was to the groundwater, so this was where most of the damages were assessed. The State settled the claim for \$10 million. Carl also noted that a previous Defense Authorization Act included provisions that DOE acquire essential mineral rights along the west side of the site. After these initial acquisitions, totaling \$5.5 million, all residual funds were turned over to the Colorado Natural Resource Trustees. The trustees include the Departments of Interior and Energy, the state Attorney General, the

Executive Director of CDPHE, and the Department of Natural Resources. The Trustees issued a Request for Proposals (RFP) for the remaining \$4.5 million.

Carl presented an overview of the funds that were awarded. He said that the RFP included a stipulation that required matching funds be secured for each project. He said that this provision resulted in \$26 million of total benefit from the \$10 million investment.

Lisa Morzel asked how the initial \$10 million amount was determined. Carl said that they had some rough estimates of costs and also that \$10 million was a nice round number that was politically palatable. Lisa also mentioned that DOI could not incorporate land into the National Wildlife Refuge that had mining taking place on it. Scott Surovchak said that the mineral rights purchases were also based on improving habitat.

Scott Surovchak (DOE) next presented a map of the mineral acquisition parcels. He said that, at first, DOE did not anticipate that they would be able to purchase parcels owned by Charlie McKay. However, they did end up purchasing most of these parcels. 750 acres have already been transferred from DOE to US Fish and Wildlife Service (USFWS). The remaining parcels will not be transferred for some time, as DOE is waiting until mining operations are completed. Scott added that the only acreage not included in the purchase of Section 16 was an area containing an oil/gas well. He said that approximately 623 out of the 640 acres in this Section had already been transferred to USFWS.

Scott explained that a mineral lease entails ownership of minerals, while the land owner is only entitled to royalties. He said that the better minerals are found in the southern part of site. These areas are better because clay has been washed away by natural processes. Tim Plass asked which entities provided the matching funds for the Spicer/McKay purchase. Scott said that Jefferson County purchased the mineral rights, and DOE bought out the lease. Tim also asked what the requirements were for reclamation in these areas. Scott said this primarily involved removing slopes after mining, as well as revegetation.

Paul Kilburn (Jefferson County Nature Association, JCNA) was next to speak, and discussed weed control and seed picking projects. He said it was a privilege for the JCNA to work with federal and state officials on this project, and that the public really got their money's worth. Paul noted that many weeds (knapweed being one of the worst) have been blowing into the Refuge and becoming a problem to native species. The weeds were taking over areas where the surface had been disturbed as a result of mining activities. As part of this NRD project, the group reached out to sixteen owners and managers of surrounding property. These owners included Denver Water, the Candelas development, Charlie McKay, ranchers and railroads, among others. Fourteen of the sixteen owners/managers came up with very good programs to cut down on weed seeds blowing off their land. Tim Plass asked about the two property owners that did not participate. Paul said these were smaller owners, and they did not respond to inquiries. Lisa Morzel suggested getting other owners to talk to them.

The group also took on seed collection so that Refuge managers could 'overplant' desirable species to encourage growth. Paul said that they try to pick 100 pounds of seeds per year. Some of the seeds are taken CSU in order to determine their germination rates.

Jean Tate (JCNA) spoke next. She thanked Carl and Scott for their efforts. Jean passed out copies of JCNA's annual report, and noted that it included a URL where before and after photos could be found. She said that the goal of seed picking was to provide local genotypes of grasses, as well as more variety. Volunteers were recruited through posted flyers, an email list, and local schools. Pomona High School and the Colorado School of Mines were among the groups that provided volunteers. She said it was a set up as a seven year program, and the fifth year was completed last fall.

Jean noted that the specific picking sites are chosen just a couple weeks prior to the pick. Seeds were also shared with the site ecologist Jody Nelson for replanting. Although it is a very gradual process, she said they are definitely seeing positive results. They collected 182 pounds of seeds last year, and that the total varies year-to-year. Picking dates for 2014 will be September 20, October 11, and October 25. She said they can always use additional volunteers, and that she would send out an email to the Stewardship Council.

Heather Cronenberg (City of Westminster Open Space) presented the next update. Using NRD funds, Westminster acquired a property called Sisters of the New Covenant, on the east side of Indiana and northwest of Standley Lake. This 30-acre site had been on the City's wish list for a number of years. They utilized the Trust for Public Land to facilitate the process, and also to help with obtaining a Great Outdoors Colorado grant. The site also includes a house, which the sisters wanted to keep as a retreat area. Therefore, these five acres were left out of the sale. However, Westminster has a first right of refusal in the event of any future sale of this parcel. The site features yucca, prairie rose, and other interesting plants. Jefferson County holds a conservation easement on this area. Based on easement requirements, Westminster is working on revegetation this year.

Megan Davis (Boulder County) discussed a County-City of Boulder partnership focusing on native plants in the area. This partnership received \$150,000 in NRD funds for native seed collection and generation in 2009. The Rocky Flats National Wildlife Refuge and the Rocky Mountain Arsenal were also involved in this project.

Under this program, seeds were collected and then sent to seed extractor for cleaning. Next, they were sent to a seed lab for germination so that the number of seeds could be increased. Then the seeds were used for replanting. There were 19 seed collection events, involving 518 volunteers and staff, and 1,656 total seed collection hours. These efforts yielded 384 bulk pounds of seeds from nine species. More details are available in the partnership's report to the Trustees. Although the seed collection is complete, some of the funds are still being used for seed increasing, and they are also using transplants for stream stabilization.

Megan next reported on mineral and lease interest purchases that also used NRD funding. These areas included parts of Sections 3, 4, 9, and 16. Section 16 was a high priority, primarily due to its very well-preserved habitat for xeric tallgrass prairie. Lafarge was awarded approximately \$3 million of NRD funds for the purchase and cancellation of its leased mining interests on Sections 3 and 4 in the Refuge. There was a separate request by Jefferson County, Boulder County and the City of Boulder that any additional funds in the NRD pool be used toward surface acquisition

and minerals lease for Section 16. Once the mineral estate is addressed, the Refuge will be expanded to include most of Section 16. The entities are working on exchanges for this right now, which might take a couple years. However, USFWS is already managing this area in accordance with their Comprehensive Conservation Plan. Megan was asked about the expected cost for the mineral estate. She said that the federal government and the State Land Board have been wanting to exchange certain mineral rights for several years and that Section 16 will be a part of this larger exchange. No money will be exchanged.

### **Update on Reportable Condition for Uranium**

On February 13, 2014, DOE notified the community of a reportable condition for uranium at the water quality point of compliance on Walnut Creek. George Squibb was on hand to brief the Board on the monitoring results, and the steps taken to evaluate the reason for the increase in uranium levels in this part of the site.

George explained that, in this case, the 30-day rolling average was in excess of the standard. Under the regulatory framework, this result requires DOE to consult with the regulators in order to determine whether or not mitigating actions are necessary. George noted that the 12-month average is the more stringent regulatory driver for these locations. He said that a report would be posted to the Rocky Flats website within the week.

George clarified that the ratio of natural to man-made uranium in the samples had not changed, and remained at approximately 75-80% natural. He said that part of reason for the exceedance could be heavy rains leading to discharge of additional groundwater. David Allen asked if the results could be related to GS10. George said most likely not. George was also asked if DOE was still monitoring for uranium at GS03, the previous Point of Compliance. He said they were, and that the AMP Annual Report contains those results. Jeannette Hillery asked if the exceedance could have been caused by surface disturbances related to construction of the flumes for surface water. George said that this was also not likely. He added that the levels they were seeing were still below the drinking water standard. Deb Gardner asked about the activities of Wright Water Engineers in relation to this exceedance. George responded that the Wright Water geochemists were looking at how uranium exchanges with sediments, and why they might be seeing so much variability. He said that they are expecting a report on this by late summer or early fall. David Allen asked what the expected turnaround time was for the isotopic analysis of uranium. George said it usually takes about two months.

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

#### **June 2, 2014**

##### *Potential Business Items*

- Initial discussion of IGA triennial review
- Receive 2013 audit

##### *Potential Briefing Items*

- DOE annual update

- DOE briefing on groundwater treatment

## **September 8, 2014**

### *Potential Business Items*

- Initial review of 2015 budget and work plan
- Continue IGA triennial review

### *Potential Briefing Items*

- DOE quarterly update
- DOE groundwater briefing

### Issues to watch:

- Americium, plutonium and uranium levels upstream of pond B-3 and U levels at WALPOC
- AMP sampling
- Original landfill

### Member Updates

Mark McGoff announced that Jim McCarthy has retired from his position with Arvada. Joe Cirelli noted that construction was continuing on Superior's Town Center and that with upcoming bridge work, there would be some lane changes and a slower speed limit. Joyce Downing noted that as part of the development at 120<sup>th</sup> Ave. and I-25, some restaurants were starting to open.

### Executive Session

At 10:38 a.m. Joyce Downing made a motion to move into Executive Session for the purpose of discussing certain personnel matters, and discussion with the attorney for any related questions, pursuant to Sections 24-6-402(4)(f) and (g), Colorado Revised Statutes. Lisa Morzel seconded the motion. The motion passed 14-0.

The Board reconvened from Executive Session at 10:50 a.m. and affirmed that no actions had been taken during Executive Session.

The meeting was adjourned at 10:50 a.m.

*Respectfully submitted by Erin Rogers.*