

ROCKY FLATS STEWARDSHIP COUNCIL

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

(303) 412-1200
(303) 660-7773 (f)

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

Monthly Status Report – April 2010

Board meeting summary

Board Member Appointments

The Board ratified its decision to appoint the League of Women Voters, Rocky Flats Cold War Museum, and Rocky Flats Homesteaders to the Board. The Board also appointed Arthur Widdowfield.

Executive Committee

The Board appointed the following to the executive committee:

Lori Cox (Broomfield) – Chairman

Bob Briggs (Westminster) – Vice Chairman

Lisa Morzel (Boulder) – Secretary/Treasurer

Briefing on Dam Breach EA and DOE's Plan to Move Two Surface Water Points of Compliance

DOE is in the early stages of conducting NEPA analysis for breaching ponds A-3, A-4, B-5, C-2, and the Present Landfill pond. DOE is also evaluating other changes to its water quality protection program, including moving the two surface water Points of Compliance (POC) along Indiana Street, operating terminal ponds A-4 (North Walnut Creek) and B-5 (South Walnut Creek) in flow-through configurations, and conducting additional testing for uranium and nitrate.

The Board approved a letter to DOE, EPA and CDPHE expressing concern about DOE's plans to breach the dams. The Board also approved a letter to DOE, EPA and CDPHE expressing concern about DOE's plan to terminate water monitoring at the two surface water points of compliance at Indiana Street.

The letters can be found at: http://www.rockyflatssc.org/board_policies.html

DOE Budget Briefing

For fiscal year 2011, DOE's Office of Legacy Management requested \$188,626,000, a decrease of 1.1% over the fiscal year 2010 appropriation. This budget includes a decrease of \$1.496M for post-retirement benefits associated with the Paducah and Portsmouth Gaseous Diffusion Plants, and reduced cost estimates associated with funding pensions and post-retirement benefits to former contractor employees at Rocky Flats.

Regarding Rocky Flats, the budget fluctuates based on funding needs. For each of the last three years, DOE has received its total funding request.

- FY08: expenditures = \$6.4M (includes EM funding)
- FY09: expenditures = \$6.7M (includes EM funding).
- FY10: budget = \$4.5M (no EM funding)
- FY11: budget = \$6.9M

Legacy Management monthly site inspection summary

March site activities included:

- Conducted Solar Ponds Plume Treatment System (SPPTS) sampling; collected 64 samples as part of the ongoing evaluation of the SSPTS.
- SPPTS optimization of the treatment system is ongoing. Phase II core samples of the Zero Valent Iron (ZVI) media were collected and were sent to the University of Colorado Geology Lab for micro-probe testing.
- Continued groundwater well Troll (monitoring devices for wells) downloads, and compiled Troll pressure transducer data for analysis as part of on-going well monitoring activities.
- Collected and processed 12 automated surface water sample suites, and ambient surface water samples from 12 different monitoring sites.
- Conducted LANL surface water sampling (specialized uranium analysis for natural vs. man-made U) at 12 sites as part of the non-RFLMA sampling approved by CDPHE.
- The East Trenches Plume Treatment System (ETPTS) was inspected and is functioning normally.
- At the Mound Site Plume Treatment System (MSPTS), the gravel was raked and an inspection of the influent and effluent was performed. The system was flushed from the piping inside the vault.
- Two areas of the site were interseeded with additional native species seed to increase vegetation cover in these areas.
- Inspected the Present and Original landfills. There were no significant changes to report.
- Prebles Meadow Jumping Mouse inspections were completed.

Pond Discharge

April's rain and snow showers required DOE to discharge water from terminal Ponds A-4 and B-5. Due to concerns about dam safety, DOE initiated the B-5 discharge prior to receiving CDPHE's water sample results. Pre-discharge samples for Pond B-5 were collected on April 2nd were subsequently received and validated. Water quality met all applicable standards.

DOE discharged A-4 after receiving CDPHE's split sample results.

Energy Employees Occupational Illness Compensation Program Act (EEOICPA)

Following the General Accountability Office's (GAO) release of its report assessing DOE's workers compensation program – "Energy Employees Compensation: Additional Independent Oversight and Transparency Would Improve Program's Credibility" – Senators Udall and Bennet

and Representative Perlmutter reiterated their call for Congress to pass “The Charlie Wolf Nuclear Workers Compensation Act” (S. 757; H .R. 1828).

The GAO offered the following recommendations for improving the program:

1. Congress: “To enhance oversight of claims adjudication under Part E of EEOICPA, Congress may wish to consider amending the act to establish an independent review board for Part E, similar to the Advisory Board on Radiation and Worker Health established under Part B of the program. Such an independent board could review and report on the scientific soundness of Labor's implementation of Part E, including the site exposure matrix, guidance provided to claims examiners on medical evidence, and Part E probability of causation standards for radiation-related cancers. In creating such an independent board, it would be critical to develop appropriate provisions regarding its funding structure, appointment of members, and staff support. Our 2007 report on the Part B Advisory Board highlighted challenges that these three areas had presented to the board's independence and identified various options to enhance board independence in each area.”
2. Department of Labor: “To enhance oversight and transparency of EEOICPA, the Secretary of Labor should strengthen the quality control measures in place for Part B lung disease claims and Part E processes with independent reviews. Such measures should include, for example, instituting periodic peer reviews of sampled reports by Part E consulting physicians, arranging for technical review of detailed information in the site exposure matrix, and obtaining periodic expert review of medical evidentiary requirements for the Part B claims related to lung diseases.”
3. Department of Labor: “To enhance oversight and transparency of EEOICPA, the Secretary of Labor should establish a formal agreement and action plan with the Secretary of Energy to release more information, where appropriate, in the site exposure matrix database in order to allow greater public access and input. In doing so, Labor should actively seek additional information from worker representatives and site experts about job descriptions, processes, and potential exposure.”
4. Department of Labor: “To enhance oversight and transparency of EEOICPA, the Secretary of Labor should develop formal action plans, within Labor's scope of authority, in response to the Labor Ombudsman's reports regarding major claimant concerns and make the plans and updates on their subsequent status publicly available. One such plan should offer Labor's response to the Ombudsman's reports about consistent problems with customer service.”

Background on EEOICPA

As background to the issue, in late 2000, Congress passed and President Clinton signed the “Energy Employees Occupational Illness Compensation Program Act” (EEOICPA). This bipartisan legislation recognized that workers who were employed in the nation's atomic weapons programs were exposed to radioactive and toxic substances. EEOICPA was designed to compensate workers, many of whom have since retired, who have become ill as a result of work at atomic weapon facilities. Individuals, or their eligible survivors, who worked as an employee, contractor, or subcontractor at a DOE facility or other covered facility, or with a

company under contract with the DOE and designated as a beryllium vendor were to be eligible for benefits under the EEOICPA.

EEOICPA specifies steps workers must take to secure compensation under the Act, including proving a causal link between their cancers and work at a nuclear facility. At Rocky Flats and other facilities throughout the DOE complex, workers have had significant troubles proving this causal link and thus securing compensation. Small classes of workers have been compensated, but that is the exception.

The bill makes two fundamental changes to the EEOICPA:

1. broadens the list of specified cancers, and
2. shifts the presumption to NIOSH to prove person did not get cancer from work at facility.

State Legislation – Rep. McKinley Rocky Flats Sign Resolution

As previously reported, on March 11, 2010, The State, Veterans, & Military Affairs Committee voted 8-3 against Rep. McKinley's Rocky Flats sign bill. The motion to Postpone Indefinitely, which kills the bill for the rest of the session, passed 6-5.

Rep. McKinley secured late bill status, and on April 28th introduced a resolution with broad support in the General Assembly.

The resolution includes three main sections:

1. That the General Assembly calls upon the United States Congress to require that, before visitors are allowed to enter the Rocky Flats National Wildlife Refuge, a full and fair statement of the risks of plutonium and other radioactive and hazardous materials that remain in detectable quantities on the site be provided to each individual, and that such statement of risks also be included in materials distributed to the public at any Cold War museum at Rocky Flats or Rocky Flats museum that may be constructed.
2. That the General Assembly calls upon the United States Congress to require the posting of signs at all entrances to the Rocky Flats National Wildlife Refuge, warning of the presence of plutonium and other radioactive and hazardous materials that remain in detectable quantities on the site and containing or referring to scientifically objective assessments of the risks posed to visitors by such materials.
3. That no minor person enrolled in any school in Colorado may enter the Rocky Flats National Wildlife Refuge as part of a school field trip without first receiving a written copy of a full and fair statement of the risks of plutonium and other radioactive and hazardous materials that remain in detectable quantities on the site and returning to the school an informed consent form signed by the minor person's parent or legal guardian.

On May 10, 2010, the House rejected the resolution on a tied vote.

Site Document update

Dam Breach EA

DOE released for public comment an Environmental Assessment (EA) for breaching five dams. The public comment period closes June 1, 2010. DOE is considering extending the public comment period following a request by the Stewardship Council

In 2009, DOE breached Dams A-1 and A-2 (located in North Walnut Creek) and Dams B-1, B-2, B-3, and B-4 (located in South Walnut Creek). DOE is now proposing to breach the five remaining Rocky Flats Site dams: A-3 and A-4 (in North Walnut Creek), B-5 (in South Walnut Creek), C-2 (at the end of the South Interceptor Ditch north of Woman Creek), and the Present Landfill (PLF) Dam (in No Name Gulch).

The EA can be found at: http://www.lm.doe.gov/Rocky_Flats/Sites.aspx?view=5

Contact Record in Support of Dam Breach EA

On April 15th, DOE posted on its website a new contact record, “Approval of Excavation Greater Than 3 Feet Below Grade to Breach Dams A-3, A-4, B-5, C-2 and the Present Landfill Dam.” (RFLMA CR 2010-02) According to DOE, “This action would reduce or eliminate the out-of-priority retention of surface water and return the Rocky Flats surface water flow approximately to the original conditions. Returning flows to a more natural condition will provide ecological benefits by improving riparian habitat and promoting wetlands. In addition, this will reduce or eliminate the inspection and reporting costs associated with meeting dam safety requirements, operating and maintaining the dams, and determining out-of-priority storage and evaporative depletions.”

The proposed excavation work will exceed the 3-foot depth limit prohibited by regulatory controls and thus requires pre-approved procedures. The objective this control is to maintain the current depth to subsurface contamination or contaminated structures. This control also results in achieving compliance with the CDPHE risk management policy of ensuring that residual risks to the site user are at or below 1×10^{-6} excess lifetime cancer risk. As discussed in the record, “the proposed work achieves the risk management policy goal.”

The contact record can be found at: http://www.lm.doe.gov/Rocky_Flats/ContactRecords.aspx

EMSSAB Chairs Meeting

The Stewardship Council’s Executive Director, David Abelson, served on a panel on long-term stewardship at DOE’s Office of Environmental Management’s Site Specific Advisory Board Chairs (EMSSAB) spring meeting. David spoke about long-term stewardship in the context of Rocky Flats.

Stewardship Council update:

Next meetings: June 7, September 13 (2nd Monday), November 8th (2nd Monday)