

# ROCKY FLATS STEWARDSHIP COUNCIL

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City of Golden -- City of Northglenn -- City of Westminster -- Town of Superior  
League of Women Voters -- Rocky Flats Cold War Museum -- Rocky Flats Homesteaders -- Ken Foelske

## Monthly Status Report – May 2007

### Board meeting summary:

#### *Approval of Letter Supporting Re: Worker Compensation*

The Board approved a letter endorsing “The Rocky Flats Special Exposure Cohort Act” (S. 729; H.R. 904). These bills would accomplish what the workers are seeking to accomplish through the petition process – be designated a special exposure cohort class under the Energy Employees Occupational Illness Compensation Program Act (EEOIPCA). Senator Salazar introduced the bill in the Senate; Representatives Udall and Perlmutter in the House. These bills are the same ones the Rocky Flats Coalition of Local Governments supported in past years. The letters can be found at [http://www.rockyflatssc.org/board\\_policies.html](http://www.rockyflatssc.org/board_policies.html)

#### *Legacy Management (LM) Annual Update*

The Stewardship Council hosted the LM annual update for calendar year 2006. Updates included:

- groundwater monitoring
- surface water monitoring
- air monitoring
- ecological monitoring
- surveillance, maintenance and site operations

The meeting minutes, which include a detailed summary of the report, will be posted on the Stewardship Council’s website following the August Stewardship Council board meeting.

DOE’s annual monitoring and maintenance report can be found at:

[http://www.lm.doe.gov/land/sites/co/rocky\\_flats/annualreport2006.htm](http://www.lm.doe.gov/land/sites/co/rocky_flats/annualreport2006.htm)

#### *CERCLA Five-Year Review Briefing*

Under CERCLA regulations, the EPA is required to review the remedies at Superfund sites where hazardous substances remain at levels that potentially pose an unacceptable risk. The DOE-retained lands at Rocky Flats have residual contamination resulting in use restrictions, so a periodic review is required by CERCLA. EPA guidance provides reviews must be conducted at every five years and may be conducted more frequently if necessary to ensure the protectiveness of the remedy. The last review was approved by the EPA in September 2002 at the height of the site’s cleanup activities; the next review must therefore be approved by the EPA in September 2007.

As stated in the EPA guidance, “The Five-Year Review process integrates information taken from decision documents and operational data with the experiences of those responsible for and affected by actions at the site.” The six components for the review are

- Community involvement and notification
- Document review
- Data review and analysis
- Site inspection
- Interviews
- Protectiveness determination.

Information from the first five components are used to formulate a conclusion regarding the sixth component, namely whether the site’s remedial actions are protective of human health and the environment.

### Legacy Management monthly site inspection summary:

DOE distributed their April site update on May 30<sup>th</sup>. Highlights of the report included:

- This coming summer DOE will be (1) continue regrading roads, (2) repair slumps on the original landfill, (3) recontour the functional channel near former building 371, and (4) make upgrades to the solar pond treatment system. In preparation for this work, DOE continued its design work.
- DOE reviewed the monitoring and maintenance plans for the Present and Original landfills. DOE is proposing changes, some of which will be incorporated into the Rocky Flats Site Operations Guide (which does not require regulator approval) and others that will be formal amendment to the monitoring and maintenance plans (which will require regulator approval).
- Three deer were killed when they became entangled in the fence separating the Refuge from DOE lands. DOE and USFWS inspected the fence and determined that there were no problems with the design or installation of the fence. On April 4<sup>th</sup> DOE entered into a formal consultation with CDPHE under the RFLMA, the regulatory document guiding post-closure activities at the Site. The consultation focused on addressing the adverse biological effect of the new fence. A contact record was prepared to document the results of that consultation. The parties resolved DOE will place fence flags on the fence where the deer tend to cross and continue to monitor the fence line to determine if the flags are preventing future injury or death to the mule deer or other wildlife at the Site. The parties will notified if problems continue and contact records for future consultations regarding the fence will be generated as required.
- The CERCLA Five-Year Review team continued working on the draft report due to EPA and CDPHE on August 1st. Some of the topics tackled by the team included: (1) discussing how information from the planning for the Triennial Review of the Water Quality Council can support the CERCLA review and (2) discussing groundwater modeling needs to support the review. In addition, a list of information and data that is needed for the review was compiled.

Fieldwork included:

- maintenance on roads and both landfills

- maintenance on groundwater treatment systems
- replacement of erosion control systems damaged by sunlight, winds, and precipitation especially at the original landfill
- re-seeding in numerous areas of the site
- collection of water samples
- landfill inspections.

### Rocky Flats Special Exposure Cohort Petition:

As reported in the April 2007 update, on May 2<sup>nd</sup>, the Colorado Congressional delegation, in a rare show of unanimity, signed a letter supporting Rocky Flats workers seeking benefits under the Energy Employees Occupational Illness Compensation Program Act (EEOIPCA), special exposure cohort provisions. That press release and letter can be found at:

<http://salazar.senate.gov/news/releases/070502rflatsjnt.htm>.

Two days later the Advisory Board on Radiation and Worker Health voted to recommend to the Secretary of Labor special exposure cohort (SEC) status to a small class of workers at Rocky Flats – those who were "monitored or should have been monitored" for neutrons from 1952 to 1958. Three outstanding issues the Advisory Board will address at their June 2007 meeting are: 1959 to 1970 neutron exposures, Building 81 (later called 881) workers from 1950 to 1960, and those who may have been exposed to thorium. NIOSH has advised the Advisory Board they have data to exclude these three groups but the Advisory Board wants proof before they vote on these issues. As noted in a *Denver Post* article, this ruling, should it be approved by the Secretary of Labor, would exclude 80% of the workers who might otherwise be compensated under the energy employees' compensation act that Congress approved in 2001.

Subsequently, as noted above, the Stewardship Council voted unanimously to support legislation in the House and Senate to designate the former Rocky Flats workers as a special exposure cohort class. Then on May 23<sup>rd</sup> the Stewardship Council sent a letter to the Advisory Board pressing them once again to approve the full petition, not the partial petition they are likely to approve when they meet again in June. This letter is in follow up to the Stewardship Council's February 2007 letter to the Advisory Board. It can be found at:

[http://www.rockyflatssc.org/board\\_policies.html](http://www.rockyflatssc.org/board_policies.html).

### Congressional update:

Congress, starting in the House, has begun developing annual appropriations (funding) bills for fiscal year 2008 (October 1, 2007 – September 30, 2008). In the week prior to Memorial Day weekend, House subcommittees began developing (called "mark-up") the appropriations bill that funds DOE and another that funds Department of the Interior and thus the US Fish and Wildlife Service. The full committees will likely take up these bills in the coming weeks. At that time Stewardship Council staff will have a better sense of funding for DOE's Office of Legacy Management (LM) and the national wildlife refuge system.

For a discussion of the appropriations process, please go to:

<http://appropriations.house.gov/pdf/appfacts.pdf>

### Agency update:

On May 25, 2007, the Environmental Protection Agency (EPA) announced deletion of portion of Rocky Flats and all adjacent lands from the CERCLA National Priorities List. These lands, which total 25,413 acres, include 4,933 acres of the former buffer zone and 20,480 acres of off-site lands. Deletion means that under CERCLA all response actions have been completed and no other action is necessary. The 4,933 acres will be transferred from DOE to the Department of the Interior (DOI) for the U.S. Fish and Wildlife Service to manage as the Rocky Flats National Wildlife Refuge following EPA certification of the cleanup.

DOE has finished surveying lands to be transferred to DOI and has submitted the survey to DOI for its acceptance. Once DOE and DOI agree on the final survey, EPA will certify the cleanup as complete. EPA certification was required as part of “The Rocky Flats National Wildlife Refuge Act of 2001.” Transfer of refuge lands from DOE to DOI is slated for June 26, 2007.

### Site document update:

None at this time.

### Stewardship Council update:

None at this time.