

**Rocky Flats Citizens Advisory Board
Meeting Minutes
August 7, 2003
6 to 9:30 p.m.**

Jefferson County Airport Terminal Building, 11755 Airport Way, Broomfield

Victor Holm, the Board's chair, called the meeting to order at 6:05 p.m.

BOARD / EX-OFFICIO MEMBERS PRESENT: Dave Davia, Joe Downey, Jim Fabian, Anne Fenerty, Tom Gallegos, Shirley Garcia, Earl Gunia, Victor Holm, Bill Kossack, Mary Mattson, Alliyah Mirza, Andrew Ross / Rick DiSalvo (DOE), Steve Gunderson (CDPHE), Mark Sattelberg (USFWS), Tim Rehder (EPA).

BOARD / EX-OFFICIO MEMBERS ABSENT: Jim Kinsinger, Tom Marshall

PUBLIC / OBSERVERS PRESENT: Ted Auker (CLTS, Brighton), Bill McNeill (Lafayette), Ralph Stephens, James Horan, Alan Trenary (Westminster), Vanessa Safonovs, Barbara Vander Wall (Seter and Vander Wall), Bob Fiehweg (Summit Tech Res.); Jerry Henderson (RFCAB staff); Ken Korkia (RFCAB staff); Patricia Rice (RFCAB staff)

PUBLIC COMMENT PERIOD / NEW BUSINESS:

Comment: No public comment was received.

New Business: Anne Fenerty: Anne reported on a letter prepared by the Grievance Committee to Gene Schmitt outlining the Board's progress in addressing issues investigated by the committee. The Board decided to postpone discussion on the letter until later in the meeting.

New Business: Shirley Garcia: Shirley stated that the Board needs to make a decision on who it will be sending to the EMSSAB Chairs meeting in Paducah, Kentucky in later September. The Board deferred discussion until later in the meeting.

New Business: Dave Davia: Dave announced to the Board that he has submitted paperwork to run for councilor for the City of Westminster. He assured the Board that he would continue his current level of effort on the Board during his campaign.

PRESENTATION AND DISCUSSION ON THE BOARD'S LEASE OBLIGATIONS: Board attorney Barb Vander Wall distributed a memo she had prepared outlining the Board's potential obligations with respect to its lease and other contracts. She then went over the points in her memo. Barb explained two general strategies for the Board. One would be to work with the landlord to arrive at some sort of settlement. The other would be to default on the contract. Barb stated that DOE has a lien on the funds it provides to the Board and as such, the Board can only spend it on those activities or obligations that are

authorized. If DOE does not authorize funding to be spent on lease payments for next year, then the Board would not be able to pay the lease, and the leaseholder would not have much recourse. Barb also noted that as individuals, the Board members do not have any personal liability in this matter.

The Board deferred further discussion of how to address its lease obligations until later in the meeting.

RECOMMENDATION ON THE CONSOLIDATED WATER TREATMENT FACILITY: Next the Board discussed a proposed RFCA Standard Operating Protocol (RSOP) for Building 891, the Consolidated Wastewater Treatment Facility. The purpose of the document is to consolidate the remnant activities from other decision documents into a new decision document that will govern the building's operations going forward. More importantly, the RSOP, if approved, would authorize the treatment of wastewaters from a broad range of environmental restoration activities across the site, as well as some D&D activities. The RSOP identified B881, B883, B865 and B444 as sources of D&D wastewaters that would be treated in this building. These buildings processed primarily uranium and beryllium. By contrast, it states that wastewater from the plutonium processing buildings, such as B371, B707, B771 and B776, is not expected to be suitable for treatment in B891.

The Board approved a recommendation on the B891 RSOP that contained the following points summarized below:

- The RSOP should state clearly that the facility will not accept wastewater from the plutonium processing buildings, nor accept other wastewater that contains plutonium and americium.
- The document estimates that the facility discharges represent about 7% of the Pond C-2 capacity, and the Board requests clarification on whether this percentage is based on an average year of rainfall. Also, the Board requests a contingency plan in case there comes a times during a wet year when Pond C-2 cannot accept additional inflow.
- The Board requests that the College Hill Reading Room be added to the list of identified repositories for the Administrative Record.

The full recommendation is available at www.rfcab.org/Recommendations.HTML.

DISCUSSION ON FINAL RFCA MODIFICATIONS: At its meeting last month, the Board decided to schedule a follow-up discussion on whether to make any further comments on the Final RFCA Modifications at this meeting. As it took up this issue, the Board determined that because the modifications are final no further discussion was warranted.

LONG-TERM STEWARDSHIP PRESENTATION AND DISCUSSION: Dave Davia began with an overview of the presentation. Patricia Rice then provided the majority of the presentation. She began by stating the regulatory framework for stewardship lies in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or Superfund law, the Resource Conservation and Recovery Act (RCRA), and in DOE policy. State law also comes into play to support stewardship activities. CERCLA provides a basis

for stewardship in its nine cleanup evaluation criteria. CERCLA also provides for a five-year review of remedy effectiveness and of monitoring. While RCRA provides for annual reviews of remedy effectiveness, it does not include radioactive materials in its definition of hazardous wastes and covers only a limited number of individual sites at Rocky Flats, such as the Present Landfill and the Solar Ponds. The Department of Energy also has published policy on stewardship, which will guide stewardship at Rocky Flats.

Patricia continued by describing stewardship as a combination of many activities. Controls are those things that prevent residual contamination from coming into contact with humans, animals or the environment. Institutional controls (ICs) are such things as deed and zoning restrictions that are administrative or legal in nature. ICs can include proscriptions on excavation or using groundwater. Physical controls, such as guards, signs and fences, keep people or animals away from residual contamination. Engineered controls are the actual remedy, such as caps on landfills or groundwater barriers.

Stewardship also includes information management so that future site managers know where to get information if monitoring shows the remedy is failing, for instance. Monitoring and maintenance refers to evaluating the effectiveness of a remedy or an institutional or physical control. Maintenance refers to any corrections that must be made on the remedy, monitoring equipment or physical controls. Periodic assessment is intended to ensure the remedy, as well as the monitoring and maintenance are operating as intended. It can include such things as the research of science and technology to determine if there is a more efficacious remedy available. Stewardship also includes planning for emergency response and contingencies. With respect to stewardship at Rocky Flats, the future roles and post-closure presence of the Environmental Protection Agency, the state, DOE and Fish and Wildlife Service are still under discussion.

The CAB is involved in a joint venture with the Rocky Flats Coalition of Local Governments called the Stewardship Working Group. The working group developed the Stewardship Toolbox, an analytical tool for examining stewardship activities. The toolbox is a matrix that can be analyzed for each proposed or chosen remedy for stewardship activities.

Patricia next presented the results of the Stewardship Survey board members received in May. Seven members completed the survey. The results show the Board wants to continue working with the Stewardship Working Group (SWG) and wants to schedule regular Board discussions on stewardship topics. The members also want to receive information in document summaries, weekly updates, and educational segments on stewardship issues. The top three topics board members want to learn about are monitoring and maintenance, funding, and science and technology.

The site is presently redrafting the Rocky Flats Stewardship Strategy. The strategy, nearly 80 pages, is a policy document meant to outline and plan for stewardship at Rocky Flats. It has two parts. Part One discusses the purpose and scope, goals of the plan, definitions and site conditions, as well as general stewardship policies. Part Two discusses regulatory authorities, possible types, and extent of controls, environmental monitoring and periodic review, as well as records management, contingency planning, funding and public involvement post-closure. The document is expected to be released soon for a 60-day public comment period.

SWG members have identified enforceability as an issue in the strategy. They are also concerned about “soft language” in the document – the use of such words as “maybe,” “might,” or “could,” and not “will.” The state’s covenants bill is also an issue of concern. The covenants bill would impose use restrictions on land on which there is residual contamination. However, the federal government argues the bill would not apply to federal land. Funding has been identified as another area of concern – whether annual budgetary funding or a trust fund would be the best way to fund stewardship. Members are also concerned DOE maintain a presence on site after closure and are concerned that an information management system be developed.

Next, Shirley Garcia talked about the connection between stewardship and the Remedial Investigation/ Feasibility Study, and the Corrective Action Decision/Record of Decision referred to respectively as the RI/ FS and the CAD/ROD. Stewardship activities will be analyzed in the RI/FS, which will provide the basis for the CAD/ROD. Items to be addressed are the identification of Applicable or Relevant and Appropriate Requirements (ARARs), remedial action objectives, site background, physical site characteristics, contamination and an alternatives analysis. The comprehensive risk assessment for human health and the environment will also feed into the CAD/ROD.

During the discussion, members asked for the regulators’ views. Both EPA and CDPHE representatives reported that enforceability of stewardship remains an issue that they are working on. Tim Rehder with EPA stated that he would check with EPA in Washington to determine if they have an official position on the use of environmental covenants as is required by the state of Colorado.

One member noted that she would like to see maps of contamination at the site and raised a concern over the proposal to create a “seamless” refuge at the site that would integrate both clean areas and areas with contamination. Rick DiSalvo with DOE reported that complete information regarding areas of residual contamination would be included in the remedial investigation document prepared after cleanup is complete. He also noted that although the site and Fish and Wildlife intend to allow free movement of wildlife at the refuge, if they need to put up fences around areas of contamination, they will do so. Steve Gunderson with CDPHE noted that he does not anticipate that there will be any areas of surface contamination that would impact public, worker or animal health. He did note that there may be areas of subsurface soil or groundwater contamination that would need to be physically isolated.

Another member noted a concern that key people are leaving the site and how difficult it will be to maintain commitments made now with respect to stewardship. The site replied that there are back-ups to these people that will step in.

The next step for CAB involvement is to continue with the Stewardship Working Group. Dave Davia proposed that the CAB consider recommendations by the group, much as it does with recommendations by the Environmental Management Site Specific Advisory Board. The SWG will tackle both stewardship recommendations for the present landfill Interim Measure/Intermediate Remedial Action and the Stewardship Strategy. Dave said the CAB also should begin to look at stewardship in cleanup documents.

PUBLIC COMMENT: Alan Trenary: Alan stated that he is concerned with what might happen in twenty years when people start to forget about what happened at Rocky Flats and the contamination that remains. He fears that once people stop caring about the site, there will no longer be any incentive for Congress to provide funding for stewardship. He prefers that a trust fund be established to pay for stewardship activities far into the future. He stated that the Board needs to have a presence in the future.

903 PAD PROPOSED CHANGES: Next, the Board discussed a proposed change to the soil remediation protocol for the 903 Pad Project. For remediation planning purposes, the 3-acre pad has been divided into 225 cells, each with dimensions of roughly 25 ft by 25 ft. The pad itself consists of six inches of asphalt, underlain by six inches of imported gravel and below that lies native soil. The current approach is to strip off the asphalt and gravel, and then the top foot of native soil is automatically removed on the presumption that it is contaminated. At that point, two feet below the surface of the pavement, five grab samples are taken and composited into a single sample to see whether the cleanup goal of 50 pCi/g or less has been achieved. If not, an additional lift of soil is removed, whereupon more characterization is performed. Close to 50% of the 139 cells completed thus far have required excavation deeper than 3 feet in order to meet the cleanup criteria.

The proposed changes include:

- Removal of the top 12 inches of native soil would not happen automatically, but would depend on the results of prescreening characterization (i.e. if the characterization results were below 50 pCi/g, there would be no further action for that cell).
- The assumed plutonium to americium ratio would be changed from 8 to 5.7 to reflect the use of laboratory High Purity Germanium (HPGe) versus the field HPGe on which the original ratio was based.
- Soil already removed with plutonium activity less than 35 pCi/g would be put back into some of the deeper excavations at the Pad.

The members discussed their concerns with the proposal. Some of the issues raised included the sampling methodology and whether averaging would catch hot spots; whether using putback levels in the manner described sets a precedent for the rest of the site and the fact that dilution is not acceptable; whether it is acceptable to keep making changes "midstream;" and whether it is appropriate to end automatic removal of the first foot of native soil. A question was raised whether this was a major or minor modification, with the point being that from a public perspective it should be considered major, so that it goes out for public comment. The site responded that it was being considered a minor modification. The site also reported that the current schedule calls for the entire 903 Pad project to be completed by the end of September.

DOE also stated that the site is trying to do what makes sense since this project began before the RFCA mods were finalized and the contract with Kaiser-Hill specified cleanup to 651 pCi/g rather than the modified value of 50. With respect to the americium/plutonium ratio, DOE and the regulators noted that the Actinide Migration Evaluation reviewers are probably correct in advising a lower ratio, but from the regulators

perspective they may keep the ratio as it is for the 903 Pad, but could allow it to be lowered for other areas at the site. Another point was raised that Kaiser-Hill is trying to address the sampling issue by exploring ways to augment the current sampling protocol in order to decrease the uncertainty.

To end the discussion, the Board determined it was important to comment on this proposed modification in a timely manner. The issue will be referred to the Closure Projects Committee to draft a recommendation and send out for Board consideration via email.

BOARD TRANSITION PLAN: Victor Holm began the discussion by providing a timeline for when the Board needs to complete its transition plan. The goal is to do most of the drafting this month, so that the Board can approve a first draft in early September, then forward it to DOE for its comments. The Board would then make revisions and approve a final plan in October. Dave Davia next introduced Dotti Whitt who works for DOE and has an extensive background with the department in planning, human resources and transition management. Dotti will assist the Board in developing its own transition plan. She pointed out that although DOE Rocky Flats manager Gene Schmitt is the principal audience for the plan, the Board should also consider Jessie Roberson, the head of Environmental Management, and Mike Owen, the head of Legacy Management, as potential audiences as well. Each member received an outline of the plan that was assembled by the Board's ad hoc Transition Plan Working Group. The working group, with Dotti's assistance, will work on the plan this month and present to the Board in September.

RELOCATION OF THE BOARD OFFICE: DOE has offered the Board space in Building 60 at Rocky Flats. Dave Davia reported to the Board that the Executive Committee and staff toured the space and found it acceptable. Details still need to be worked out concerning phone and internet access. The Board would still need to provide its own copying, postage, and office supplies. The Board was asked to approve two actions. First, they agreed to accept the offer of space by DOE, provided the phone and internet details can be worked out. Second, they agreed to authorize the Board attorney to commence negotiations with the landlord that would include a settlement offer whereby the Board would vacate the office space but continue to pay the rent amount that is allocated for the rest of this year.

LETTER TO DOE REGARDING THE GRIEVANCE COMMITTEE INVESTIGATION: The Board discussed the letter that was drafted by the committee. The primary objective in sending the letter is to update DOE that work is continuing to address the issues raised during the committee's investigation. Rick DiSalvo with DOE stated that such a letter would be appropriate and that DOE hopes the Board is soon able to put these issues behind them. The Board discussed some minor wording changes to the letter and asked Anne Fenerty to distribute a revised version via email for the members to approve.

UPCOMING EMSSAB CHAIRS MEETING: The next SSAB Chairs meeting is scheduled for the

end of September in Paducah, Kentucky. The Board discussed its participation in the meeting in terms of the numbers of members that should be sent and whether a staff member should go. Some members raised concerns about the budget and whether the Board could afford to send representatives, or if there are other better uses for the money such as independent review. Ultimately, the Board decided to send only the chair, Victor Holm, to the meeting. **NEXT MEETING:**

Date: September 6, 6 to 9:30 p.m.

Location: Jefferson County Airport Terminal Building, Mount Evans Room, 11755 Airport Way, Broomfield

Agenda: To be determined

MEETING ADJOURNED AT 10:15 p.m. *

(* Taped transcript of full meeting is available in the RFCAB office.

RESPECTFULLY SUBMITTED:

Joe Downey, Secretary
Rocky Flats Citizens Advisory Board

The Rocky Flats Citizens Advisory Board is a community advisory group that reviews and provides recommendations on cleanup plans for Rocky Flats, a former nuclear weapons plant outside of Denver, Colorado.

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