

ROCKY FLATS STEWARDSHIP COUNCIL

P.O. Box 17670
Boulder, CO 80308-0670
www.rockyflatssc.org

(303) 412-1200
(303) 600-7773 (f)

Jefferson County ~ Boulder County ~ City and County of Broomfield ~ City of Arvada ~ City of Boulder
City of Golden ~ City of Northglenn ~ City of Thornton ~ City of Westminster ~ Town of Superior
League of Women Voters ~ Rocky Flats Cold War Museum ~ Rocky Flats Homesteaders

Monthly Status Report – April 2017

Board meeting summary

History of Rocky Flats Cleanup

Frazer Lockhart, the former DOE-Rocky Flats manager, briefed on the cleanup. Highlights included:

1. Key questions at the start of the project included:
 - a. to what level should the site be cleaned up?
 - b. what would the land use be?
 - c. what would it cost?
 - d. who would make the decisions?
 - e. what laws would apply and who would enforce them?
 - f. what role would the public and citizens play? and
 - g. could DOE and/or its contractors effectively carry out the cleanup?
2. Rocky Flats had 21 tons of weapons-grade materials, much of it improperly stored; more than 100 tons of high-content plutonium waste; more than 30,000 liters of plutonium and enriched uranium solutions; and more than 275,000 cubic meters of radioactive waste. Aging facilities and improperly stored nuclear materials posed a risk to the workers and community. Two buildings were rated the most dangerous plutonium buildings in DOE complex.
3. In time, the mission became “To convert the former nuclear weapons production facility to a wildlife refuge.” The end-state goal was to move all plutonium and waste off site, demolish all buildings, clean up all areas of environmental contamination for wildlife refuge use, make the surface water leaving the site safe for any uses, do long-term monitoring with institutional controls, and achieve the post-closure site operational cost of \$5 million a year.
4. Cleanup was a sequential process. Using photographs of the Building 771 decommissioning, Frazer identified the steps:
 - a. eliminate urgent risks
 - b. perform initial characterization and plan for dismantlement
 - c. remove the nuclear materials
 - d. remove equipment from gloveboxes
 - e. remove the gloveboxes and tanks
 - f. strip out piping, ductwork and plenums
 - g. perform structural decontamination and final surveys
 - h. demolish the building

5. Frazer said the success of the closure project required
 - a. working federal, state and local issues simultaneously
 - b. charting a new course with multiple laws, rules & regulations
 - c. negotiating aspects of the project
 - d. involving numerous, diverse, skeptical stakeholders in the process
 - e. maintaining a commitment to the goal
 - f. risking failure
 - g. telling the truth

Legacy Management monthly site inspection summary

DOE reports site personnel conducted the following activities in February.

Water Quality

- Collected Walnut Creek surface water samples to support the uranium geochemistry investigation. Selected samples will be sent to Lawrence Berkeley National Laboratory for high-resolution uranium analysis to determine the relative percentage of natural vs. man-made uranium in the surface water samples.

Groundwater Treatment Systems

- East Trenches Plume Treatment System: DOE reports the system, which now includes treating contaminated water that was previously treated by the Mound Site Plume Treatment System, is working as designed.
- Solar Ponds Plume Treatment System (SPPTS): DOE reports the system is working as designed. Uranium microcell testing continues.

Landfills

- Installed the Original Landfill temporary groundwater intercept system in accordance with the plan outlined in Contract Record 2017-01. The system is operational as of March 30, 2017.

Ecology

- Conducted erosion control surveys.
- Conducted 1st quarter COU sign inspection. No problems were noted.

Changes to the Environmental Covenant

DOE has provided notice that the Rocky Flats Environmental Covenant was being replaced by a Restrictive Notice. According to CDPHE, “the restrictive notice is a use restriction mechanism that replaces the existing Environmental Covenant originally issued in December 2006, later modified in November 2011. The main difference is that the current environmental covenant binds the U.S. DOE, but the new restrictive notice will also bind all current and future owners of the land and any persons possessing an interest in the land. The use restrictions themselves have not changed.”

Dan Miller with the Colorado Attorney General’s Office further explains:

Colorado’s institutional control statute explicitly states that a Restrictive Notice (RN) is a police-power based regulatory action. §25-15-318.5(1). The statute is silent as to whether an Environmental Covenant (EC) is a property interest or a police-power based mechanism. The state’s position is that an EC is also a police-power-based

mechanism. During consideration of the bill creating ECs, and after its adoption, attorneys for federal agencies disagreed, taking the view that an EC is a property interest. As a result, several federal agencies have refused to grant environmental covenants on federal property, believing that there are various legal prohibitions to doing so. DOE granted the EC at Rocky Flats because it has authority to dispose of property under the AEA that other federal agencies do not possess.

Although the state disagrees with the view that an EC is a property interest, the matter has not been decided by the courts. If it turns out that the EC is a property interest, it likely would not bind prior interest holders in the affected property unless they subordinated their interest to the requirements of the covenant. The RN does not have such limitations. It will bind prior interest holders, provided they were given adequate notice of the intent to create the RN. Such notice is provided through letters to known holders of prior interests, and by publication in the local paper.

Because there are several prior recorded interests in the property covered by the EC at Rocky Flats, the state wants to remove any doubt as to the applicability of the restrictions in the EC to such property interest holders by converting the EC to an RN. There is no intent to change the substance of the restrictions. Other than the possible difference in enforceability against holders of prior interests described above, there is no difference between an EC and an RN. They work the same way.

The Restrictive Notice, which specifies the use restrictions at Rocky Flats, can be found at: https://www.lm.doe.gov/Rocky_Flats/Regulations.aspx

Stewardship Council Update

Upcoming 2017 Board meetings:

June 5, September 11, October 30