

ROCKY FLATS STEWARDSHIP COUNCIL

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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
Kim Griffiths

Monthly Status Report – August 2018

Board Meeting Summary

There was no meeting this month.

Legacy Management Monthly Site Activities Summary

DOE reports the following for June.

Groundwater Treatment Systems

- East Trenches Plume Treatment System (ETPTS): DOE reports the system is working as designed, effectively treating groundwater from both the Mound Site (via the Mound Site Plume Collection System) and East Trenches groundwater plume.
- Solar Ponds Plume Treatment System (SPPTS): DOE reports the system is working as designed.

Sampling, Maintenance and Inspections

- Second quarter groundwater sampling during even-numbered years includes all wells. Sampling was completed in June.
- Routine erosion control surveys, wetland water level surveys, wetland weed surveys, and nest box surveys were conducted.
- On June 7, the solar power subcontractor performed its annual inspection of solar-powered systems.

Projects

- Original Landfill (OLF): As part of the geotechnical investigation, the siphon system in Test Pit #10 (TP-10) was installed. The system operated throughout the month, capturing groundwater and diverting it away from the slump area.

Miscellaneous:

- The North Walnut Creek Slump crack was inspected weekly as a best management practice. Movement in the vicinity of the original crack was observed.
- Ground targets were placed for the aerial photography flyover for vegetation monitoring.
- Personnel performed herbicide application in small areas on the site to control weeds.

Peace Center et. al. versus USFWS

On August 9th in Peace Center et al. vs USFWS challenging the opening of the Rocky Flats Refuge, US District Judge Brimmer denied the plaintiff's motion for a preliminary injunction and dismissed the

endangered species claims. Two claims rooted in NEPA remain. As the case proceeds USFWS can continue with trail construction and opening the Refuge.

Importantly, in denying the motion for a preliminary injunction, Judge Brimmer focused on one part of the four-part test – namely, whether the plaintiffs would suffer an irreparable harm if trail construction and usage are allowed to proceed. The judge determined that the plaintiffs did not meet this burden because they did not show a nexus between the agency action and health effects. During the hearing, the plaintiffs did not challenge EPA and CDPHE’s findings about the real but extremely low risk associated with the proposed USFWS action. Additionally, as noted in the order, the plaintiffs did not challenge EPA and CDPHE’s estimates of the health impacts of inhaling radioactive material, and did not present evidence that their members would be exposed to risk levels greater than the calculated risk. Plaintiffs instead argued that there is no safe level of exposure to plutonium. As explained in the order, that view does not meet the legal standards established through federal laws and regulations: “Regulatory action often involves managing the levels of risk, and plaintiffs have not shown a basis to claim that agencies are required to eliminate every added risk of plutonium exposure or that such mitigation would even be possible.”

To emphasize this point, Judge Brimmer concluded: “Dr. [Michael] Ketterer testified that plutonium is present everywhere on Earth in varying concentrations due to fallout from nuclear testing. To the extent that plaintiffs argue that increased exposure to plutonium results in per se irreparable harm because there is no safe threshold for exposure, the argument proves too much.”

Upcoming 2018 Meetings: September 17, October 29