

ROCKY FLATS STEWARDSHIP COUNCIL

Monday, August 16, 2010, 8:30 AM – 11:00 AM

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

Board members in attendance: Clark Johnson (Alternate, Arvada), Lisa Morzel (Director, City of Boulder), Carl Castillo (Alternate, City of Boulder), Meagan Davis (Alternate, Boulder County), Lori Cox (Director, Broomfield), David Allen (Alternate, Broomfield), Shelly Stanley (Alternate, Northglenn), Joe Cirelli (Director, Superior), Chris Hanson (Alternate, Superior), Ron Hellbusch (Alternate, Westminster), Jeannette Hillery (Director, League of Women Voters), Sue Vaughan (Alternate, League of Women Voters), Shirley Garcia (Director, Rocky Flats Cold War Museum), Roman Kohler (Director, Rocky Flats Homesteaders), Arthur Widdowfield (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: Hank Stovall (citizen), Alan King (Broomfield), Raymond Reling (Northglenn), Tamara Moon (Northglenn), Doug Young (Sen. Udall), Steve Berendzen (USFWS), John Dalton (EPA), Vera Moritz (EPA), Carl Spreng (CDPHE), Marilyn Null (CDPHE), Scott Surovchak (DOE-LM), Bob Darr (Stoller), Rick DiSalvo (Stoller), George Squibb (Stoller), John Boylan (Stoller), Lynn Bowdidge (Stoller), Cathy Shugarts (Westminster).

Convene/Agenda Review

Chair Lori Cox convened the meeting at 8:38 a.m. The first item was the consent agenda. Lisa Morzel moved to approve the June Board meeting minutes. The motion was seconded Clark Johnson. The motion passed 11-0. Lisa Morzel moved to approve the checks. The motion was seconded by Roman Kohler. The motion to passed 11-0.

Executive Director's Report

David Abelson provided several updates to the Board. First, he mentioned that Rik Getty was out of town and not able to attend the meeting. Next, he referred to a response letter from USFWS that the Board had received in reply to a June Stewardship Council letter regarding funding for the Rocky Flats National Wildlife Refuge. David said the response was a little disappointing, because the primary issue the Board had raised was not addressed.

David mentioned a press conference that was held by the Rocky Mountain Peace and Justice Center in early August regarding samples taken to try to prove offsite contamination around Rocky Flats. He said that the data that was presented in the report does not match the rhetoric that was used. David reiterated that the process to evaluate offsite areas (OU3) led to a decision in the 1990's not to remediate based on acceptable risk levels. The RMPJC reported that, of these four new samples, two showed nothing, and two showed a 'possibility' of plutonium. Scott Surovchak said that DOE will be sending this report for review by a former member of the Rocky Flats Actinide Migration Panel. David will keep the Board updated on any new

information. Vera Moritz added that the two labs used to process these samples were not EPA or state certified, and were not part of the existing voluntary national lab certification program. David said he received press calls from Westword and the Weapons Complex Monitor. He noted that the story surrounding this issue had passed and he did not feel the Stewardship Council needed to address it as a group. He added that, since Representative McKinley was involved with this effort, it will probably factor into his continuing legislative efforts regarding Rocky Flats signage. David also noted that Stewardship Council member Matt Jones had just won a Democratic primary for the State Legislature. If he is elected, David thinks there may be some important changes in how key legislators approach this issue.

David updated the group on the results of a public meeting the previous Tuesday regarding changing the locations of Rocky Flats surface water Points of Compliance (POCs). He said the meeting showed a clear need for looking at the issues of POCs and dam breaching in conjunction. He noted that several letters had been written on these issues by downstream communities and were available on the back table. He asked that, whenever possible, members send this type of correspondence to staff electronically, in order to ensure faster distribution to the other members.

David made an announcement about a DOE Legacy Management conference in Grand Junction November 16-18, 2010, that he said should provide a good opportunity to interact with stakeholders from other Legacy Management sites. There is no registration fee, and members of the Stewardship Council will qualify for the federal rate for lodging, which is heavily discounted. Lisa Morzel asked if an agenda was available. David said it is available online, and there was a link in an email he sent to the Board. David also offered a reminder that next two Stewardship Council meetings will be on the second Monday of the month, rather than the first.

Public Comment

There was none.

Roundtable Discussion on Changes to RFLMA Point of Compliances and Dam Breach EA

The main agenda item for this special meeting was a roundtable discussion regarding DOE's proposal to move the existing surface water and groundwater points of compliance stationed along Indiana Street to the eastern edge of the DOE lands, known as the Central Operating Unit (COU). Because DOE will manage ponds A-4, B-5 and C-2 in a flow-through configuration and later breach them, DOE is also proposing to eliminate the batch and release protocols and replace them with flow-paced sampling. The conversation was designed to include both the DOE dam breach proposal and the changing the points of compliance (including the proposed changes to the sampling protocols), as they are linked activities.

Chair Lori Cox invited DOE and regulator representatives to join the Stewardship Council members at the table. She noted that the comment period for these changes was extended from 30 days to 60 days in response to a request by the City of Broomfield. Because the comment

period will now not close until after the Stewardship Council's September meeting, Board comments no longer need to be approved at today's meeting.

Prior to the discussion, Scott Surovchak with DOE gave a presentation on the proposed changes. He began with a review of site decisions since 2005 when cleanup and closure were completed. In 2006, the site's final remedy decision (CAD/ROD) was issued. This decision determined that the COU required final actions, while the Peripheral OU (POU) required no further action. In 2007, the Rocky Flats Legacy Management Agreement (RFLMA) was signed. Attachment 2 of this agreement includes the actions necessary to ensure that the final remedy is protected. Surface water and groundwater monitoring configurations were specified in this document. Also in 2007, the POU was delisted from CERCLA's National Priorities List and is now the Rocky Flats National Wildlife Refuge.

Scott discussed that the current monitoring locations are the same as they were in 2005 when cleanup was completed. He presented a map of the proposed monitoring point changes. The proposal involves consolidating several existing POCs into two new locations on the eastern boundary of the COU. Scott noted that the primary reason for the proposed changes was the relocation of the DOE site boundary in 2007, when the Refuge was created. The proposal moves the POC locations onto DOE-managed property. This move also meets CERCLA applicable or relevant and appropriate requirements (ARARS) that call for POCs to be close to the 'waste management area boundary' rather than far downstream. Finally, these changes to the POCs align with the Colorado Water Quality Control Commission's Walnut Creek segment configuration.

The proposed new Woman Creek POC is very close to edge of the COU boundary, just off a DOE maintenance road. DOE will add an additional culvert to prevent water from backing up into the monitoring structure. David Abelson asked for clarification about method of sampling that will be used. Scott explained that the new system will involve building a channel and measuring the water column to determine flow rates. A machine will withdraw a certain volume of water at a specified frequency. It will be operated by telemetry. DOE needs to make sure people are there to retrieve the samples and then ready them for shipment to the lab. On heavy flow days, this will pretty much be a full time job. Shelly Stanley asked if this sampling method works in winter. Scott said if the water freezes, there would be no flow. The automated grabs are based on the volume of water, so the schedule will vary by the amount of flow. Shelley said Northglenn operates these systems, and that they have limitations that need to be considered. David Abelson asked Shelly if Northglenn was looking into switching to another sampling method. She said that they were not at this time. Scott further explained that this system will be more representative of the actual water quality than a manual grab sample. He said the manual grab method could miss important events depending on when these samples were taken. Lisa Morzel said that flow-paced sampling is used at Yellowstone all the time.

Shirley Garcia asked how the site will sample for nitrates. Scott said that they will continue to use grab samples for the time being because of the more restrictive holding time requirements for nitrates. George Squibb added that they only need to collect nitrate samples during pond discharges. If it is not acidified and refrigerated, nitrate would be consumed naturally in the sample bottle if it were allowed to sit for a period of time. George said that some studies are

showing that samples that were only acidified (not refrigerated) were good as long as they were sampled within seven days. This is a process the site may use in the future.

The proposed new POC on Walnut Creek would be located just below the confluence of No Name Gulch, North Walnut Creek and South Walnut Creek. Like the Woman Creek POC, it would be located right at the COU boundary. New flumes, using the same concept as existing flumes, would be installed at both new POC locations. Sampling would be done by the method described above, formally known as 'automated flow measurement and sample collection'.

Scott noted that the same analyses and analytes will be used in the evaluation of data at the new POCs. The proposed changes retain the 30-day rolling average for determining reportable conditions. The 12-month rolling average will be used as the compliance value. This is the same as the existing compliance standard for POCs in the COU. He said that the only difference between the two calculations is that a compliance value exceedance may result in penalties. David Abelson noted that when the Soil Action Levels were being crafted, a compromise was made that was related to data evaluation. He said that local governments agreed to support a more restrictive (lower number) soil action level on the condition that the site agreed to use the 30-day reportable condition, which would provide an earlier notice of any potential violation. Shirley Garcia also brought up this issue. She said there was disagreement regarding the use of the 30-day rolling average and the 12-month rolling average. Scott replied that, regardless of which one was used, they would be looking at the same data and making the same calculations.

Arthur Widdowfield asked if they would be getting better samples by moving the POCs upstream to the proposed locations because of any leaching of contaminants that could occur between those locations and Indiana. Scott did not think this would be a significant factor. He added that during remediation it was easier to determine the source of any exceedance because it could usually be traced to a specific project. Now, they have to look at more subtle problems with revegetation or erosion, and it is harder to pinpoint.

Lori Cox asked George to explain the timeline of notification of exceedance. Roughly, it may take two weeks to retrieve a sample from the field, and another day get it ready to ship to the lab. The longest turnaround for a laboratory analysis is for plutonium and americium, which take 28 days because the activity is so low. If there is any result greater than the standard, the site immediately calculates the rolling averages. If there appears to be an exceedance, they would then request a validation of the analysis from the DOE Grand Junction office, which usually takes a few hours. At this point, DOE will have 15 days to issue an official contact record. Once the contact record is issued, this sets a schedule for more comprehensive analysis. George explained that there is no way to do real-time monitoring for radionuclides at these levels. He added that this timeframe is adequate because the standards in place are based on long term exposure. Scott Surovchak added that if they were dealing with higher levels of activity, they could do some kind of real-time screening, but it just is not possible at these levels. Shirley asked what the quickest turnaround time would be. George said it could be done in 14 days as long as the labs can accommodate them. He noted that there are a limited number of labs that can do this level of analysis.

Scott next spoke about the basis for changing boundary wells. These wells are not required by the remedy; they were added to RFLMA. The proposed surface water POCs are downgradient of Area of Concern (AOC) wells. AOC wells are downgradient of contaminant plumes and adjacent to surface water features, and are much closer to source areas. This allows for earlier detection of and response to contaminant migration. Dam foundations direct alluvial groundwater toward surface water, which is monitored by proposed new POCs. The proposed new POCs, like the current POCs, are downgradient of the AOC wells. Lisa asked Scott to point out on the map where the landfills were located, and then confirmed that the AOC wells would catch any contamination from these areas. David Allen suggested that it may make sense to maintain a boundary well at Indiana because of surface water flow being lost into groundwater. Lori Cox asked if there was a web version of the AOC well map. Scott said it was on their website and also in RFLMA. Shirley asked if they monitored for the same analytes at each of the AOC wells. John Boylan said they are different based on each source plume.

Scott said that the proposed modifications were posted on the Community Involvement page of the LM website. The comment due date was extended to September 28. Comments can be emailed or mailed.

Jeannette asked Scott to clarify the timeframe for continued monitoring at Indiana. Scott said that since DOE had modified its dam breach plan based on public input and was now going to operate Pond C-2 in a flow-through configuration, they would continue to operate the Indiana monitoring points. He said this would most likely continue as long as they were operating C-2 in flow-through. Shirley asked what DOE's objectives were for the flow-through period. Scott said this would be found in the EA, with some augmented language from the previous version. He said the primary reason to operate in flow-through configuration was to allow habitat to establish itself. He said it also provides a period of time in which they can look at long-term water quality impacts. Shirley asked Carl Spreng and Vera Moritz if they could still meet with Broomfield this week. Carl said that CDPHE's Executive Director had just sent some questions and responses to Broomfield, and that once these had been received and reviewed, he will schedule the meeting. Lisa Morzel asked Scott for clarification about whether DOE was keeping the Indiana POCs as data points and for how long. Scott said they were keeping them and it would probably be for 7-10 years, or as long C-2 is in flow-through. Shelly Stanley asked where the public would see this in writing. Scott said it would not be a RFLMA change, because it was not related to any regulation, but said it would be added to the Rocky Flats Site Operations Guide. Sue Vaughan asked if they found a reportable condition at Indiana after these changes have been made whether DOE was bound to take any action. Scott said they would definitely look at the problem, but it would not be a regulatory compliance issue. Lisa Morzel asked what the site would do about contacting downstream communities in this scenario. Scott said they would have no obligation regarding notification, but would look at what was reasonable.

David Allen updated the Board on Broomfield's work regarding these issues. He handed out a packet containing several detailed letters and requests that Broomfield had sent to the agencies. He said their biggest concern at the moment boiled down to comfort levels. He said Broomfield was comfortable with the current situation, but the proposed changes, when added together, have a negative effect on this comfort level. He said that today's meeting was the first time they had heard a commitment from DOE regarding continued monitoring at Indiana. He said there was

also a new change in operations regarding the plans for operating C-2 in flow-through and they have not seen anything in writing about plans. These physical changes, including the breaching of dams, mean the loss of any ability to contain water from the streams and any potential problems onsite. He said Broomfield was looking forward to continuing discussions, and would like three things to happen. First, they would like the process to slow down. Second, they would like to see the establishment of a water working group similar to the one that operated during closure. Finally, they would like to work collaboratively to identify specific performance measures and triggers to ensure the long-term effectiveness of remedy.

Lori Cox said she assumed that the agencies have a similar wish to continue to work toward consensus and collaboration. Jeannette Hillery said she was glad that DOE had incorporated longer timeframes, and that she agreed with David Allen's description of the need for a level of comfort. She added that she appreciated the level of reporting given to the community, and that continuity may increase the level of comfort. She said she would also like to see discussion of a specific function for the water group that David mentioned. David Abelson noted that the former water working group disappeared after a period of time, and that Broomfield's suggestion was simply to revive something that was endorsed by the Board. Shirley Garcia said that the cities participated as team members in determining the final sampling regime for the site, and that the level of collaboration at that time was more than just sharing data.

Scott Surovchak pointed out that, due to current legal scrutiny regarding FACA issues, DOE had to be very cautious about the format of meetings in which it participates. Jeannette suggested that if the meetings were not called by DOE, these restrictions may not apply. Lori asked whether the water working group had been a subcommittee of the Stewardship Council and was told it was not. She went on to ask Scott how the changes to the Site Operations Guide would be communicated. Scott said that the guide is updated every year and is posted on the website. He added that not much will actually change, because so many procedures are already incorporated regarding sampling. Vera Moritz echoed Scott's statements about FACA issues, saying that things had become very complicated and cumbersome in terms of FACA. Because of this, EPA has been reverting to the more traditional public meeting format. Barb Vander Wall explained that the Stewardship Council is not a FACA group, but cautioned that something like what was being discussed could be subject to this law. Scott said the environment at DOE Headquarters regarding FACA had become really conservative, so much so that any new groups were usually being formed under FACA. Exemptions to FACA have become very difficult.

Ron Hellbusch said that Westminster and the Standley Lake cities supported what David Allen was proposing. They agreed that it is too soon to make some of these decisions although DOE might want to move on. He said he saw flow-through as a form of breaching. He added that the site was still monitoring because there could still be concerns there. Scott Surovchak clarified that DOE had no intention or right to move on from this site and that it will remain federal property forever. Lisa Morzel noted that the Stewardship Council recommended that entire site always be retained by the federal government. She added that the cleanup was done well, given what they were facing, but there are still contaminants onsite. She said she was glad that data points at Indiana will be retained, and that ten years might not even be long enough to keep them.

David Allen requested that the decision to keep monitoring points at Indiana be put in writing and, if it was not, that DOE postpone comments indefinitely. He said he would like to expend efforts on coming to an understanding on where we are going rather than commenting and seeing changes come out incrementally. Shirley Garcia said that the cities were asking for an opportunity for actual input, not just dialogue. They would like to draft something they are all in agreement with. While they are happy with the remedy, they need to be comfortable that new objectives are clearly defined and reasonable, so that the conditions they agreed to pre-closure are being maintained. She said it seemed like they were hearing new things each time there was a meeting. Carl Spreng said that he would be happy to engage the cities in this dialogue once they had received the response to their comments from the CDPHE Executive Director.

Lori Cox asked the Board about desired next steps on this issue. David Abelson said he wanted to throw out an outline to begin discussion of a Board policy on these topics. His thoughts were: 1) DOE should not breach dams 2) The Board will not oppose managing the ponds in flow-through configuration, and will revisit the decision to breach in the future. However, if monitoring shows that there is a problem, DOE should close the dam valves and investigate the source(s) of the problem. 3) DOE should continue collecting water at the same points at Indiana and use these results as part of their decision about whether to breach at a later date. 4) The establishment of new POCs at the outfall of the terminal ponds is acceptable, as long as the Indiana data is used to evaluate water quality.

Lori Cox noted that the Board's April 8th letter did not support moving the POCs. Sue Vaughan pointed out that, since that time, the Board had received additional information. She spoke of the importance of being proactive, systematic and cautious. Lori suggested that the Board may need to digest the new information prior to crafting a position. Jeannette Hillery agreed that it may be more prudent to wait to see what was in CDPHE's letter to Broomfield, review the new information and wait until the September meeting to approve a position. Lisa Morzel said that the Board also needed some commitments from DOE regarding the changes they have discussed. Doug Young said he was not clear about how this discussion referenced the Board's earlier 'no action' recommendation for the EA. David Allen suggested sending a letter to DOE re-iterating the Board's position in favor of the no action alternative, and also the desire to work with them on getting more information regarding the other points David Abelson brought up. David Abelson put forward the idea for a simple thumbs-up from Board reflecting their current thoughts. As downstream communities enter into further discussions, this would give them a sense of the Board. David Allen said he wanted to make sure to provide Doug Young with the information he requested. He added that he was concerned about taking a position of support on the flow-through plans without further investigation and discussion at a higher level of detail. He extended his appreciation to everyone for attending this meeting and allowing further discussion of this issue.

Public comment

Hank Stovall began by complimenting the local government entities for their letters outlining their reasons for opposing the EA. He said bureaucrats may think it is fine to ignore the public will, but in this election year, officials will pay attention. He said the Soil Action Levels were flawed until corrected by an independent review. He brought up the concept of a 'failure mode

analysis' and asked if DOE did this after cleanup. Carl Spreng said he was not familiar with the term. Scott Surovchak pointed out that they had completed risk assessments and the CERCLA process. He said Mr. Stovall's question sounded like the fate and transport modeling that the site also completed. Carl added that regulations required detailed risk assessments. Mr. Stovall said that 25-50 curies of plutonium had been released into the air, and is still present. He said that it was too early to breach. He also pointed to the Rocky Flats Grand Jury report and the actinide migration findings. He said that he was concerned about the potential 60-day processing period for water samples. He posed a question about what plans exist if a major, continuous exceedance occurs. He said he hoped this group will not delay in taking a position on these plans.

Doug Young asked if the position of the Stewardship Council was the same as in its previous letter. Lori Cox said that it had not changed as of yet, although it could change at the September meeting, given additional and/or changed information.

Updates/Big Picture Review

Clark Johnson announced that he was starting a different job with the City of Arvada that was not related to Rocky Flats and that he would no longer be serving on the Board. He introduced his replacement, Maria VanderKolk, who has previously done some work on Rocky Flats issues.

September 13, 2010 (second Monday)

Potential Business Items

- Initial review of 2011 RFSC budget

Potential Briefing Items

- Host LM quarterly public meeting
- Surface water briefing – adopt position
- Annual review of RFSC activities
- Begin discussing 2011 RFSC Work Plan

November 8, 2010 (second Monday)

Potential Business Items

- Budget Hearings for 2011 RFSC budget

Potential Briefing Items

- Host LM quarterly public meeting
- Approve 2011 RFSC Work Plan
- Review history of RFSC
- Continue discussing interpretive signage for Rocky Flats

Lori asked members to think about attending the DOE-LM conference that David mentioned at the beginning of the meeting. She said the agenda sounded interesting.

Lisa Morzel said she would like to begin all meetings with introductions. Lori said she will add this to future agendas.

The meeting was adjourned at 11:20 a.m.

Respectfully submitted by Erin Rogers