

**From Cleanup to Closure:  
The History of the  
Rocky Flats Coalition of Local  
Governments**

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*October 2006*

“It is not the critic who counts, not the man who points out how the strong man stumbled, or where the doer of deeds could have done better. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood, who strives valiantly, who errs and comes short again and again, who knows the great enthusiasms, the great devotions, and spends himself in a worthy cause, who at best knows achievement and who at the worst if he fails at least fails while daring greatly so his place shall never be with those cold and timid souls who know neither victory nor defeat.”

*(Theodore Roosevelt)*

# Acknowledgements

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There are many people who contributed to the success of the Rocky Flats Coalition of Local Governments but none more than the talented staff who exhibited great tenacity and commitment day after day. They worked tirelessly, often with little recognition, and yet despite all of the challenges, they remained committed to our vision and to our success. It is with deep gratitude that I offer my thanks to the Coalition staff and our key consultants.

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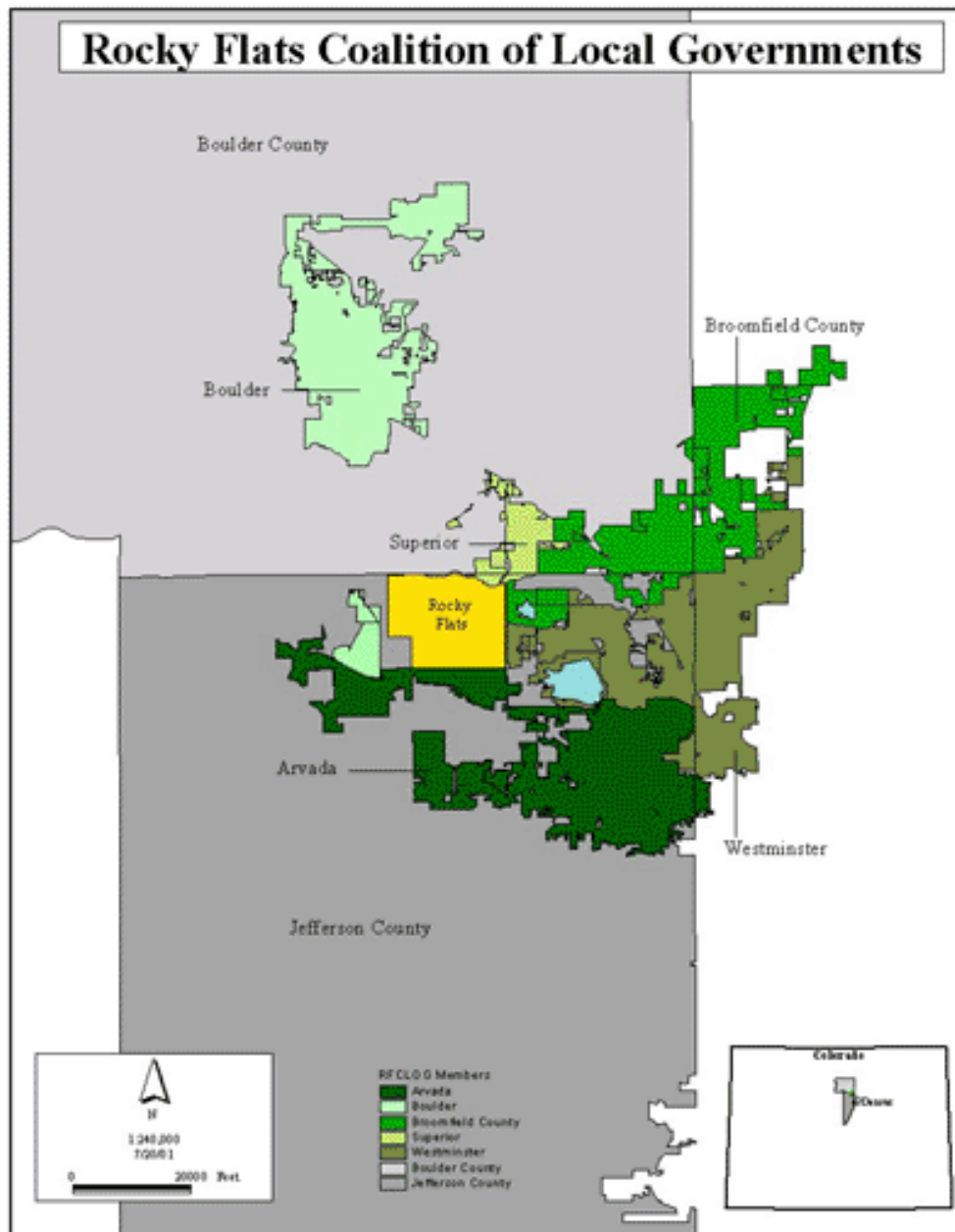
Finally, without the incredible dedication and commitment of the workers who toiled tirelessly in extremely challenging and dangerous conditions to clean up Rocky Flats and ensure it would be an asset for future generations, local governments would not be able to offer this report. To each of them we owe a debt of gratitude.

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# Map of Rocky Flats Coalition of Local Governments Members



# Foreword

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In late March 1999, I received a phone call from Michelle Lawrence, a Jefferson County Commissioner, offering me the position as the first Executive Director of the Rocky Flats Coalition of Local Governments. This new seven member local government organization had but one mission – to engage in the numerous issues underlying the cleanup, closure, future use and long-term protection of Rocky Flats, the former nuclear weapons plant south of Boulder.

Rocky Flats is deeply imbedded in the collective consciousness of community members. Even though production ceased in 1989 and the site has now been remediated, the very mention of Rocky Flats still stirs emotion and conjures up great passion, pride, fear, uncertainty and disbelief. For some, Rocky Flats played a pivotal role in the Cold War and in defeating communism. For others, Rocky Flats represented the dark side of society, where the threat of nuclear annihilation was (and still is) ever present.

I had started working on Rocky Flats issues in the summer of 1995 when I was hired to serve as then-Representative David Skaggs' district Rocky Flats policy advisor. When I applied for the position with the Coalition I already knew the key players – the local governments, federal and state officials, community activists, and workers. I knew working on Rocky Flats issues, like so many of the man-made constituents that pervaded the site, was toxic, but there was something so compelling about the issue that I immediately accepted the offer.

I did not know what lay ahead and the incredible journey I was embarking on, but I was excited to continue working on an issue of regional and national importance. My prior work with Representative Skaggs had prepared me for understanding the complex policy issues and the political environment that gave rise to and shaped public discourse on Rocky Flats. What I was not prepared for was running a coalition, one in which the members had long-standing relationships and, in certain cases, long-standing feuds. I wondered whether I had made a Faustian bargain, but I dove in and seven years later I emerge with the fear that I may not find another issue as compelling as Rocky Flats.

The challenge of bringing together seven local governments to speak with one voice on an issue as technically difficult and politically challenging as Rocky Flats was enormous. To do so when, as a non-elective body, no one compelled these governments to work together as a coalition raised the bar even higher. But the challenge was made even greater by the multitude of battles these governments engaged in involving issues unrelated to Rocky Flats – transportation, tax revenues, commercial and residential development, to name a few – and the intense and varied pressure that was put on them by their constituents. These governments at both the elected official level and the staff level knew each other well and often battled. It set up a dynamic that proved central to the successes and challenges of moving forward the Coalition.

Seven years later, as I offer my understanding of the role of the Coalition, I reflect on the incredible opportunity that I was offered and the enormous success we had when, in theory if not

in practice, the odds were stacked against us. It is not just the successes that make analyzing the Coalition important, but how we addressed the challenges as well. The Coalition, I firmly believe, serves as a model that others should understand and replicate, for if these governments were able to come together on an issue as challenging as Rocky Flats, this model can be appropriated for other regional issues.

The Coalition challenged me in ways I could not anticipate and ultimately far exceeded my expectations. We established a national model for how seven local governments could join forces to tackle a remarkably technical and political issue. We did not succumb to the numerous challenges that could have pulled us apart and dissolved the fragile coalition we had established.

With that background, it is my pleasure to offer my understanding of the Rocky Flats Coalition of Local Governments. As you read this report, bear in mind that I am not an historian, nor did I study government affairs or public policy in school. I am instead an attorney who was offered two tremendous opportunities – first with Representative Skaggs and later with the Coalition – to engage deeply on an issue of great importance. It is from this perspective that I draft this report.

### **A Note about History and This Report**

Cicero said, “History is the witness that testifies to the passing of time; it illuminates reality, vitalizes memory, provides guidance in daily life, and brings us tidings of antiquity.” The Dutch historian, Peter Geyl, said, “History is an argument without end.” President Theodore Roosevelt noted historians must have the ability “to grasp what is essential and to reject the infinitely more numerous non-essentials, the power to embody ghosts, to put flesh and blood on dry bones, to make dead men living before our eyes.”

History and the understanding of history are not static. There are certain immutable facts but how those facts relate to the causes and conditions that give rise to actions are the root of historical studies. How one interprets and understands such facts vary greatly, which gives rise to differing understandings, perspectives and conclusions of a given set of events.

This background is important for I offer my understanding of the Coalition from one perspective, that of the Coalition Executive Director. Because my perspective is just that – mine – I have included Appendix A in which former members of the Coalition Board of Directors, elected officials, local government staff and others offer their thoughts on the role and effectiveness of the Coalition. Their understanding of the Coalition is equally valid and I encourage all to give their thoughts due weight.

### **How the Report Is Organized**

In drafting this report, I have proceeded under the presumption that not everyone will not read it cover-to-cover. For that reason, each section must stand on its own and there must be some degree of repetitiveness from section-to-section.

# **Section I – Background: Rocky Flats and the Need for a Coalition**

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From 1951 until the Environmental Protection Agency and the FBI raided the site in 1989, Rocky Flats served as one of the major nuclear weapons plants in the United States. Its primary mission was producing triggers for nuclear weapons. Shrouded in secrecy, the 6,300-acre site northwest of Denver was a flashpoint of both social protest and national pride. From the late-1970s through the mid-1980s tens of thousands of citizens staged large-scale acts of social disobedience, while others worked with a deep sense of national service in the dangerous business of producing triggers in the pitched battle that defined the Cold War. Rocky Flats served a critical role in the development of the nation's nuclear weapons, and to this day nearly every nuclear weapon in the United States' nuclear stockpile contains components manufactured at Rocky Flats.

Times changed, and in his 1992 State of the Union address, as relations with Russia were thawing, President George H.W. Bush announced the W-88 warhead program was coming to an end. With that pronouncement, Rocky Flats' prime mission was terminated. In the decade that followed, while public interest and concern remained high, community engagement on site issues dropped off precipitously. Pockets of community members remained engaged on site issues – local governments, worker groups, concerned neighbors and anti-nuclear activists – but the intense public focus that dominated the local consciousness and airwaves in the 1970s and particularly the 1980s began to fade. Yet, nearly fifty years of weapons production had resulted in extensive contamination, so with the decision to remediate the site, extremely dangerous and difficult work remained, and the political stakes remained high.

The enormity of the challenge in cleaning up Rocky Flats cannot be underestimated. Five of the ten most dangerous buildings in the entire DOE complex, including the most dangerous building, were located at Rocky Flats. Waste leaked from boxes that were stored in tents. Groundwater was contaminated (and still is) as were off-site drinking water supplies. Rooms in some of the production facilities were so contaminated that hand-held counters could not even measure the levels of radiation. Cleaning up such a site was not simply a technical challenge – one greater than had ever been attempted anywhere in the world – for the political challenges and stakes were just as high.

From the early 1990s through 1998, public dialogue coalesced principally around three organizations: the Rocky Flats Citizens Advisory Board (CAB), which focused on cleanup issues; the Rocky Flats Local Impacts Initiative (RFLII), which focused on future use and economic transition issues; and the Rocky Mountain Peace and Justice Center, which addressed site-specific issues within a broader context of national and international disarmament issues. While local governments were represented in both the CAB and RFLII, the governments thought their interests would be better served if they could collectively resolve their differences and speak with one voice. So, under the leadership of Arvada and Westminster, the governments that



would in time comprise the Coalition began exploring the idea of establishing a government-only forum to address the site issues of particular concern to local governments.

Through numerous meetings the governments began refining this idea. The parties agreed that membership should be restricted to those local governments adjacent to Rocky Flats. Technically, the city of Boulder did not fit this requirement as the city's boundaries stopped north of Rocky Flats. However, because Boulder owned open space adjacent to the site, and more particularly, because the city was home to the vast majority of community activists concerned about Rocky Flats, it was decided that it would be best to have Boulder in the fold rather than on the outside potentially compromising the integrity and effectiveness of the organization.

RFLII disbanded in 1999 and from it emerged the Rocky Flats Coalition of Local Governments – a coalition of the seven local governments that are adjacent to or own open space next to Rocky Flats: Jefferson County, Boulder County, the city and county of Broomfield, the cities of Arvada, Boulder and Westminster, and the town of Superior. Their common denominator of being proximate to Rocky Flats was a logical basis for determining which governments and constituents were most affected by Rocky Flats. Yet, despite their shared geography, the priorities, interests, goals and fundamental ideals of these local governments varied greatly.

For instance, as downstream water users, the cities of Broomfield and Westminster were most concerned about water quality protection. Boulder County, which has open space holdings to the north of Rocky Flats, was most concerned with protecting the 6000-acre Buffer Zone and with the alignment of the proposed Jefferson Parkway. Arvada, which lies to the south of Rocky Flats, looked to the site as a critical component in meeting both regional economic development needs and open space goals in northern Jefferson County. The remaining three governments' interests – Jefferson County, the city of Boulder and the town of Superior – fell within this broad spectrum.

### **The Coalition's Mission**

The Coalition's mission was to provide an effective vehicle for local governments and their citizens in the vicinity of Rocky Flats to work together on issues of mutual concern relating to the safe, prompt and effective cleanup and closure of Rocky Flats. The Coalition also worked on future use and long-term protection issues, worker protection and health issues, and facilitated communication between state and federal agencies and local elected officials.

Throughout the years the Coalition addressed three principle issues:

1. How do we get to closure?
2. What do we get at closure?
3. What do we need post-closure?

These three questions form the structure of this report.

## Why a coalition?

The theory behind a coalition is quite logical – bring together leaders who, by speaking with one voice, can maximize their effectiveness. As with most logical theories, it sounds simple and proves challenging.

The American Heritage Dictionary defines “coalition” as:

1. An alliance, especially a temporary one, of people, factions, parties, or nations.
2. A combination into one body; a union.

The Merriam-Webster Dictionary defines “coalition” as:

1. a: the act of coalescing : UNION  
b: a body formed by the coalescing of orig. distinct elements: COMBINATION
2. a temporary alliance of distinct parties, persons, or states for joint action

These definitions are technically correct and accurate, but they belie the true power and challenge of what it means to be a coalition.

In his 2001 book, This Sovereign Land: A New Vision for Governing the West, Daniel Kemmis, the former Mayor of Missoula, Montana and a Democrat, argues that the federal government is increasingly distant from western issues and concerns. He asserts that the federal government’s approach to public land management is inconsistent with basic Jeffersonian democracy, which vested people with the power to manage the resources of concern to them and thus take greater control of their destiny.

In advocating for a collaborative approach to decision making, Kemmis notes that people are reluctant to collaborate when decision makers in Washington, D.C. have the ultimate say over management decisions that either directly or indirectly affect their communities. He therefore argues that regional leaders should be vested with the authority to determine how best to use and conserve regional resources, resources that are currently owned and managed by the federal government.

In a talk in Westminster, Colorado in 1998, Kemmis postulated that the dominant paradigm for addressing complex public policy issues is best analogized by a food processor: constituencies offer their various and often disparate thoughts on a given issue or decision to policy makers who mix and mash them together. As with a food processor, the resulting liquefied mass bears little if any resemblance to the original inputs and yet is supposed to constitute “the public interest.”

Kemmis recommended a fundamental change in existing decision making frameworks and offered an alternative framework based on coalitions. In this model, affected constituencies – whether individuals, interests groups or municipal governments – would come together to proactively resolve their differences and then collectively tell decision makers what constitutes the public interest. In this coalition-based model it is not those making the decisions who discern what constitutes the public interest, but rather the affected public which proactively communicates the public interest.

One does not have to ascribe to all of Kemmis' theories and conclusions in order to understand the utilitarian value of his analogy. His coalition-based approach best demonstrates why a coalition of local governments was needed to focus on the range of issues related to the cleanup, closure and long-term protection of Rocky Flats. By bringing together seven local governments to speak with one voice on the cleanup mission of Rocky Flats, the Coalition clearly communicated the mutual interests of their constituents to the Department of Energy and state and federal regulators, with the goal of influencing decisions, and thus successfully avoided the federal "food processor" Russian Roulette. This model was at the core of the Coalition model.

The idea of speaking with one voice is important, for when a community speaks with one voice, the collective voice and role of all communities is amplified and their effectiveness is increased. Yet, there exists another, sometimes unspoken, force that drives entities to participate in a coalition, a force that was alive and well in the Coalition – the desire to protect a government's interests by watching one's back. This driving interest is less concerned about speaking with one voice, or about collectively telling the decision makers what is in the public interest; rather the government is instead concerned with neutralizing voices that may undermine its particular interests. This approach to engaging in public policy making can be extremely destructive to a coalition because there is no commitment to develop, maintain and strengthen the coalition. When operating from this interest the government is committed to a given issue but is not necessarily committed to addressing the issue as a coalition. This force proved to be a critical challenge and learning opportunity for the Coalition, particularly as the organization tried to balance competing interests regarding final cleanup levels and sought to balance technical issues with public policy issues.

There is one final, critically important point to understand about the history of the Coalition: the local governments that comprised the Coalition did not have the legal authority to make cleanup decisions. Those powers were reserved for the federal and state governments and their regulatory agencies. The Coalition's power (which is notably different from "authority") was instead rooted in representative democracy; the seven governments collectively represented approximately 800,000 people and the Board of Directors was comprised of elected officials. Through their collective representation, the Coalition was able to partner with those charged with directing and managing the Rocky Flats cleanup. How that journey was made, and what the Coalition did, is the focus of this report.

## **The Coalition Model**

The Coalition model is rooted in the notion that when speaking with one voice, the members – in this case seven local governments – are best prepared to influence the direction of important public policy decisions. The converse of the Coalition model is a patchwork quilt, where producing a collage of disparate interests does not present a coherent picture and thus does not serve to affect change.

To affect change a coalition needs to be malleable as it seeks to find common ground and to be forthright and honest when common ground is neither achievable nor desirable. To be effective the Coalition presented a united front when the issues so demanded, allowed for and even encouraged dissent on other issues, and simply provided a discussion forum when a formal position would not be possible or serve the collective interests of the member governments.

Finally, the Coalition model was not predicated on creating a lasting entity, but instead developed a structure for the purpose of producing a specific outcome regarding the cleanup and future use of Rocky Flats.

### **The Coalition Nuts and Bolts**

Understanding the Coalition's structure is critical in understanding the Coalition model. With minimal legal or regulatory authority, the governments took ownership of their destiny and created a structure that would lead them to a seat at the table. They approved an Intergovernmental Agreement, hired independent staff and empowered them to implement organizational policy, assigned local government staff to focus on Coalition issues, and held regular meetings. Most importantly, year after year, meeting after meeting, elected officials made the commitment to attend meetings and actively participate. When DOE or its contractor briefed the Coalition at the monthly meeting, the elected officials were front and center. The same held true when the Coalition representatives met with a federal or state elected official.

It was the continued presence of elected officials that made the Coalition staff's work possible, and without their active involvement the staff would not have been able to advance an agenda. Coalition staff was effective because we were empowered and backed by an engaged Board of Directors. It is the reason why portions of this report come from the first person – in short, the Board empowered me, as the Executive Director, to be active, to advocate for its interests, to speak for the organization and to take lead on developing the strategic direction.

There were numerous elements that gave rise to and shaped the Coalition's structure. The key nuts and bolts follow.

#### **Intergovernmental Agreement**

- The Coalition was organized as a unit of local government under the Colorado Constitution and enabling statutes. The Intergovernmental Agreement, which formed the legal basis for the Coalition, was approved in 1999 and amended in 2003.
- Each government was afforded one vote and any government could offer a motion.
- Five votes were needed to approve a motion.

#### **The Coalition Board of Directors**

- The Coalition was managed by a Board of Directors, with each government assigning an elected official to serve as a Director and up to two alternates, who were either an elected official or staff member. (See Appendix B for a listing of Board members).
- The Executive Committee, which was comprised of the Chairman, Vice Chairman and Secretary/Treasurer, worked closely with the Executive Director on managing all facets of the Coalition.
- All members of the Executive Committee were elected officials, and a representative from each government served one one-year term as Coalition Chairman on a rotating basis.

### **The Coalition at Work**

- The Board met monthly in public meetings generally lasting three to four hours each.
- The Coalition issued over 80 letters, many to multiple recipients, on a range of topics including (among many others) cleanup priorities, worker protection issues, “The Rocky Flats National Wildlife Refuge Act of 2001,” deactivation and demolition of site buildings, soil remediation activities and long-term stewardship. Recipients included Members of Congress, the Department of Energy, the Department of the Interior, Kaiser-Hill (the primary cleanup contractor), the Environmental Protection Agency and the Colorado Department of Public Health and Environment. (See “**Appendix C: The Coalition Speaks**” for a selection of Coalition letters.)

### **The Coalition Staffing**

- The Coalition staff was employed and paid by the Coalition rather than by any single member government.
- The Executive Director reported to the Board; with few exceptions all staffing and management decisions were delegated to the Executive Director.
- Coalition staff generally met monthly with local government staff.
- The Executive Director was in frequent contact with Board members and their respective staff representatives.

### **Stakeholder Participation**

- DOE officials, regulatory personnel, press, community members, site union leaders, among others, regularly attended Coalition Board meetings.
- Community members actively participated in the Coalition’s subcommittees on independent reviews and refuge management.
- From April 1999 through March 2006, the Coalition hosted 81 Board meetings, all of which were public.
- Congressional staff and the Governor’s office staff, representing seven different offices, attended 78 of the 81 Board meetings; three different members of Congress attended Board meetings, two of them more than once.
- The Coalition and the Rocky Flats Citizens Advisory Board established the Rocky Flats Stewardship Working Group, an *ad hoc* group that held monthly public meetings from 1999 until 2004.

### **Funding the Coalition**

- From April 1, 1999 – February 28, 2006, the Coalition spent approximately \$2.16 million, which included a \$250,000 grant from the Colorado Department of Public Health and Environment.
- The member governments paid annual dues, which went towards expenditures that were not allowable under federal grant guidelines (e.g., lobbying Congress, food for meetings). The annual contributions were:
  - 1999-2002: \$6500, with the exception of the town of Superior which paid \$1000.
  - 2003: \$1800 (all governments)

- 2004: \$1900 (all governments)
- 2005: \$1200 (all governments)

### **The Coalition in Washington D.C.**

- The Coalition worked closely with Congress. From 1999-2005 the Coalition met each March in Washington, D.C. with members of the Colorado Congressional delegation and their staffs, DOE officials, Senate and House Committee staff, and Department of the Interior officials.
- Some member governments also held their own meetings, and the Coalition's Executive Director made three additional visits to Washington, D.C. each year to meet with the aforementioned leaders.

### **Bringing the Coalition to Life**

The Intergovernmental Agreement that created the Coalition merely provided a framework – breathing life into the organization and establishing it as a *tour de force* was a separate process. Simply by virtue of seven local governments coming together the organization had an air of legitimacy, but more was needed if the Coalition was to affect the Rocky Flats cleanup and be a player in critical issues such as the future use of the site.

The first step to establishing the organization as a key partner in the cleanup occurred shortly after the Coalition was formed. On May 6, 1999, on the front steps of the Jefferson County Municipal Building (known locally as the “Taj Mahal”), the Coalition held a press conference announcing its formation. Seven members of the press were on hand as was staff from two Congressional offices and the Governor's office, an auspicious start to an unknown future. A critical first step in establishing the Coalition as a central player was to bring DOE, Senator Wayne Allard and Representative Mark Udall into the Coalition fold; to this end each was asked to issue press statements noting the formation of the Coalition. Selections from their statements from that event follow:

“As we continue with the safe cleanup of Rocky Flats, it is critical that we are closely aligned with the communities surrounding the Site. We have benefited from the advice and support of local governments already in the past few years. I look forward to a close working relationship with the Coalition. I value their input and believe that together we can forge solutions to ensure that the cleanup of Rocky Flats continues to be protective of human health and the environment.”  
*(Jessie Roberson, Department of Energy's Rocky Flats Manager)*

“The Rocky Flats Coalition will be very important in the upcoming years as we push towards a 2006 closure date for the site. The Coalition's input on future use of the site, as well as how the cleanup is proceeding, is very important to me because the groups represented in the Coalition are in this for the long term.”  
*(Senator Wayne Allard)*

“I am excited about the creation of the Coalition. The Coalition represents a significant step in uniting citizens, local communities, and elected officials around a common vision for the future of Rocky Flats. As you know, efforts to secure

funding and to implement critical policies are vastly more successful when there is a community consensus on what needs to be done and how we should accomplish our goals....The Coalition will play a major role in these efforts and I look forward to that input.” (*Representative Mark Udall*)

No sooner had the accolades been issued, however, than the battle lines were cast. Paul Danish, a Boulder County Commissioner and member of the Coalition, suggested to the *Colorado Daily* that the Coalition’s influence might be limited: “I’m not sure that the federal government takes us very seriously.”<sup>1</sup> Tom Marshall, who was serving as the Rocky Flats coordinator for the Rocky Mountain Peace and Justice Center, was quoted in the *Colorado Daily* expressing concern about the Coalition usurping the influence of environmental groups, noting, “I don’t think that their involvement should take precedence over that of other interested citizens.”<sup>2</sup> LeRoy Moore, a long-time Rocky Flats activist and one of the founders of the Peace Center, was quoted in the *Denver Post* saying the Coalition is “concerned about cleaning it up to a calendar rather than to a safe degree.”<sup>3</sup>

Looking back, Commissioner Danish’s fears were largely not realized, nor were the concerns of Tom Marshall. And yet, there was a degree to which those early comments by both Danish and Marshall were prophetic. The Coalition’s influence, while great, was not unlimited; likewise, while the Coalition instituted public processes to include all interested community members, in due time it did become the dominant community voice, much to the chagrin of the Rocky Flats Citizens Advisory Board and the Rocky Mountain Peace and Justice Center, among others. That journey to becoming the dominant community voice of great, but not unlimited, influence is the story of the Coalition, captured in the stories told in Section II.

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<sup>1</sup> *Colorado Daily*, May 7, 1999, “Municipalities vote to support the WIPP Program.”

<sup>2</sup> *Ibid*

<sup>3</sup> *Denver Post*, May 7, 1999, p. 4B, “Rocky Flats neighbors eye cleanup.”

## Section II – Telling the Story of the Coalition

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Rather than merely re-create a chronology of the Coalition, focusing on and highlighting key events, the story of the Coalition is told through a series of vignettes that highlight key themes that are the heart of the organization – decision making processes, key policy considerations and the merging of technical and policy issues, relationships with Congress and state and federal agencies, battles fought, and the future of the organization now that Rocky Flats is closed. Each section tells a story of the Coalition which highlights a different element of what it means to develop and sustain a coalition.

There were numerous opportunities for the Coalition to fail and for the Board members to go their separate ways. But, time and again, when faced with these forks in the road, the seven governments stuck with the organization, recognizing that failure, while possible, was not a realistic option.

So, how then did the Coalition establish itself and what were the biggest successes? The following vignettes sketch out what we did, how we did it, where we were successful, and how we overcame obstacles. They are organized around the three key questions that guided the Coalition:

1. How Do We Get To Closure of Rocky Flats?
2. What Do We Need At Closure?
3. What Do We Need Post-Closure?

The section is book-ended with “**The Foundation: Relationships and the Role of Congress**” and “**Funding Battles: The Never-Ending Headaches**”.



## **The Foundation**

### **Relationships and the Role of Congress**

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#### **The Department of Energy, Kaiser-Hill, the Environmental Protection Agency and the Colorado Department of Public Health and Environment**

Under the federal environmental laws that provide the legal basis for remediating Rocky Flats, the Department of Energy (DOE) and its prime contractor, Kaiser-Hill, were charged with remediating the site, while the Environmental Protection Agency (EPA) and the Colorado Department of Public Health and Environment (CDPHE) were the lead regulatory agencies. These entities conducted all applicable environmental analyses, implemented the work necessary to clean up and close Rocky Flats, engaged the community, and performed a myriad of other activities as part of the nearly \$7 billion cleanup program.

The Coalition, on the other hand, was not liable for the contamination, was not charged with remediating the site, was not vested with any legal authority over site decisions, and was otherwise not responsible for Rocky Flats. Yet, as governments charged with protecting the health, safety and welfare of the community, they were morally obligated to work to ensure the cleanup and future use decisions aligned with community values. The best way to accomplish this goal was to partner with the authorized entities. The key became forging effective relationships with DOE, EPA, CDPHE and Kaiser-Hill.

To be effective the Coalition needed to not only pry open the doors to greater community involvement, but to actually create partnerships with the agencies and Kaiser-Hill. However, as the Center for Public Environmental Oversight noted in a recent report on strengthening public involvement in long-term stewardship, “Partnership, however, can be a dubious term, when the capacity and ability of two partners to influence decisions is grossly unequal.”<sup>4</sup> DOE, EPA and CDPHE were obligated to work with the public and took that responsibility seriously, but their jobs were not to be goodwill ambassadors. It therefore became incumbent upon the Coalition and other community groups such as the Rocky Flats Citizens Advisory Board (a DOE-created community advisory board) to develop mechanisms to bring greater parity to an otherwise inherently unequal partnership.

The Coalition’s relationships with DOE, Kaiser-Hill, EPA and CDPHE were complex, interesting, difficult, satisfying, frustrating, trusting and distrustful. Some Coalition members trusted these decision makers, but others did not, and the sentiments were mutual. Yet, while this complex mix of sentiments could have sunk a critical alliance, a relationship developed between the Coalition and the decision makers which allowed all to expand the very nature of public involvement as prescribed by federal environmental cleanup laws. These relationships chartered a new direction for how public involvement typically comes to fruition and allowed all the players to develop site-specific systems for engaging in a substantive dialogue.

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<sup>4</sup> Center for Public Environmental Oversight, “Re-Evaluating Remedies: Strengthening Public Involvement in Long-Term Stewardship” p. 54. (<http://www.cpeo.org/pubs/Re-EvaluatingRemedies.doc>)

If strictly followed, the regulatory decision making process allows for public involvement but also runs the risk of stymieing true engagement and ultimately negotiation. Under DOE's leadership, DOE, Kaiser-Hill and the regulatory agencies shed the notion that engaging the community, and especially the Coalition, must follow the regulatory minimums. Instead they sought to engage the public in substantive dialogue which at times included negotiated settlements. In due time, as explained in this report, the relationship between the Coalition and DOE, Kaiser-Hill, EPA and CDPHE became central to solving complex decisions that were core to achieving a cleanup that met varied and, at times, competing community values.

### **Congressional Involvement**

The ancillary to having a strong relationship with DOE, Kaiser-Hill and the regulatory agencies was developing a productive working relationship with Congress. Hank Stovall (Broomfield councilor) and Sam Dixon (Westminster councilor), both founding members of the Coalition, often remarked, "Contamination does not care whether you are a Democrat or a Republican, it affects all alike." That statement, while pithy, spoke volumes to the bipartisan cooperation that underscored the Colorado Congressional delegation's approach to Rocky Flats and the Coalition's approach to and relationship with the Colorado delegation and committee staff.

In order to understand the Coalition's relationship with the delegation, one first needs to understand the delegation's commitment to Rocky Flats and their own relationships with each other. Until January 1999, when Representative David Skaggs (Democrat) and Governor Roy Romer (Democrat) left office, the political leaders charged with focusing on Rocky Flats were led by Skaggs (whose district included Rocky Flats) and Lt. Governor Gail Schoettler. Senator Wayne Allard (Republican), who was elected to the Senate in November 1996, deferred to Skaggs, although he devoted substantial staffing resources to the issue and the two staffs often collaborated. Up until 1999, Rocky Flats was a political hot potato that few wanted to hold.

This dynamic changed in January 1999. Senator Allard stepped into the forefront of the Rocky Flats effort. Meanwhile, Representative Mark Udall (Democrat), who was elected in November 1998, identified Rocky Flats as a top priority, taking over the work of Skaggs and Representative Tim Wirth (Democrat) before him. From that time forward, Rocky Flats became a truly bipartisan effort led by Allard and Udall. Both recognized the imperative to make Rocky Flats a priority. And, although it was not the prime motivator, both also knew that there was ample political capital each could gain by focusing on Rocky Flats. The dance that ensued between Allard and Udall, the two most active members of the delegation from 1999 onwards, was critical in maintaining pressure on Congress and on DOE to ensure the cleanup remained on track. Their priorities varied somewhat but their commitment to the safe, thorough and timely cleanup of the site, as well as to working with the Coalition and supporting the workers, never wavered. Allard, as the chairman of a key Senate subcommittee (Armed Services Strategic Forces Subcommittee), was better positioned to influence Congressional action than Udall, who was a member of the minority party in the House of Representatives. Nevertheless, Udall played a critical role, devoted significant staff resources and worked hard to maximize his influence.

On the macro level, Congressional involvement was critical on numerous fronts – supporting annual appropriations, sponsoring legislation such as "The Rocky Flats National Wildlife Refuge

Act of 2001” (discussed in “**What We Need After Closure: The Rocky Flats National Wildlife Refuge Act of 2001**”), advancing worker issues, maintaining pressure on DOE and the regulatory agencies, and sending the message that bureaucratic ineptitude was a poor excuse for not maintaining the aggressive cleanup schedule. Their collaborative approach was, for the most part, decidedly and consciously non-partisan; one of Allard’s 2002 election commercials even went so far as to include footage of the Senator and Udall at a joint Rocky Flats press conference – a strong statement of the role of bi-partisan politics in the effort.

On the micro level Allard and Udall, and to a lesser degree Representative Bob Beauprez (Republican ), who was elected in 2000, and Senator Ken Salazar (Democrat) who was elected in 2004),<sup>5</sup> kept the pressure on DOE, Kaiser-Hill and the regulators in ways far too numerous to discuss in this report. For the purposes of this report discussions will focus on the critical role these offices played in supporting the Coalition.

### **Relationship with Local Government Staffs**

One of the central elements of the Coalition model is that in addition to having independent staff working directly for the Coalition, each member government also had their own staff assigned to work on Rocky Flats issues. As noted throughout this report, one of the central ingredients of the Coalition and one of the paramount internal agreements was that each government reserved the right to address its own interests independent of the Coalition. One mechanism the governments exercised in fulfilling this prerogative was to assign their own staff to work on Rocky Flats issues, including (but not exclusive to) working with the Coalition staff. In order to understand, appropriate and improve upon the Coalition model one should understand the role of member-government staff.

The extent of local government staff involvement on Rocky Flats issues varied from government-to-government and from year-to-year. Broomfield, Westminster and Arvada (until December 2001), for instance, hired Rocky Flats coordinators and charged them with, among other responsibilities, tracking the details of the cleanup project, communicating with DOE and regulatory personnel, and reporting back to their respective governments. In addition, as communities downstream of the site, Broomfield and Westminster also had staff from their public works departments test water coming off of Rocky Flats, as well as review water quality data with DOE and the regulatory agencies. These staff positions predated the formation of the Coalition.

Jefferson County, Boulder County, Boulder, Superior and Arvada (from 2002 onwards) devoted more limited staffing resources to Rocky Flats issues and to the Coalition. These governments took the position that by having Coalition staff to focus on Rocky Flats, they did not need to allocate as much time and as many resources to the issues. Their reliance on Coalition staff unwittingly created the misimpression to the other governments and those not affiliated with the Coalition that these governments had a lesser interest than those who had full-time staff devoted to working on Rocky Flats.

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<sup>5</sup> Senator Salazar’s primary contribution to Rocky Flats was in his role as Colorado’s Attorney General, where he and his staff dedicated significant resources to solving complex legal issues central to the Rocky Flats cleanup.

Local government staff's primary responsibility was to their respective governments. That is who they represented and whose interest they were charged with protecting. And yet, within the framework of the Coalition, all were charged with working with Coalition staff and, to a lesser degree, with the other governmental staff on numerous Rocky Flats issues. This dynamic – staff charged with protecting their own government's interests while also working within the structure of the Coalition – created many opportunities and many sub-alliances amongst staff. The most successful partnerships emerged on the Refuge conservation plan (please see **“What We Need After Closure: Refuge Planning”**) and on developing a recommendation on the revised cleanup levels (please see **“What We Get At Closure: Revised Rocky Flats Cleanup Agreement Standards”**).

At numerous times, though, the dynamic fostered a challenging environment. Local government staff was often in the difficult position of balancing competing interests. In seeking to advance their community's interests, some staff that were assigned to work with the Coalition often found themselves at odds with other stakeholders, including other local government staff, Coalition staff, DOE and the regulators, Congress, and citizen groups. Because the role of local government staff differed from that of the elected officials, local government staff at times conflicted with other stakeholders on issues where their elected officials could later come together and find consensus.

No greater, however, was the challenge and, at times, the tension than when balancing the technical elements of the cleanup with the political considerations. Through the years local government staff who had primary knowledge of the technical components of the cleanup often questioned the technical expertise of the Coalition. They further shied away from or resented the merging of the technical and political components of the cleanup, a key element of the Coalition's success. Other Coalition governments, in contrast, relied on and deferred to the Coalition staff to dissect the technical issues and to flag issues that warranted the involvement of elected officials. This contrasting view of the role of the Coalition staff exacerbated tensions and presented various challenges.

As is often the case in multi-layer organizations, frustration grew between Coalition staff and certain local government staff, and each began to discount the positions of the other. This tension was particularly acute when Coalition staff believed local government staff was unnecessarily scrutinizing the activities of site and regulator personnel. While that approach was the prerogative of an individual government, such an approach contrasted with the direction established by the Coalition Board. Similarly, to the extent Coalition staff engaged with an issue and drove Coalition policy, the local government staff's influence was more limited, which created further tension. In the end, some local government staff viewed the Coalition staff as vital partners while others viewed them as competitors.

The unfortunate byproduct of this underlying dynamic was that local government staff, which had a great deal to offer to the Coalition and who ably served their own government, became an under-utilized resource for the Coalition. While differing viewpoints amongst staff were important and necessary to fostering a robust dialogue, as noted in the **“Background”** section when discussing Dan Kemmis' food processor analogy, coalitions should also serve as a forum for interested parties to proactively work out their differences and engage decision makers in

finding the common ground that best represent the community interest. The Coalition's ability to create such a forum at the staff level was mixed.

### **Relationship with Other Community Organizations**

In forging effective relationships with other stakeholders, the Coalition was least successful in the arena of other community organizations. The Coalition's relationship with other community organizations, with certain exceptions, vacillated between dysfunctional and terrible. This dynamic likely had to do with a core reason the Coalition formed: local governments' frustration with partnering with non-elected officials who the governments believed did not share the same level of accountability as elected officials. For their part, community groups such as the Rocky Flats Citizens Advisory Board (CAB) and the Rocky Mountain Peace and Justice Center distrusted the Coalition governments to represent their respective interests. There were exceptions, the most important and fruitful being the Coalition's collaborations with the CAB on long-term stewardship issues.

In fall 1999, the Coalition and the CAB jointly formed The Rocky Flats Stewardship Working Group. The Stewardship Working Group, which convened ostensibly at the request of DOE, was charged with beginning a public process to study and make recommendations regarding the long-term stewardship needs of Rocky Flats. This group included representatives of the Coalition, the CAB, CDPHE (*ex officio*), DOE (*ex officio*), the Colorado Attorney General's Office (*ex officio*), the United States Fish and Wildlife Service (*ex officio*), and members of the public. The Stewardship Working Group evaluated DOE's stewardship assumptions, analyzed the federal government's long-term liabilities and responsibilities, and participated in national stewardship dialogues. The goal of the Stewardship Working Group was to develop the information necessary to allow the community to effectively inform remedy selection and decision making regarding long-term stewardship at Rocky Flats.

The Stewardship Working Group produced two reports – "*Hand-In-Hand: Stewardship and Cleanup*" and "*The Rocky Flats Stewardship Toolbox: Tools for Long-Term Planning*" – but the Coalition and CAB were not able to capitalize on their shared interests and push the site to embrace the community's vision of what long-term stewardship meant in the context of Rocky Flats. As discussed in "**What We Need After Closure: The Rocky Flats Stewardship Council**", the Coalition and the CAB started to go in separate directions on revisions to the cleanup levels and hit rock bottom over the formation of the Rocky Flats Stewardship Council. These differences, along with differing opinions about public involvement and different roles the respective staffs occupied within their organizations, eroded the collaborative approach which had been critical to the initial efforts.

Unlike the CAB, relations with the Peace Center were difficult from the time of the Coalition's inception. Despite the fact that the Coalition and the Peace Center shared numerous interests – ensuring that water leaving the site met the most stringent standards, advocating for openness and substantive community involvement, and engaging outside technical experts to verify key assumptions about the nature and extent of contamination – the two organizations reached fundamentally different conclusions as to many elements of what a safe and regulatory compliant cleanup entailed. Adding to the difficulty was that there was a strong contingent within the Peace Center that distrusted government, and as a local government organization the Coalition

was treated with suspicion. But the root source of the tension was likely that the Peace Center and the Coalition occupied different roles in the Rocky Flats process. The role of the Peace Center was to fervently defend a position and never compromise that position. The Coalition, in contrast, was bound by definition to find common ground and, through compromise, protect the interests of the community. That is a central role of government in a representative democracy. The Coalition accepted that role and felt strongly that its approach did not undermine the protection of human health and the environment.

Dissention within the community, especially from the Peace Center and, to a lesser degree, the CAB, ultimately served to strengthen the Coalition's bargaining position. In political discourse, the extremes are often marginalized. By opposing many of the Coalition's policies and relentlessly attacking the organization, the CAB and Peace Center cultivated a self-fulfilling prophesy – as the centrist organization the Coalition came to dominate public discourse on Rocky Flats. By having the CAB and Peace Center advocate positions that were more extreme and less politically acceptable to DOE, the regulators and Congress, these decision makers were increasingly willing to work with and, more importantly, negotiate agreements with the Coalition and accept our policies that were also, importantly, technically sound. (Please see **“What We Get At Closure: Revised Rocky Flats Cleanup Agreement Standards”** and **“What We Need After Closure: The Rocky Flats Stewardship Council”**.)

# **How We Get To Closure**

## **Balancing Technical and Political Issues While Building Trust and Accountability**

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The Rocky Flats cleanup was, fundamentally, a massive industrial cleanup project where success was predicated on solving numerous technical challenges. The cleanup, however, was also a political project and success was often found in addressing the nexus of the two. In order to address and balance these interests, trust and accountability had to be built and fostered.

### **Balancing Technical and Political Issues**

The Coalition sat at the crossroads of the technical and political challenges associated with the Rocky Flats cleanup. We were organized around the idea that to be successful we would need to have in place elected officials and staff who could understand both the technical issues underpinning the cleanup and the political issues shaping the decision making processes and debate. This balance was particularly critical at the staff level.

As the Executive Director of the Coalition my experience was in politics and in understanding how institutions can influence public policy debates. I understood enough of the technical issues to be conversant in a range of topics, but in order to fully engage on the vast array of technical issues, it was imperative that the Coalition have a technical advisor on staff who could delve into the detailed technical issues and communicate complex science in “plain English.” The technical advisor worked to understand the technical details underlying the cleanup, identify which issues necessitated Coalition attention, explain the technical details to the Coalition staff and member governments and work with DOE and the regulatory agencies on technical issues of importance to the organization.

There were numerous technical issues that demanded staff attention. Some key examples include:

- Tracking issues related to the decontamination and demolition of buildings, including different demolition methods (explosives versus mechanical) the site could utilize.
- Reviewing independent assessments of final survey methodology that defined the level of residual contamination left in building basements.
- Evaluating various soil remediation projects, including levels of contamination remaining in the subsurface.
- Understanding how plutonium and other radioactive constituents move in the environment at Rocky Flats.
- Understanding and analyzing the various reasons for remediating or not remediating a contaminated area.
- Evaluating options regarding the placement of groundwater monitoring wells and regulatory compliance points for surface water.
- Reviewing data regarding the adequacy of landfill cap designs.
- Evaluating potential risks resulting from the use of prescribed fire to control weeds.

The first step in the process was to understand these issues; the next step was to address what to do and why. At times the issues were limited to technical questions but, as exemplified below in **“What We Get at Closure: Revised Rocky Flats Cleanup Agreement Standards”**, quite often the issues had a serious public policy component that drove the decision making process. Following are two additional examples that shed light on this balance between technical and policy considerations.

### **Demolition of Building 371**

In late 2003 the Coalition began evaluating Kaiser-Hill’s proposed approach to decontaminating and demolishing Building 371, a former production building, parts of which were heavily contaminated with plutonium. After extensive staff briefings, numerous phone calls between Coalition staff, DOE, Kaiser-Hill, site regulators and Congressional staff, as well as public meetings which included the CAB, in late January 2004 the Coalition submitted comments on the proposed decommissioning and demolition plan. The Board issued two primary challenges to the proposed plan, called a “Decommissioning Operations Plan” (DOP):

- The site’s approach for calculating residual levels of contamination on the basement walls (walls that would be left in place and covered with dirt) was unacceptable
- The site’s plan to demolish the building with explosives raised troubling questions.

While the approach to measuring residual contamination might have been technically sound and regulatory compliant, the Coalition objected based on public policy concerns:

“Although the DOP refers to leaving areas of radioactive contamination at levels less than 7nCi/g, the Coalition Board has concerns with this practice. . . . Based on this information and the information in the DOP, the Coalition Board is concerned with the practice of obtaining <7 nCi/g compliance by averaging the surface and near-surface contamination through the total thickness of a concrete slab instead of the actual thin layer of contamination. Using this practice, areas of the remaining surface and near-surface contamination entombed in B371 could approach transuranic activity levels (>100 nCi/g). It is the remaining activity level of this thin layer of contamination which concerns the Coalition Board. Substituting the total thickness of the concrete for the actual thin contamination layer is misleading and not sound public policy.”

As for demolition techniques, the Coalition’s comments focused on unanswered technical questions. Yet, underlying these concerns with these technical issues was the ever-present public perception that using explosives would *de facto* release radioactive contaminants into the environment. Without a strong technical basis for supporting the site’s initial decision to use explosives to demolish the building, the Coalition could not, as a matter of public policy, support this technique, so we objected. However, if there was not enough technical information to oppose the use of explosives, there likewise was not enough information regarding the comparative safety of other techniques, which may have increased worker risk. So, the Coalition agreed to include in its comments the following provision:



“The Coalition Board cannot oppose this proposal to use explosives as we do not have a basis for evaluating the risks to human health and the environment, including Site workers, from this demolition technique versus traditional mechanical means. A more thorough alternatives analysis is essential.”

This hedging was, fundamentally, a policy decision. Without a strong technical basis showing that the use of explosives was safe (that plutonium would not be released into the environment), the Coalition struggled to accept this alternative. As a matter of public policy, it was a risk the Board was could not accept. (In the end, based on lessons learned from using explosives to demolish another production facility, Kaiser-Hill abandoned using explosives in favor of mechanical demolition.<sup>6</sup>)

### **Cleanup of Building 771**

An earlier example of the nexus between technical issues and policy issues involved Kaiser-Hill’s approach to remediating Building 771, a production building once deemed the most dangerous building in the DOE complex. Similar to the Coalition’s work on Building 371, the Coalition’s primary emphasis in evaluating the remediation and demolition techniques of Building 771 were technical, but also included a strong public policy component.

DOE, Kaiser-Hill and CDPHE (as the regulatory agency charged with oversight of Building 771) bore the responsibility of adopting a decontamination and demolition plan that was in legal compliance. As with so many technical projects at Rocky Flats, there were various implementing actions that were compliant, so the alternative selected becomes infused with policy considerations: federal budgets (Congress resists funding cleanups that return sites to background levels of contamination), DOE precedent (DOE is reticent to implement actions at one site that could have far-reaching ramifications in remediating other sites), and short-term risk versus long-term uncertainties. All three of these policy issues were implied in the Coalition’s comments on the Building 771 decommissioning and demolition plan:

“However, under D&D [deactivation and demolition] there are various alternatives that the Site should consider. These options include removing all subsurface structures, conducting additional soil remediation, developing and implementing additional groundwater protections, excavating to more than three feet below grade, and cleaning up to a level and in a manner that would obviate the need for permanent access restrictions. The Coalition therefore requests the alternatives analysis be expanded to include other D&D options, and that each alternative include a thorough stewardship analysis.”

The primary reason DOE did not require greater cleanup or removal of the basements was that, from a technical and regulatory standpoint, such action was not required. To require

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<sup>6</sup> This reversal is important. Kaiser-Hill’s response to the Coalition’s push in favor of mechanical demolition was that this technique would put the site workers at an unacceptable level of risk. The Coalition was not prepared to accept that charge without Kaiser-Hill presenting quantitative evidence. While Kaiser-Hill’s use of explosives to demolish Building 881, which occurred prior to demolishing Building 371, was deemed a success, they learned that in the process of preparing heavily fortified buildings such as Building 881 and Building 371, workers would be put at too great of risk.

their removal would have increased the timeline for cleaning up the site, increased the federal government's costs and established the precedent that all buildings, at Rocky Flats or elsewhere, should not simply be demolished but should be removed entirely. None of the policy positions which the Coalition advocated were acceptable to DOE despite the fact that all were technically sound and legally compliant. Nevertheless, the Coalition believed it was important to go on record in support of what we believed were important public policy considerations.

## **Building Trust and Accountability**

As the Coalition learned to balance the various technical and policy issues, trust and accountability also had to be built amongst the various parties in order to make decisions and create a common vision.

There were many subtleties in the relationships between the Coalition and DOE, Kaiser-Hill, the regulators and Congress. All of these relationships had to build trust and accountability through:

1. Communicating: steps to building accountability, trust and openness
2. Negotiating: willingness and ability to negotiate (and the belief that working together resulted in better outcomes)
3. Partnering: working to create mutually-beneficial relationships

### **1. Communicating: steps to building accountability, trust and openness**

The Coalition's success was built on developing and maintaining good working relationships with DOE, EPA, CDPHE, Kaiser-Hill and Congress. Various factors gave rise to these working relationships. DOE and its partners cultivated numerous opportunities to engage the Coalition (and other community members) that served to support a substantive dialogue and thus a collaborative approach to resolving complex technical and policy issues.

At the core was a commitment to openness – or as a former DOE-Rocky Flats official remarked, “Openness to the point it is painful.” For the most part DOE lived by this credo. Understanding the steps it took to develop accountability and trust is critical in understanding the relationship between these decision makers and the Coalition. Some examples of steps DOE, Kaiser-Hill and the regulators took include:

- **Providing pre-decisional drafts of cleanup documents to the community.** When the EPA and CDPHE received cleanup documents from DOE and Kaiser-Hill, copies were also provided to the Coalition and to member governments who requested them. Federal laws guiding the cleanup require formal public comment periods which often last 30-45 days. These laws do not require community organizations to get pre-decisional documents, but DOE recognized that by providing documents early in the process, 75% of the issues could be resolved prior to the start of the formal comment period.
- **Providing unvalidated data.** As a general proposition, when problems or potential problems were discovered (e.g., water that exceeded established standards, a worker getting an exposure, etc.), DOE and its contractor would provide the Coalition with preliminary data even before the final validated lab results were known. As a result mutual trust increased.

- **Frequently brief the Coalition Board of Directors.** As noted in the “**Background**” section of this report, the Coalition held monthly meetings of the Board of Directors. The overwhelming majority of the briefings were conducted by DOE and Kaiser-Hill, and to a lesser degree EPA, CDPHE and the Colorado Attorney General’s Office. These briefings provided the presenter with an opportunity to interface directly with the Coalition Board and provided another critical forum in which the Coalition and others could hold DOE, Kaiser-Hill and the agencies accountable.<sup>7</sup>
- **Provide staff with unlimited access to site personnel.** At many DOE sites, community members are limited to interfacing with their federal site representative, who is then charged with finding the answer to any given inquiry or request. This approach was abandoned at Rocky Flats in favor of allowing the Coalition and others unlimited access to DOE, Kaiser-Hill and agency staffs, regardless of their position within the organization. This one-on-one dialogue served to increase the community’s understanding of site issues, as well as the site’s understanding of community issues.
- **Conduct site tours.** In addition to providing early access to site documents and unlimited access to site and regulatory personnel, site tours were a key ingredient in developing and fostering accountability, trust and openness. Almost exclusively these tours included DOE, contractor and regulatory personnel and provided ample opportunity to discuss in detail the given issue.
- **Community meetings.** The sheer number of public meetings on the cleanup became exhausting for all involved. The meetings were open and inclusive; quite often at these meetings, the Coalition and CAB were given the opportunity to present their respective organization’s position on the given topic, even if the positions conflicted with the position or decision of DOE and the regulators.

## **2. Negotiating: willingness and ability to negotiate (and the belief that working together resulted in better outcomes)**

Beyond just relying on community meetings and the public engagement process, trust and accountability in the Rocky Flats cleanup was strengthened by having an organization that had the capacity and willingness to negotiate with the decision makers. The Coalition filled that role. Community engagement processes, while critical, are distinct from negotiations; securing local government buy-in of the cleanup project, and thus local government political support, necessitated the parties’ willingness to negotiate.

The Coalition, as a political body, was accustomed to making hard decisions – balancing competing interests and identifying priorities, balancing budgets and addressing fiscal constraints, and compromising. As discussed in depth in “**What We Get at Closure: Revised Rocky Flats Cleanup Agreement Standards**”, the Coalition understood

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<sup>7</sup> Two Coalition members repeatedly asked DOE, Kaiser-Hill the regulatory agencies to disseminate copies of their presentations prior to the meeting so that the members would be prepared to ask questions. Often, handouts were provided at the start of the presentation, giving little or no time to review the material prior to the briefings.

Congressional budget priorities and recognized that funding for the cleanup was not unlimited, and that cleanup to pre-production levels, while laudable, was unrealistic. Concessions had to be made and deals had to be negotiated.

The Coalition was involved in numerous negotiations, some of which involved DOE and the regulatory agencies, others which were between the Coalition and Congress. Topics included soil cleanup levels, water quality standards, location of post-closure groundwater monitoring wells, the future use of the site plus much more. While some of these issues are rooted in science, all have a public policy component that necessitated the various entities coming together to find common ground.

### **3. Partnering: working to create mutually-beneficial relationships**

Early on the Coalition recognized the importance of communicating its needs directly to Congress and DOE officials in Washington, D.C. DOE and Kaiser-Hill also recognized that local governments communicating directly with these officials could prove critical to building and maintaining federal support for the project. It was one thing for Congressional staff, especially those in the Authorizing and Appropriations Committee, to hear from DOE and Kaiser-Hill; it was another for them to hear directly from the impacted jurisdictions. The Coalition and member governments individually took great pains to communicate with DOE officials in Washington, D.C. and with Members of Congress and their staffs.

Conversations with Congressional staff, many of which were off-line, were absolutely critical to advancing the Coalition's agenda. These conversations provided an opportunity to not only understand the varied perspectives and political considerations, but also to explore how best to resolve a particular issue given the political landscape in which decisions were being discussed and decided. These conversations, which were quite frequent, also provided an opportunity for Coalition staff to explain the nuances of Coalition politics. While Coalition staff was charged with advancing the Coalition's positions, if the position was not unanimous then the Coalition government in the minority would often work directly with the Colorado delegation to advance its individual cause. The challenge was then one of advancing the Coalition's majority (but not necessarily unanimous) position without publicly opposing the Coalition government advancing the minority viewpoint. One way to accomplish that task was to work closely and discretely with Congressional staff.

DOE-Rocky Flats and Kaiser-Hill took great steps to support the Coalition's conversations in Washington, D.C. despite the fact that some conversations were contrary to DOE-Rocky Flats' interests. Their efforts included:

- Helping to secure some meetings with DOE officials and Congressional staff.
- Briefing and meeting with the Coalition as the organization prepared to meet with officials in Washington, D.C.
- Providing the Coalition with any information the organization needed as part of its briefing materials.
- Strategizing with the Coalition's Executive Director on which issues the Coalition should raise and why.

- Identifying issues that DOE-Rocky Flats and Kaiser-Hill were having trouble getting through DOE-Headquarters that the Coalition could help pry loose.

This last point was the best example of the importance of creating mutually-beneficial relationships and helped build trust and accountability. Discussing this part of the relationship in public, not to mention with DOE-Headquarters' personnel, was taboo. It was dicey for DOE-Rocky Flats to partner with the Coalition and ask the organization to carry its issues to DOE-Headquarters. Nonetheless, if the issue was in the interest of the community, the Coalition was more than happy to collaborate with DOE-Rocky Flats and push on DOE-Headquarters.

An example of this latter point is best exemplified by the battle over DOE shipping weapons-grade materials from Rocky Flats to its sister site in South Carolina. One of the key commitments DOE made to the local communities was that plutonium metals and oxides would be removed from Rocky Flats at a rate to support a 2006 closure. This critical task became mired in political showdowns and bureaucratic delays which needlessly jeopardized the goal of closing Rocky Flats in 2006. The Coalition was concerned about the delays and questioned whether DOE could meet this commitment, but DOE-Rocky Flats was intent on forcing the hand of DOE-Headquarters to resolve this critical issue and begin the shipping campaign.

Working closely with Congressional staff, DOE-Rocky Flats began implementing a plan to focus the issue for DOE-Headquarters. While the focus was on building Congressional support, the plan also included building community concern which would in turn increase the political pressure. The plan worked.

The Coalition Board was determined that the DOE bureaucracy not become an impediment to meeting the 2006 closure deadline.<sup>8</sup> In February 2002, with advance notice to all recipients, the Board wrote Senator Allard, Representative Udall and Governor Owens expressing concern over the delays. The Coalition's role was to provide political support and give these elected officials an additional basis for telling DOE, their colleagues in Congress and other Governors that the locals were becoming restless.

The Coalition also wrote the Secretary of Energy, Spencer Abraham:

“Assurances you have provided to Senator Wayne Allard and Representative Mark Udall are important. Nevertheless, assurances without action are of little consolation to our communities, so we request DOE provide us with a written

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<sup>8</sup> In June 1999, the Coalition issued the following statement regarding the 2006 closure goal: “The Rocky Flats Coalition of Local Governments (“Coalition”) supports the safe and timely closure of Rocky Flats. The Coalition expects the cleanup will occur as expeditiously and efficiently as possible without compromising health and safety both on-site and off-site. The Department of Energy has assured the Coalition its contractor can clean and close Rocky Flats in 2006. The Coalition will do its part by working collaboratively to help DOE achieve that goal. However, cleanup, whether completed in 2006 or beyond, must protect human health and the environment both now and into the future, even if that results in additional cleanup costs and takes longer to complete.”

timeline, consistent with a 2006 closure, for resolving all issues related to the disposition of Rocky Flats' plutonium metals and oxides.”

The goal was not to get DOE to provide us with a written timeline. That was unrealistic, for most of the details about the shipping campaign were classified and none of us on the Coalition had the proper clearance. Our goal instead was to assist DOE-Rocky Flats and Congress as they put pressure on the system. We became a foil, a willing one, in Rocky Flats' campaign to get its own bureaucracy to take the steps necessary to support a 2006 closure.

Clearly, the Coalition had a mutually-beneficial relationship with DOE and Kaiser-Hill, but there were also times when we, in essence, battled one another through Congress. DOE, Kaiser-Hill, EPA and CDPHE knew if the Coalition felt it was not being treated equitably we would turn to Congress to advance our cause. Our relationship with Congress was always a hammer that we could attempt to leverage, but it was also effectively countered by DOE and Kaiser-Hill.

Just as the Coalition worked closely with Congress, so too did DOE and Kaiser-Hill. This dynamic created a certain tension because we all knew that we were all equally engaged in both on-line and off-line conversations with Congressional staff. This complex dance involved collaborations between Congressional staff, DOE, Kaiser-Hill and the Coalition, as well as competitive attempts to advance conflicting positions through Congressional staff.

### **Working with Distrust**

Despite the close working relationship between DOE/Kaiser-Hill/EPA/CDPHE and the Coalition, not everything was harmonious. Factions within the Coalition deeply distrusted these parties, particularly DOE (because they had information to hide) and Kaiser-Hill (because they had money to make). After all, the Atomic Energy Commission, DOE's predecessor, and its contractors had a long history of misleading the community so it was natural that there was a deep-seated distrust of these parties. Adding to the dynamic was that no matter how much we knew about the site, DOE and its partners always knew more – and even with the open dialogue, not everything was put on the table and some of the decisions involved classified information to which the Coalition was not privy.

This distrust presented numerous challenges for the organization as it compromised our ability to partner fully. However, it also helped keep the Coalition grounded and focused on our goals and helped keep the Coalition staff, who worked extremely closely with DOE, Kaiser-Hill and the regulators, from putting on blinders. The resulting tension also helped keep other elected officials serving on the Coalition from becoming complacent as DOE and Kaiser-Hill began to be able to quantify their successes.

At times distrust affected our support for the project, and with changes in Board personnel it ultimately led to the Coalition's push for independent reviews of certain aspects of the cleanup program (see **“What We Get At Closure: Independent Reviews”** ).

## **What We Get At Closure** **Influencing the Cleanup**

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In reviewing the history of the Coalition it can at times be difficult to discern the true impact the organization had on the Rocky Flats cleanup project. In politics, especially on an issue which garnered as much interest, opinion, passion and controversy as Rocky Flats, success can be hard to quantify, much less qualify. For instance, it is difficult to gauge how much influence the Coalition had on maintaining pressure on DOE to achieve its many goals, versus the role of Congress or the press in maintaining that pressure. Likewise, how much the mere presence of the Coalition affected the course of the cleanup may never be known.

However, there are two elements of the cleanup in which the Coalition was clearly at the center of the debate and greatly influenced how these issues were resolved: the revisions to the cleanup standards and the development and passage of “The Rocky Flats National Wildlife Refuge Act of 2001.” The revised cleanup standards are discussed below; the Refuge Act is discussed in **“What We Need After Closure: The Rocky Flats National Wildlife Refuge Act of 2001.”**

### **Revised Rocky Flats Cleanup Agreement Standards**

Of the hundreds of public meetings that took place between July 1995 (when Kaiser-Hill signed the cleanup contract) and October 2005 (when DOE accepted Kaiser-Hill’s declaration that the project was complete) there are a few meetings that stand out. Topping the list was a meeting that occurred on a Saturday in October 1996, shortly after DOE announced the interim soil action levels (numerical standards guiding the cleanup of radioactively contaminated soils). The meeting – like so many other noteworthy events in the fifty-five year history of Rocky Flats – has become part of Rocky Flats folklore and set the tone for the battle the community would wage over the next six years to ensure the cleanup was safe.

DOE’s official charged with managing the massive, complex cleanup project – Al Alm, Assistant Secretary for Environmental Management – was in attendance, as was DOE’s Rocky Flats site manager, Jessie Roberson. The community’s concern was straightforward – the newly adopted cleanup levels for plutonium were unacceptable. The numbers were much higher than the community expected, and following additional reviews by the public, the levels were shown to be higher than cleanup levels established for radioactively contaminated soil cleanups at other sites throughout the world.

As a regulatory matter these levels were interim cleanup levels (called “action levels” in regulatory parlance<sup>9</sup>), as the final determination about cleanup levels would be made at a later date. Nevertheless, despite DOE’s assurance that the levels did not represent final cleanup levels, vast segments of the community viewed the action levels as final cleanup levels and reacted strongly. Alm and Roberson found themselves on the receiving end of an onslaught of community anger that was as great as when DOE decided to not restart site operations in 1992

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<sup>9</sup> An action level is a numeric value of contamination that, if exceeded, triggers an action. The given action could involve removing the contaminant or restricting access to the area.

following the 1989 FBI raid. As explained below, it took DOE, EPA and CDPHE until 2003 to issue new standards.

(Understanding action levels is complex and worthy of an in-depth analysis. For the purposes of this report, I have simplified and streamlined my explanation. While there is a regulatory difference between an “action level” and a “cleanup level”, for accessibility and simplification I have consciously blurred the distinction and refer to these levels as “cleanup levels”. This distinction is adequate for the purposes of this historical analysis.)

### **A call for an independent review**

When the plutonium cleanup levels were announced in 1999 I was working for Representative David Skaggs. This issue quickly became a priority which necessitated the consistent and active involvement of Skaggs and Lt. Governor Schoettler. Working closely with the cities of Broomfield and Westminster, the Rocky Flats Citizens Advisory Board and the Rocky Mountain Peace and Justice Center, Skaggs convinced Alm to review the standards. The proposal, as it evolved, was for DOE to fund a citizen-led community review of the most controversial elements of the newly signed regulatory cleanup agreement. Alm initially resisted the idea, but eventually agreed, and through the persistence of Broomfield and Westminster, DOE provided \$570,000 for the effort.

An oversight panel, the Radionuclide Soil Action Levels Oversight Panel (RSALOP), was developed with Hank Stovall (Broomfield City Council) and Mary Harlow (Westminster’s Rocky Flats Coordinator) as chairs. Thirteen individuals sat on the RSALOP – six local government representatives, two public interest group representatives, three technical/scientific experts and two citizen members. Independent scientists were hired and public meetings were held. Over the next two years the RSALOP, along with its consultants, reviewed nearly every element of the soil cleanup levels. Technical questions included inhalation and ingestion rates of plutonium, the effect of fire on re-suspension of plutonium into the environment, cancer slope factors, and quantifying uncertainty in predicting the dose to an individual. Policy questions included evaluating future use scenarios for Rocky Flats.

After an extensive and exhaustive public process, in February 2000 the RSALOP issued its recommendation: the plutonium cleanup levels should be reduced from 651 picocuries per gram (pCi/g) for the Buffer Zone and 515 pCi/g for the Industrial Area to 35 pCi/g for the entire site. For various reasons, including the fact that the proposed number was based on an extremely unrealistic future use scenario – a ranching family living on the site getting all of their food and water from the site – DOE, Kaiser-Hill and the regulatory agencies choked on this number. Nevertheless, they also knew they could not ignore the results and had to formulate a response.

DOE and the regulators were neither willing to accept the new levels nor oppose them outright. Instead they decided to begin a community dialogue on revising the cleanup standards. There were two conditions (the second of which caused much consternation for the CAB and Peace Center):



1. Any revisions to the soil cleanup levels would be discussed within the broader context of key cleanup issues including: surface water quality standards, regulatory compliance points for measuring water quality, long-term stewardship, future use scenarios and EPA regulations for acceptable risk to a future user.
2. Any revisions to the standards must not alter the anticipated costs of remediating Rocky Flats, estimated to cost \$6.93 billion. That meant if the community wanted to increase the level of cleanup in one area they would have to support a reduction in another.

To facilitate this conversation, DOE started a new meeting to specifically address these two conditions – The Rocky Flats Cleanup Agreement Focus Group. The Coalition – along with the CAB, Peace Center and other community members – actively participated in the Focus Group, and our work eventually led to the Coalition issuing a final recommendation in September 2002 on revisions to the cleanup levels. How we got there provides critical insight into the lessons to be learned from the history of the Coalition and is discussed below.

### **The Coalition’s initial recommendation**

On September 18, 2000, the Coalition issued its first recommendation on the cleanup levels. While the letter was directed to DOE, EPA and CDPHE, a critical reason for drafting the letter was to start to bring together two competing factions within the Coalition: Westminster/Broomfield on one side and Arvada on the other.

The internal politics of the Coalition had to be carefully navigated. Hank Stovall and Mary Harlow, who chaired the RSALOP, sat on the Coalition Board. They were clearly interested in getting the Coalition’s support for the RSALOP’s recommendations. Arvada had questions about the work of the RSALOP, and coupled with concerns it had about designating Rocky Flats as a National Wildlife Refuge, the city began pursuing a different track. A few months earlier Arvada had proposed to Senator Allard revisions to “The Rocky Flats National Wildlife Refuge Act of 2000” that included specific cleanup provisions – leaving intact the then-current cleanup levels of 651 pCi/g for the Buffer Zone and 515 pCi/g for the Industrial Area in return for other provisions in the Act that officials believed best addressed the city’s interests. Arvada proposed similar language to Representative Udall for inclusion in his bill, “The Rocky Flats Open Space Act.” In essence, Arvada rejected the new standards proposed by the RSALOP. (See “**What We Need After Closure: The Rocky Flats National Wildlife Refuge Act of 2001**” below for a discussion of both bills.)

The challenge became guiding the Coalition through these turbulent waters. The first step was to help the Board find common ground within the Coalition and to develop a set of principles that supported the work of the RSALOP but did not bind the Coalition to a specific outcome.

In its September 2000 recommendation, the Coalition applauded DOE and the regulatory agencies’ “commitment to work with the Coalition and others on integrating environmental restoration decisions.” When the initial standards were developed in 1996, community values were not sufficiently defined. The RSALOP’s work opened a fresh opportunity for DOE and the agencies to incorporate community values into the cleanup agreement. Part of

involving the Coalition, we argued, “necessitates substantively incorporating community values into the development of site remediation objectives, the setting of soil action levels, and the adoption of final cleanup levels.” With that background, in our September 2000 letter we offered the following recommendations:

1. DOE, EPA and CDPHE needed to explain how the cleanup levels aligned with their remediation objectives and explain how the regulatory cleanup evaluation criteria would be applied in determining cleanup levels and in implementing the final remediation of Rocky Flats.
2. In addition to protecting future site users, the Coalition expressed concern about protecting water quality and neighboring communities, “as both will be affected by residual radiological and hazardous chemical contamination at Rocky Flats.” We argued that because soil cleanup levels “are solely designed to protect the future user on-site, the final site condition must protect the current water quality standards for on-site and off-site surface and groundwater, and for neighboring communities.”
3. Given the long-lived nature of the contaminants, the effectiveness of soil cleanup levels and final cleanup levels “must be measured for the life of the contaminants”, a step well beyond DOE’s planning horizon. An August 2000 National Research Council report on long-term stewardship concluded stewardship controls are often difficult to maintain and enforce, which raised important questions about the long-term effectiveness of remedy selections that rely on stewardship controls. The Coalition therefore argued “source removal must be a key priority so that the final site configuration minimizes the need for stewardship controls.”
4. The new cleanup levels must build on the work done by the RSALOP. The Risk Assessment Corporation (RAC), the RSALOP’s technical contractor, raised important issues that the Coalition, among others, argued must be addressed in recalculating the cleanup levels. Issues the Coalition raised included:
  - a. Uncertainty associated with key model parameters used in RESRAD, the model the site used to estimate and evaluate dose. The best way to reduce this uncertainty, RAC argued, is to collect site-specific data.
  - b. In addition, RAC concluded that events such as fire, flood and drought were not taken into account when the 1996 levels were developed. Any review therefore must consider these phenomena.
5. The Coalition noted, “Current regulations guide the determination of an acceptable annual exposure limit a user could receive.” However, because our increased understanding of the effects of radiation on human health and the environment has “led to a decrease in the annual dose a worker could receive, good public policy suggests when deciding on an acceptable annual dose [DOE and the regulators] should be duly cautious and use a conservative number.”

This letter was critical as it not only set the tone for how the Coalition would evaluate and address cleanup issues, it also set the tone for how we would operate as a Coalition. We would be methodical, technically sound and incorporate key policy issues (e.g., protection of water quality and long-term stewardship) into our decision making process. We would also not automatically accept the findings of the RSALOP nor would we reject them – the middle ground between Westminster/Broomfield and Arvada. We would instead seek to find balance and to build upon the work of the RSALOP.

### **Working with Governor Owens to build a coalition within the Coalition**

Over the next months and years the Coalition continued on this trajectory regarding the revised cleanup standards. Coalition staff and member governments (both elected officials and staff) participated in the bi-weekly Focus Group meetings. We talked frequently with DOE, Kaiser-Hill and regulatory personnel, worked closely with CAB staff and kept Congressional staff abreast of our internal deliberations.

In spring 2002 it became increasingly clear the Coalition would be able to offer recommendations that would be largely accepted by DOE, the regulators, Kaiser-Hill, Congress and Governor Owens' Environmental Policy Advisor, John Swartout. Little mention has been made in this report about Governor Owens. With Swartout, a former Allard staffer with whom I worked closely in the Skaggs office, the Coalition had a partner who well understood the political environment, had the confidence of DOE and was committed to ensuring Stovall would be successful in his goal of forcing the hand of DOE to change the cleanup levels.

As we attempted to find consensus within the Coalition, DOE and others recognized I needed help, which included Swartout's assistance. His role included assuring Stovall (and thus Broomfield City Council) that the Governor's office would support him, provided that Broomfield would be flexible. With Broomfield on board Westminster was sure to follow, and with changes in Arvada staff, there was a renewed opportunity to find consensus within the Coalition.

During this period I spent hours each day on the phone and met frequently with Coalition Board members. As described earlier in this report, building trust with DOE, EPA and CDPHE was essential, as was identifying Coalition priorities. Public process was important, but it was apparent that neither the Coalition Board meetings nor the Focus Group presented the opportunity to reach agreement with DOE and the regulators on key revisions to the cleanup agreement. DOE, EPA, CDPHE, Kaiser-Hill, Swartout, and the Allard and Udall staffs were burning up the phone lines trying to find a balance between the competing interests. It had been nearly six years since the levels were first announced so it was time to resolve our differences and agree to new cleanup levels. To do so the Coalition had to be on board, so all parties had a vested interest in Stovall and me uniting the Coalition and delivering a deal.

### **The Coalition's recommendation**

In order to solidify a deal, DOE asked that the Coalition issue a new recommendation letter. The agencies would then have the political support to issue for public comment revised

cleanup standards for the site. Our letter, dated September 9, 2002, had the support of Jefferson County, Arvada, Broomfield, Superior and Westminster. Boulder County and the city of Boulder voted to oppose.

The letter, which is included in Appendix C, brought together key technical and policy issues. Our guiding principles were (and still remain):

“reducing risk to a future user, protecting water quality, addressing uncertainty, developing and implementing a strong and comprehensive post-closure monitoring regime, and developing mechanisms to become aware of and address problems as they arise.”

Some of the key provisions of the 2002 recommendation include:

1. All water leaving the site would be available for any and all uses, a critical public policy position. This standard (which is 100 times more protective than the federal drinking water standard) was pivotal in determining whether the site had been properly remediated; this recommendation was not about people drinking water leaving the site but about assuring a safe cleanup.
2. The regulatory standard for water leaving the site would remain unchanged, but the regulatory standard for waters on site could be relaxed provided DOE and the regulatory agencies maintained the existing basis for determining if water quality was being compromised.
3. Surface soils – which were defined as the top six inches of soil under the 1996 regulatory agreement – would instead be defined as the top three feet; the cleanup standard for plutonium would be reduced from 651 pCi/g for the Buffer Zone and 515 pCi/g for the Industrial Area to 50 pCi/g. This standard would ensure that Refuge workers, the future user who would spend the greatest time on site, would be subject to an excess cancer risk of less than one in one-hundred thousand, a risk both the Coalition and the USFWS believed acceptable.
4. In return for increasing the cleanup levels on the surface, DOE would be allowed to leave greater amounts of contamination in the subsurface, defined as soils below three feet. While the Coalition, DOE and the regulatory agencies agreed to this principle, we disagreed on what the new level should be. (More on this topic below.)

Finally, the Coalition tied into its position issues that were beyond the bounds of the regulatory document being revised:

1. Adequate funding for long-term stewardship must be ensured.
2. DOE must have onsite personnel assigned to Rocky Flats post-closure to conduct long-term stewardship activities.
3. Long-term stewardship must be legally enforceable by third parties. The regulatory agreement must also state how the federal government will enforce access restrictions

and specify in detail which stewardship controls will be legally enforceable and which will not.

4. CDPHE and EPA must have a continuing regulatory role post-closure.

Our interest was clearly in prioritizing work so that long-term risks to human health and the environment would be minimized. “The health and safety of our communities is our primary concern,” the Coalition stated, “and we expect that mechanisms will be in place post-closure to address potential remedy failure, control failure, incorrect assumptions regarding the rates of mobility of contaminants and changes in exposure pathways.”

Our support was rooted in our “understanding, based on information supplied by DOE and Kaiser-Hill, that the greater current risk to human health and the environment from radionuclides, including impacts to water quality, is due to surface soil contamination.” The governments agreed, as stated in the Coalition’s 2002 letter, that “a minimally compliant cleanup or straight risk-based approach is insufficient for Rocky Flats...[as]...there are critical factors that necessitate conducting additional remediation beyond a straight risk-based approach.” These additional remediation requirements, we argued, must be written into the revised regulatory agreement and Congress must provide sufficient funding for DOE to meet its long-term stewardship obligations.

Because DOE requested the Coalition offer these comments prior to DOE issuing draft revisions to the regulatory document, the Coalition offered these comments “with the good faith understanding that the existing dialogue shall continue throughout closure, and that the end-state shall be clarified as the issues and uncertainties become clearer and options for addressing them become better known.” The persistent lack of an approved stewardship plan for Rocky Flats, as well as any guaranteed stewardship funding strategy, heightened the Coalition’s concern. Accordingly, the Coalition kept pushing DOE and the agencies.

Boulder County and the city of Boulder did not support this letter. The city generally supported the approach mapped out, but did not sign because it was concerned that other cleanup issues (such as what to do with the two landfills) were not included in the agreement. In accordance with a key Coalition policy that official Coalition correspondences would include (at the request of the affected government) a dissenting position, Boulder County offered the following:

“While [Boulder] County supports a number of issues, concerns, and positions expressed in this paper, they disagree on others and are withholding judgment on still others. Moreover, the County believes local governments should not be opining about issues where they do not know all of the facts nor have all of the necessary information, and the County lacks complete confidence in the facts and information they do have.”

We had reached an acceptable deal but not all of the Coalition’s recommendations were accepted by DOE and the regulatory agencies. The principle area of disagreement and concern was around the revised subsurface cleanup standards proposed by DOE and the

agencies. Despite our general support for remediating additional surface soil in lieu of subsurface soil, the Coalition was apprehensive about leaving in place high concentrations of subsurface contamination, and we felt the new standards for subsurface soils were unacceptably high. The Board's concern stemmed from the high degree of uncertainty regarding subsurface contaminants, concentrations, exposure pathways and plans and means to implement a comprehensive long-term stewardship plan after Rocky Flats closed.

In a follow-up letter dated January 6, 2003, the Coalition, led by Broomfield, offered another basis for determining the subsurface soil cleanup levels. The Coalition offered that higher levels of contamination could remain in the subsurface "if the pathway analysis shows with a 95% certainty that the  $10^{-5}$  risk is not exceeded" and that key provisions specified in our letter, including protection of water quality and development of a comprehensive stewardship program, were met. That approach was only partially accepted by DOE.

By allowing greater concentrations be left in the subsurface the Coalition was rolling the dice, but so too were DOE, Kaiser-Hill and the regulatory agencies. No one quite knew how much contamination was in the subsurface – if the levels and quantities of contamination in the subsurface were less than feared the Coalition would come out ahead. We would have increased the surface cleanup levels without sacrificing the subsurface. If the levels were higher than expected, then we would have agreed to leave levels of contamination that would have, at a minimum, caused a political headache.

The Coalition got lucky. The contamination levels many feared were in the subsurface were largely not found; yet DOE and Kaiser-Hill honored the agreement, doing more remediation near the surface and avoiding very little subsurface work. Today, thankfully, there is far less residual contamination in the subsurface than allowable under the regulatory agreement.

### **Working with dissent within the Coalition**

Dissent within the Coalition, which is part of the model we followed, was vital, especially to the process of revising the cleanup standards. In my numerous meetings with Boulder County (Commissioner Paul Danish) and the city of Boulder (Councilmember Lisa Morzel), our goal was to incorporate, as best we could, their concerns into the Coalition's recommendation.

Having either government's vote in favor of the Coalition's position was not critical, as dissention, we believed, would be beneficial to the Coalition's position. Clear and unambiguous dissention within the Coalition helped strengthen the organization and kept DOE on its toes. It fostered dialogue amongst the Coalition governments, which was beneficial and increased trust amongst the governments. It was, in short, central to the Coalition's model of being as flexible as the issue dictated.

As for DOE, the regulators, the Governor's office and Congress, they were acutely aware that the Coalition's position was supported by only five of the member governments – the minimum number needed to support a position. At any point the Coalition could shift its position and it was not unreasonable that, for any number of reasons (changes to Board membership, new information about the protectiveness of the cleanup levels, political

pressure, etc.), the organization would no longer support and might even oppose the revised standards. It therefore was incumbent on these parties to do what they could to reach agreement with the five governments and find a solution to an issue that was central to Kaiser-Hill being able to accomplish its mission. These parties were invested in the Coalition's success, and dissension within the Coalition was one of the tools we used to push the parties closer to the Coalition's position than they otherwise might have gone.

### **EPA and CDPHE**

One of the critical elements of this process concerns the role of EPA and CDPHE. These agencies, led by Tim Rehder (EPA) and Steve Gunderson (CDPHE), worked tirelessly to ensure the revised regulatory agreement supported the end-state goal for cleaning up Rocky Flats – turning this former weapons plant into a National Wildlife Refuge. Rehder and Gunderson could have recused themselves from any discussion regarding the final cleanup levels, provided DOE met their regulatory standards; legally their role was simply to ensure compliance with regulations, not to resolve complex policy matters.

Yet, they knew more was at stake than simply ensuring compliance with the applicable regulations. Everyone was working to ensure the cleanup was a success and that the future use goals could be realized. These agencies were not going to adopt revised cleanup levels that simply ensured the minimum standards had been met. Along with DOE-Rocky Flats, they understood that success necessitated a balance between technical answers and public policy considerations. They knew that to the extent conversations and decisions about risk were limited to technical and legal standards, they were likely be unsuccessful in partnering with the Coalition and other community members. Clearly the community needed to be educated about the hazards and associated risks, and all technical decisions must be technically sound. Decisions, however, even technical ones, are not solely technically based, and DOE and the regulators knew community perceptions of risk may stem from core community values and not square with technical definitions. While there were limits how far EPA and CDPHE could and would push DOE, they resolved to ensure the cleanup was a success.

### **Community reaction**

The community's response to the revised standards was mixed. There were strong factions that opposed leaving what some perceived would be dangerous levels of contamination on the surface and in the subsurface. A November 16, 2002, *Denver Post* editorial entitled "*Flats' Plan Invites Skepticism*" questioned DOE's assurance that the agency would adequately manage residual contamination, noting "given Rocky Flats' past surprises, the public should be wary." Others, as exemplified by those factions of the community that pressed the USFWS to allow public access to the Rocky Flats National Wildlife Refuge as early as possible, accepted the cleanup levels and the assurance that the site would protect future users. (Please see "**What We Need After Closure: Refuge Planning**" below.) The *Rocky Mountain News* noted in a November 16, 2002, editorial entitled "*Impressive Cleanup*" that "the nature of the opposition may be suggested by one critic's comment that three feet isn't safe because prairie dogs can dig down that far. Yes, they can, but not on any scale that would endanger people. If that's the best argument anyone can muster the changes should be adopted."

The CAB issued a comprehensive recommendation that straddled the line between accepting and rejecting the revised levels, which reflected the split within the Rocky Flats community. This recommendation provides an important comparison to the Coalition's.

One of the interesting issues that arose during this process that bears mentioning stems from the Peace Center's successful efforts to mobilize its members to oppose the new standards. Leroy Moore, one of the founders of the Peace Center, often remarks that over 80% of the comments submitted to DOE and the agencies opposed the adoption of the new standards on the basis of them being unacceptably high. While this statistic is quite possibly accurate, one should question whether it accurately reflects the entire community's sentiment.

Commonly the most mobilized and vocal factions of a community do not fully represent the silent majority. Being able to mobilize a base is important in political discourse, and there are times when the base can sway opinion. One, however, cannot presume the mobilized base accurately reflects the larger community's voice. As elected officials know quite well, it is often those opposing an action that are best able to energize their base, for there is little reason to mobilize a constituency when the decision makers are enacting policies with which one agrees.

In relying on a coalition model for making policy, one hopes that the differing opinions within the Coalition best reflected the broad-reaching sentiments of the community, and that Moore's statistic regarding the opposition, while notable, was skewed.

## **Independent Reviews**

Without doubt, one of the central ingredients behind local government and community support for the cleanup was the involvement of independent technical experts not connected to DOE or other regulatory agencies. These independent reviewers increased community confidence and added greatly to the collective understanding of key technical issues underlying the cleanup.

In summer 2004 the Coalition, led by Broomfield and the city of Boulder, began to advocate that to increase public confidence in the cleanup, key elements of the project should be reviewed by independent third parties. The goal was to independently verify and validate that specific elements of the cleanup had been remediated to agreed-upon standards and to identify any deficiencies in cleanup planning or execution that might warrant additional review and/or action.

While these two cities drove the process, their reasons for calling for such reviews differed. At the start of the process Broomfield declared the site was safe. They were thus interested in independently proving that the cleanup levels had been met and that Rocky Flats would be a regional asset. In doing so, public confidence in the cleanup would, theoretically, increase. In sharp contrast to Broomfield, Boulder was not prepared to deem the cleanup safe. Boulder therefore sought an independent scientific basis for approving or, if necessary, opposing the fast-approaching declaration by DOE and Kaiser-Hill that the cleanup project was complete. City officials were under a great deal of pressure from constituents to oppose the cleanup, so the reviews not only helped increase the city's confidence in the cleanup, but also allowed the Boulder Council to diffuse the deep distrust many felt for DOE.



These differences between Broomfield and Boulder point to a larger dynamic within the Coalition: prior to the reviews, if the Board were asked to approve a resolution declaring the cleanup project a success, the Board would not have been able to reach agreement. The reviews thus helped bring confidence where there was none or otherwise increased existing confidence in the cleanup. In the end the Coalition was able to unanimously agree to support DOE's declaration that the \$6.9 billion project was a success.

Despite the importance of the reviews, as discussed below, the Coalition's attempts tackle this important issue provides some of the most hard-earned lessons of our history.

### **Background on independent reviews**

There are two primary types of independent reviews used in environmental cleanups, both of which have been widely used at Rocky Flats: ones that increase the knowledge base critical to cleanup decisions, and others that verify that cleanup standards have been met.

The Actinide Migration Evaluation (AME), which began in the late 1990s, was arguably the most valuable independent review conducted at Rocky Flats. The AME Panel consisted of chemists, hydrologists, physicists and other national experts who evaluated how radioactive constituents move through the environment at Rocky Flats. In understanding how these constituents, called actinides, could migrate at Rocky Flats (e.g., as particulates or as dissolved solids), DOE, Kaiser-Hill, CDPHE and EPA could better focus their cleanup plans to account for conditions specific to Rocky Flats.

Another critical independent review was the community-led review of the 1996 plutonium action levels. As discussed under **“What We Get At Closure: Revised Rocky Flats Cleanup Agreement Standards”** the community backlash against the 1996 levels was swift and broad. DOE empowered the community to hire its own consultants to review the 1996 standards and provided \$570,000 towards that effort. The scientists the community hired reviewed critical issues such as ingestion and inhalation rates of plutonium and other actinides, impacts resulting from fire, future use scenarios, model inputs and other technical and policy issues that were central to revising the cleanup standards. The results garnered widespread acceptance by community members.

In October 2001 the Coalition, faced with uncertainties about the effects of radiation on potential future users, brought in national experts to participate in a one-day Health Effects Workshop. By better understanding the known effects and uncertainties on the cellular level of impacts resulting from exposure to low levels of radiation, the Board was better prepared to discern what levels of residual radiation presented acceptable risks to future users. Relying on the work of the Actinide Migration Evaluation and the aforementioned soil action level review, this workshop proved critical to the Coalition and others evaluating the nature of the risk associated with residual levels of contamination at Rocky Flats. Soon thereafter the Coalition was able to reach agreement with DOE and the regulators on revised soil cleanup levels.

Finally, DOE and the regulatory agencies (CDPHE most particularly) brought in independent experts to verify Kaiser-Hill had met or exceeded the agreed-upon cleanup standards. This verification process was used most often in determining whether buildings had been cleaned to the agreed-upon levels before they were demolished or their basements backfilled. These reviews provided the regulators with a strong basis for approving critical cleanup documents; they also increased community confidence in the cleanup by bringing in an additional set of experts to verify and validate that workers would be protected and that off-site lands would not be impacted by cleanup operations.

These and other compelling models were on the forefront of Board members' minds when the Coalition began discussing independent reviews in 2004.

### **The Coalition's independent review process**

The Coalition's process around implementing independent reviews was complex and produced hard-earned lessons for the Coalition staff and Board. With the caveat of my limited perspective as Executive Director, I believe that the Coalition's struggles with incorporating and considering independent reviews provides insight into how critical it is for a successful coalition to:

- adequately integrate change while maintaining continuity
- have clear roles for staff and Board members
- have effective communication and influence channels
- equally weigh issues of trust and technical/logistical concerns
- adequately address dissent within an organization

The analysis below will explore these points.

Building on our success in establishing a subcommittee to address Refuge planning issues (see **“What We Need After Closure: Refuge Planning”**), in mid-2004 the Coalition formed an independent review subcommittee. The subcommittee held frequent public meetings and, much like the Refuge planning subcommittee, was structured to allow Coalition members to bring forth their concerns and identify options for addressing these concerns.

Initially the subcommittee met bi-monthly for two-to-three hours at a time, but in due time the frequency of the meetings decreased. Our initial focus centered around four principal topics: (1) surface soils, (2) groundwater, (3) the “Present Landfill” and the “Original Landfill” and (4) the comprehensive risk assessment (a key component of the final regulatory documents). The bulk of our time and investigation focused on the first two items, surface soils and groundwater.

Soon after the Coalition began tackling surface soils, DOE decided to contract with Oak Ridge Institute of Science and Education (ORISE) – a consortium of more than 90 universities based out of DOE's Oak Ridge Laboratory – to conduct an independent validation and verification of the site's soil sampling and remediation plan. While the Coalition was already evaluating the soil remediation program and the need for additional review by independent experts, DOE decided that it was in the agency's interest to take charge of the process and conduct its own review. Some Coalition governments saw this step

as a preemptive strike by DOE to rest control of the dialogue from the Coalition but none objected.<sup>10</sup>

In the meantime, the Coalition's subcommittee continued to meet but was struggling to identify the priority issues and strategies for securing additional independent reviews. For differing reasons, Jefferson County, Arvada, Broomfield and Westminster were becoming increasingly uncomfortable with the direction and focus of the Coalition's work on independent reviews. As discussed later in this subsection, Jefferson County and Arvada questioned the need for such additional reviews, while Broomfield and Westminster worried that the process was taking too long, especially in light of the fact that it was becoming increasingly apparent that Kaiser-Hill was planning on completing remediation activities in fall 2005. While it appeared on paper that the subcommittee was making progress, we were in fact struggling to advance the dialogue and to identify our goals. The subcommittee's work stood in contrast to Broomfield and Westminster, which were better able to identify their interests and needs and to chart a path forward.

The Coalition reached a breaking point in early 2005 when, in a split vote, the Board decided not to support Broomfield and Westminster's request to review the remediation strategy for an old waste dump, the "Original Landfill". While the Board did support the other portions of these cities' requested reviews, Broomfield and Westminster decided to pursue their own interests independent of the Coalition, as Arvada had done for a period of time during the development of the Refuge Act. The cities took this step on the basis of the Board's lukewarm response to their request and the fact that DOE was clearly reticent to fund additional independent reviews. Broomfield and Westminster hired their own consultants and began a series of internal meetings and meetings with DOE and the regulatory agencies.

Over the course of the next six months, there was palpable tension within the Coalition as the members worked to resolve various differences over independent reviews. Nevertheless, the members remained committed to addressing issues as a coalition, and to discussing and debating the issues the two cities' consultants were raising. Because of this commitment, expressed in part by the Coalition Board meeting with the cities' consultants, in time the Coalition was able to reach agreement on nearly all of the issues raised in the reviews. After a challenging debate, on August 1, 2005, the Board unanimously approved a letter to DOE (with copies to the regulatory agencies) asking that the Department address a number of issues raised during the course of the reviews. Included in this list were numerous issues Westminster's consultant raised about the "Original Landfill". Despite the tension, by integrating a dissenting element and committing to a common voice, the Coalition had brought additional scrutiny to a complex technical project.

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<sup>10</sup> Because ORISE is closely connected with DOE, community members charged that ORISE could not provide an independent review. Rather, it appeared to many that DOE was simply using internal reviews to ensure the public that their own contractor, Kaiser-Hill, had complied with applicable laws and regulations. The Coalition examined their relationship and decided to support DOE's decision with one caveat: because the review was extremely technical, DOE needed to provide the Coalition with an additional \$25,000 to hire an outside expert to advise us on the technical details of the review. By supporting DOE's decision to hire ORISE the Coalition brought greater legitimacy to the process and allowed DOE to move forward with this important review.

Throughout this process, there was another component to the Coalition's independent review effort that bears special mention. At the Board's direction, Rik Getty, the Coalition's technical advisor, spent months researching thirteen areas that had been remediated but where residual contamination would remain at closure. This work was important for it directly addressed an issue of concern to many within the community – residual plutonium would be left following closure which would provide a basis for declaring the cleanup was not safe. Consistent with the Coalition's reason for instigating the independent reviews, Getty's analysis allowed the Coalition to address this criticism and its underlying issues. Getty's analysis, which was captured in comprehensive briefing memos, provides a history of the subject area, the scope of remediation activities, extent of residual contamination remaining at closure, and post-closure monitoring and/or maintenance needs. He also provided links to site documents where additional information can be found. His work is consistent with a core value of the Coalition – to present accurate, objective information – and should be an asset to community members interested in the history of cleanup work at Rocky Flats.

### **Lessons learned from the independent review process**

Of the many logistical, technical and political challenges to collaborative public processes, none are more significant than those surrounding basic trust and channels of communication. As explored throughout this report, a coalition's success in addressing these issues is as critical as its ability to handle complex technical and legal considerations. The Coalition split regarding the necessity and focus of independent reviews had at its root distrust, frustration between governments and staff, politics, and fear that other governments did not share the concerns of the dissenting parties.

The frustration and mistrust were rooted in the lack of clarity in the role and function of the independent review subcommittee itself.<sup>11</sup> From the start the subcommittee struggled, which was exacerbated by the fact that Coalition staff was unclear of its role. The subcommittee could not truly agree on the purpose or mission of the group, and some Coalition governments, while officially supportive of the subcommittee, did not agree on the need for additional independent reviews. Member participation in meetings was spotty and in mid-stream the Chair shifted from an *ex officio* member of the Board (Hank Stovall), to the Executive Director (me), and then to an elected official (Gary Brosz, Broomfield).

Even more challenging was the fact that some committee members, including members of the public who participated in the meetings, viewed the role of the subcommittee as an avenue to re-open questions regarding the adequacy of the cleanup standards. Others took great exception to using this forum to re-open settled issues, noting the purpose of the effort was to verify that the agreed upon standards were met and thus Rocky Flats, including the Refuge, would be safe for future users.

In many ways the push for independent reviews was a reflection of changes on the Board, a board that was from its inception through 2003, save for a few exceptions, the original board.

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<sup>11</sup> As DOE-Rocky Flats officials noted in their lessons learned from these reviews for DOE-Headquarters, lack of clarity was the root of the problem, and in the future other DOE sites should not consider conducting or supporting independent reviews unless the objectives, roles and outcomes are understood by all parties.

A minority of members was motivated and through their tenacity was able to get the formal buy-in of the other member governments. Yet some of the majority members' support for the reviews was not truly supportive, but actually more a matter of practicality – there was no reason to oppose the direction the Board was taking provided the Board's action did not compromise the value and integrity of the organization. However, this faction was not going to exert great effort to see the process come to fruition; also, as they saw necessary, they would challenge the process which, in turn, tended to destabilize support for independent reviews.

This dynamic is an example of the critical lesson that to be successful a coalition must consciously integrate change and yet maintain continuity. Because we were not completely effective in managing this process, the Coalition was strained; worse yet, it is hard to know whether the objective of increasing community confidence in the cleanup was achieved.

The dynamics that surrounded the issue of independent reviews at the both Board level and amongst local government staff was extremely complex and broad in scope. It is impossible to tease out all of these dynamics, yet it is clear how the lack of clear roles and poor communication channels negatively impacted the staff of the Coalition. The independent review issue was hard on Coalition staff. As Executive Director I struggled to understand how we could manage the review process so it would move the organization in a direction that served our collective interests. The Board officially had a position but support was thin; the vote in favor of pursuing independent reviews was 5-2, the minimum number of votes needed to approve a motion. Coalition staff struggled to understand how to implement the Board's decision so that it would actually increase public confidence in the cleanup. In the middle of this process, the *Daily Camera*, a local newspaper, published an op-ed by Anne Fenerty, a community member who participated in the subcommittee as a representative of the League of Women Voters. Entitled "*Not Ready for Prime Time*" the piece primarily examined access to the Refuge, but Fenerty folded in the Coalition's independent review process:

“Verification. Before DOE transfers the site to USFWS, DOE's data and methodology will be peer reviewed by scientists recommended by the Rocky Flats Coalition of Local Governments (RFCLOG). In the past DOE has not retained scientists who were critical of DOE, RFCLOG includes elected representative of cities and counties surrounding RF, including Jefferson County, Arvada, and Broomfield, all of which have planned developments near the site. The Vauxmont development is at the southeast corner of RF, and it includes 500 homes and 8.8 million square feet of office and retail space. Recreational facilities at the Rocky Flats site would make these properties more valuable.”

Fenerty was suggesting that the Coalition process was a ruse and that our goal was to verify that the site was safe in order to support off-site development. While inaccurate, Fenerty's broad-reaching criticism of the cleanup and the Coalition's involvement (as expressed in both this piece and elsewhere) reflected the concerns of a vocal group of community members. After all, Rocky Flats, the site of tens-of-thousands of protestors in the 1970s and 1980s, is a

place shrouded in secrecy and suspicion and the staff remained unclear on how our work on independent verification would influence, much less sway, public sentiment.

Adding to the challenge was the belief among Jefferson County and Arvada as well as Coalition staff that the organization did not present a clear basis for why EPA and CDPHE's oversight of DOE and Kaiser-Hill needed to be subject to this review. Local governments clearly should challenge the adequacy of state and federal government oversight, but in this case we could not discern a clear basis for what we perceived as a challenge to the adequacy of regulatory oversight of the cleanup. Clearly Coalition staff was charged with carrying out the mandate of the Board, but the staff, along with certain Board members, struggled to articulate the basis for the reviews. This dynamic compromised our ability to carry out the Board's direction and advocate for the organization's interests. In a coalition staff must be bought into a goal and provided with a clear role in its success, just like any member.

Highlighting the importance of effective channels of communication and influence in a coalition (and, again, in managing change), the independent review effort was further challenged because many historical Coalition channels were in flux. In 2004 new members joined the Board and with these changes my role as a facilitator and mediator was muted. The Board wanted to take greater ownership in both the process and in the results, but with many having full-time jobs and with the organization only meeting once per month, the challenge of pushing through difficult issues was exacerbated. Throughout the life of the Coalition, Board meetings were often not the venue for the governments to coalesce around an issue; they also were not the venue to force DOE's hand, as the heavy lifting, the deal making, always took place between meetings. In 2004, with changes on the Board, I was now more limited in my ability to influence outcomes the way I had done with the Refuge Act and revised cleanup standards. Without these well-worn channels of influence both within the organization and with outside entities it became more difficult to affect change and to advance the Coalition's agenda.

Change was necessary and beneficial. With this change dialogue at the Board level increased, which was both necessary and positive. Board members took greater ownership of the process and of Board policies. As one Board member noted, "differences and divisions" which were now easier to see "were essential because it brought the issues out in a way that they were not masked politically."

Nevertheless, as many within the Coalition, DOE, the regulators, Kaiser-Hill and congressional staff noted, we struggled. As an organization we did not effectively integrate the change and our effectiveness temporarily faltered.

### **The impacts of the independent reviews**

It is hard to discern with any certainty the net effect of the reviews. Clearly the reviews brought an additional level of scrutiny to the final stages of the cleanup process – and in limited circumstances DOE and its contractor, Kaiser-Hill, made specific, although minor, adjustments to their cleanup strategy. The reviews also brought an additional, though perhaps marginal, level of confidence among Coalition members who were answerable to their constituent communities.

Over the course of the review, the Coalition asked DOE to address fifty issues, most of which were relatively easy for the Coalition and DOE to resolve. ORISE concluded that Kaiser-Hill's soil cleanup program, which was pivotal to the cleanup, was technically sound. Not surprisingly, though, ORISE found a few isolated areas where plutonium levels exceeded the cleanup levels. These areas, called "hotspots", were worrisome to the community, including Senator Allard and the Coalition, and in due time DOE decided to dig up the contamination and ship it off-site for burial.

The cap for the Original Landfill, while not meeting the cap design advocated by Westminster's consultant, nevertheless did include some of the design specifications the consultant offered. Time will tell whether the cap design works.

As for other issues raised during the course of the reviews, many were resolved pending final documentation. As of the writing of this document DOE and the regulatory agencies are in the final stages of the regulatory process. Some of the issues raised during the reviews could only be addressed through these documents so it will take months to know with any certainty whether the issues the Coalition and DOE raised during the course of the reviews have in fact been resolved.

## **What We Need After Closure** **Influencing the Future**

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For the nearly \$7 billion cleanup project to be deemed a success, the community was seeking a cleanup that (1) met and exceeded federal regulatory standards and (2) allowed the site to become or remain an asset (depending on one's perspective) for the community. Yet, the Coalition's work could not be limited to getting to cleanup and closure (as explored in the previous section). Rather, to truly fulfill its responsibility and role, the Coalition had to facilitate discussions and be part of solutions regarding what happened after closure – after the regulatory agencies determined that the cleanup standards had been met. This third piece of the equation – “what we need after closure” – was central to the Coalition's mission and to the community's work on Rocky Flats issues.

There are two overarching processes that best tell the story of how the Coalition addressed what we need after closure: (1) “The Rocky Flats National Wildlife Refuge Act of 2001” (including Refuge planning), and (2) the development of the Coalition's successor entity, the Rocky Flats Stewardship Council.

### **The Rocky Flats National Wildlife Refuge Act of 2001**

On December 28, 2001, President George W. Bush signed into law “The National Defense Authorization Act for Fiscal Year 2002,” a bill “to authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military constructions, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.”<sup>12</sup> Tucked into this massive bill was a provision that established by legislative proclamation the future use of Rocky Flats – “The Rocky Flats National Wildlife Refuge Act of 2001.”<sup>13</sup> How this bill became law, and how seven local governments with differing interests came to unanimously support it, is central to the story of the Coalition.

#### **1994-1999: The seeds are sown**

From June 1994 through June 1995, a diverse group of Rocky Flats stakeholders came together to begin discussing the future use of Rocky Flats. Under the auspice of the Rocky Flats Local Impacts Initiative (RFLII) – the Coalition's predecessor organization – 26 individuals representing the seven Coalition governments, site workers, environmental and economic interests, and neighboring landowners, proposed a future use of the site. Under their vision, the 6,200-acre Buffer Zone would be protected as open space, while the core 385-acre Industrial Area would be made available for a range of uses from re-industrialization to open space. This vision was not officially endorsed by DOE, Congress or the regulatory agencies, but nevertheless became the framework for deciding the cleanup levels in the 1996 regulatory agreement.

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<sup>12</sup> P.L. 107-107

<sup>13</sup> P.L. 107-107, Sec. 3171 et. seq.



A subsequent effort by RFLII in 1998 honed in on the future use of the Industrial Area. At the request of DOE, RFLII developed the Rocky Flats Industrial Area Transition Task Force and charged them with developing “a plan and implementation strategy to convert the Industrial Area at Rocky Flats after cleanup into an employment center or other use which contributes to the economic vitality of the region.”<sup>14</sup> Despite the tremendous effort exerted, the Task Force was not able to issue specific recommendations regarding the future use of the Industrial Area. They recommended all buildings and facilities be demolished but that the cleanup be to a level that would support a future employment center “regardless of other potential uses.”<sup>15</sup> Key issues were thus unresolved, but due to RFLII’s efforts an important dialogue about the future use of the Industrial Area had begun.

When the Coalition formed through their February 1999 Intergovernmental Agreement (IGA) they followed the path that had been set by these two RFLII forums. The IGA included the following provision:

“WHEREAS, the 1995 Future Site Use Working Group Report and the 1998 recommendation of the Industrial Area Transition Task Force call for preservation of the Rocky Flats Buffer Zone as open space, with allowance for transportation uses, and that the Industrial Area be cleaned to a standard that would be suitable for a range of uses from open space to an employment center.”

The IGA further identified as one of the Coalition’s purposes to:

“Advocate, interpret, and revise as necessary plans to guide the future use of Rocky Flats as reflected in the 1995 Rocky Flats Future Site Use Working Group Report and the 1998 recommendations of the Rocky Flats Industrial Area Transition Task Force, such that ensuring that actions taken by the federal government and its contractors protect human health and the environment and preserve desired future land uses.”

These provisions, taken together, were critical in bringing together the seven governments that formed the Coalition. While these different governments had different opinions about the best future use of Rocky Flats, they were committed to working through their new forum to discuss and debate these issues.

### **H.R. 2179: The Rocky Flats Open Space Act**

In early June 1999 Representative Udall introduced H.R. 2179, “The Rocky Flats Open Space Act.” Following a key community recommendation offered by the Future Site Use Working Group, the legislation, if enacted, would protect the Buffer Zone as open space while deferring on the best use for the Industrial Area. As discussed below, Udall also included a provision establishing an Open Space Advisory Council.

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<sup>14</sup> “From Swords to Plowshares: Reuse of the Rocky Flats Industrial Area,” The Rocky Flats Industrial Area Transition Task Force, Executive Summary.

<sup>15</sup> Ibid, p. 9.

As Udall later explained at the Coalition's September 2, 1999, Board meeting, in drafting the Open Space Act he had tried to ensure the open space designation would not drive cleanup levels, but that cleanup levels would be based on health and safety concerns. He also identified the five main goals of his bill:

1. To keep the Buffer Zone as open space in perpetuity
2. To not drive the Industrial Area strategy
3. To make clear the liability and ownership of the federal government
4. To establish a mechanism for local input and management
5. To not drive cleanup levels based on the anticipated future use plans (e.g., open space designation)

These provisions generally tracked the Coalition IGA, although not all of the governments saw it that way. There was a greater principle of concern – the role of the newly formed Coalition on Rocky Flats issues – which was highlighted by one section of the legislation. Udall was proposing to establish an Open Space Advisory Council which would “examine the options for long-term management and oversight of Rocky Flats and make recommendations.” The Advisory Council concept followed the framework RFLII established through the Future Site Use Working Group and the Industrial Area Transition Task Force to bring community members together to discuss and debate issues related to the future use of the site. The Council, as proposed, thus included the Coalition governments, the CAB, DOE, EPA, CDPHE and the U.S. Fish and Wildlife Service (USFWS). The sole problem with the proposed framework was that the playing field had drastically changed since the RFLII process. We now had the Rocky Flats Coalition of Local Governments as a forum, and some Coalition governments took umbrage with Udall's proposed approach.

Over the next months the Coalition worked on two tracks: the member governments discussed and debated the bill's provisions, while Coalition staff worked to establish the Coalition. As noted in the “**Background**” section, establishing the Coalition was an important step. By virtue of seven local governments coming together the organization had an air of legitimacy, but more was needed if the Coalition was to affect the Rocky Flats cleanup and be a player in critical issues such as the future use of the site. The Open Space Advisory Council risked marginalizing the Coalition's effectiveness on an issue that was central to our mission.

Initially the Coalition members were split on the bill. Most governments argued in favor of protecting Rocky Flats as open space; Arvada and to a lesser degree Jefferson County, while supportive of the Future Site Use Working Group recommendations, held out hope of redeveloping portions of Rocky Flats and thus thought the legislation premature. Throughout the summer, fall and winter of 1999 the Board meetings were challenging and full of vigorous and passionate debate. It was unclear whether an organization that was still in its infancy could withstand both the internal and external pressures. The Coalition never did take an official position on the bill, and then in early 2000 an unexpected step occurred that changed the playing field again. On March 7, 2000, while the Coalition was holding meetings with DOE and with Congress in Washington, D.C., the *Denver Post* published an editorial praising Udall's bill and calling on Senators Allard and Ben ‘Nighthorse’ Campbell

to join Udall. Allard, who had resisted supporting the Udall bill, began discussing publicly an idea of his own – to preserve Rocky Flats a National Wildlife Refuge.

### **The Rocky Flats National Wildlife Refuge Act**

The idea of designating Rocky Flats as a wildlife refuge was not new. The Rocky Mountain Arsenal, a Defense Department weapons facility on the edge of Denver, had been designated a refuge in the 1990s, as had other former defense sites throughout the country. Senator Allard had been intimately involved in the passage of the Arsenal Refuge Act, so when his staff proposed that they develop a Rocky Flats Refuge Act, the Senator jumped at the idea. Two Udall staffers – Alan Salazar and Doug Young – worked for Governor Romer during the development of the Arsenal Refuge Act and were also intimately involved in its development and passage. Ideally, Udall staff would have preferred to introduce a Refuge Act instead of an Open Space Act, but they felt they had inadequate political support. Udall's approach also reflected a commitment to not dictate to the community the future use of the site so he instead proposed a bill that codified the results of the Future Site Use Working Group.

Allard took a different approach, and in April he circulated a draft bill – the “Rocky Flats National Wildlife Refuge Act of 2000”. His staff then began working with the Coalition to refine the bill to better address Coalition interests and goals.

During this period while the Coalition was discussing the draft bill, Allard approached Udall about working together and, in time, a partnership was formed. That August 2000 the Coalition issued the following statement:

“The Rocky Flats Coalition of Local Governments applauds Congressman Mark Udall and Senator Wayne Allard’s commitment and leadership in protecting Rocky Flats for future generations. The Buffer Zone, which covers approximately 6,000 acres, is not just home to numerous plant and animal species, including the Preble’s meadow jumping mouse, but through these lands run three important drainages – Woman Creek, Walnut Creek and Rock Creek. The Coalition commends Congressman Udall and Senator Allard’s efforts in working to ensure that the cleanup and closure is protective of human health and the environment and that the resources are protected for future generations. The cleanup and protection of Rocky Flats necessitates elected officials work together and Congressman Udall and Senator Allard’s continued leadership is central to the long-term protection of the Site. The Coalition welcomes the continued opportunity to work with Congressman Udall and Senator Allard in refining the provisions in the bill and securing its timely passage.”

The collegiality reflected in that statement belied the true state of affairs within the Coalition. Differences amongst Board members regarding Udall’s bill strained the Coalition and compromised our ability to coalesce around a future use scenario. Those tensions remained unresolved when Allard and Udall decided to partner on the Refuge Act.

From April 2000 until June 2001, the Coalition vigorously debated the various drafts of the Refuge Act. On July 10, 2000, I presented to the Board a comparison of the two bills. The idea was to shift the focus of the conversation from the areas of disagreement to the areas of agreement and thus counter the false impression that there was little common ground between the bills or amongst the member governments. In doing so we could begin establishing the foundation for a consensus opinion.

As the months passed the Coalition focused their attention on the following issues. Resolving these would provide the basis for garnering the organization's unanimous support for the evolving joint Allard/Udall Refuge Act.

- **Federal ownership of the site post-closure**

In August 1999, when debating the Udall Open Space bill, the Coalition agreed to support ongoing federal ownership of Rocky Flats. Arvada dissented and instead advocated leaving open future use options until there was a better sense of the final cleanup levels for the site. These options, they posited, could include federal ownership, but might not. At the Coalition's September 2, 1999, meeting, Senator Allard argued that Congress would be irresponsible to abdicate the federal government's control of Rocky Flats; the liability issues would be too great for a local government, and federal ownership was essential. In spring 2001, the Board reached a consensus position.

*Refuge Bill Language:* Rocky Flats shall remain under federal ownership and annexation by a local government is strictly prohibited.

- **Designation of lands including the Industrial Area**

While many of the Coalition governments supported Udall's Open Space Act (which only addressed the Buffer Zone) the governments quickly agreed to designate the entire site as a National Wildlife Refuge, including the Industrial Area. In spring 2001 Arvada acquiesced and joined in support of this approach.

*Refuge Bill Language:* All of Rocky Flats shall be designated as a National Wildlife Refuge with the exception of those lands DOE will retain as part of its ongoing management of residual contamination.

- **Cleanup levels**

There was concern within the Coalition and amongst community members that the Open Space Act and Refuge Act could unintentionally serve to reduce the cleanup levels. Initially, some Coalition members attributed Arvada's opposition to the Open Space Act to what they believed to be Arvada's interest in developing the site. However, at the March 2, 2000, Coalition Board meeting, Arvada's mayor, Ken Fellman, clarified that Arvada's lack of support for the Open Space Act stemmed from his government's desire to see that the site be remediated to the highest standard possible, and the Act, as written, did not guarantee this goal. While Arvada offered language to both bills that would have codified the existing cleanup levels, levels that, as described in **“What We Get At Closure: Revised Rocky Flats Cleanup**

**Agreement Standards**”, were universally rejected by the Rocky Flats community, in time the city abandoned that idea.

*Refuge Bill Language:* The Act specifies that the Refuge designation bill shall not serve to “reduce the level of cleanup required” under the regulatory agreement guiding the cleanup or any other provision of law.

- **Land exchange**

Another issue that initially arose when debating the Open Space Act was that of exchanging 138 acres of private land adjacent to Rocky Flats’ western border for 640 acres in the southeast corner of Rocky Flats. The idea ostensibly was to stave off any potential development along Highway 93 and concentrate development in the section of Rocky Flats adjacent to planned developments.

*Refuge Bill Language:* The Act is silent on the land exchange but dictates that all of Rocky Flats shall be owned by the federal government and annexation of Rocky Flats by a local government is strictly prohibited.

- **Transportation right-of-way**

As noted earlier, the Coalition IGA included a provision that the Buffer Zone should be protected as open space “with allowance for transportation uses.” This clause in the IGA was the most debated issue the Coalition faced in reaching agreement on the Refuge Act. Led by Jefferson County and Arvada, some member governments wanted to reserve a transportation right-of-way along Rocky Flats’ eastern boundary to support the Jefferson Parkway – the missing link in a beltway circling the Denver-metro area. Some members of the Board, most notably Westminster, vigorously opposed the Parkway, which would involve expanding the two-lane county road that borders Rocky Flats on the east to a six-lane highway. In time, the Board agreed that should the highway be built along that alignment, and should an environmental analysis find that cutting into Rocky Flats on the east complied with all applicable environmental laws, then a 300-foot right-of-way along the eastern boundary could be granted – subject to all applicable laws and regulations. This agreement was predicated on the idea that transportation issues should be resolved in other forums, not in a refuge bill for Rocky Flats.

In connection to the issue of land exchange, a feasibility study commissioned by Arvada concluded in spring 2001 that there was no need to cut through the southeast corner of Rocky Flats for transportation purposes; thus, the land exchange idea was formally rejected by the Board. With that decision, the last issue was resolved and the member governments reached agreement in support of the Refuge Act.

*Refuge Bill Language:* Provides for a 300-foot right-of-way along Rocky Flats’ eastern boundary.

### **Getting the bill through Congress**

In June 2001, the Coalition unanimously approved an op-ed piece in support of the Refuge Act, a momentous step for the organization and for the future use of Rocky Flats. The op-ed, which was printed in *The Arvada Sentinel* (and is reprinted in Appendix C), stated in part:

“As the Board of Directors of the Rocky Flats Coalition of Local Governments, a coalition of elected officials from Boulder County and Jefferson County, the cities of Arvada, Boulder, Broomfield, Westminster and the town of Superior, we unanimously applaud this legislation and call on Congress to support and secure its early passage. . . . The bill would accomplish a number of the Coalition’s key cleanup and future use goals. Most importantly, it would protect the land for future generations by mandating the site be managed as a National Wildlife Refuge, while ensuring that the cleanup protects human health and the environment. Additionally, this designation would prohibit future development of Rocky Flats and annexation of the property by any local government. The legislation would also require on-going federal ownership of the site, an integral component of a comprehensive long-term site stewardship program, and also ensure that cleanup is completed prior to the U.S. Fish and Wildlife Service assuming management of Rocky Flats. Finally, the bill would mandate the involvement of the Coalition and others in developing the Refuge management plan.”

There was one final step – to secure the passage of the Bill – which, given the unanimous support of the Colorado delegation, should have been a relatively simple matter. There was only one significant hurdle to be cleared: The Secretary of the Interior, Gale Norton, had, in private, indicated to Senator Allard in late spring 2001 that her agency would not support the bill, and if forced to testify on the bill, the Department of the Interior (DOI) would publicly oppose it.

Following the direction mapped out by Allard’s staff, the bill would need to be approved by Congress without a hearing as it was too politically risky for DOI to officially and publicly oppose the bill. With that plan in mind, on June 19, 2001, I met with Allard’s Washington, D.C. staffer, Doug Flanders, to discuss the idea of attaching the Refuge Act to the Defense Authorization Bill – a must-pass bill that went through Allard’s Armed Services Subcommittee. He liked the idea because, in doing so, we would temporarily bypass DOI, and through his position on the subcommittee the Senator would retain better control of the bill as it moved through the legislative process. The only minor problem was that Allard was now in the minority party since Senator Jim Jeffords (Vermont) had left the Republican Party one month earlier; therefore, attaching the bill would require the buy-in of Madelyn Creedon, Democratic staff on the subcommittee.

That afternoon I met with Creedon and discussed the idea of attaching the Refuge Act to the Defense Bill. She strongly supported the Rocky Flats cleanup and the Coalition’s work. While she did not always agree with the direction and policies being advocated by Republicans on the committee, she had an excellent working relationship with David Cherrington (her Republican counterpart), with Flanders and with Senator Allard. Her

response was clear – if Senator Allard asked her to attach the Refuge Act to the Defense Bill, she would do it.

The deal was sealed. Six months later President George W. Bush signed into law “The Rocky Flats National Wildlife Refuge Act of 2001.” The Coalition had been able to coalesce around the bill. We had been able to work through our differences and promote a common vision that is the cornerstone of the future use of Rocky Flats. It was clear then, as it is now, that (1) without the Coalition it is unlikely that local governments could have found a forum for supporting this pivotal piece of legislation, and (2) the Coalition was central to shaping the bill.

### **Internal politics and the role of the Coalition staff**

Anyone familiar with this period of Coalition history will recognize that this vignette does not delve into the true depth of the process behind shaping and supporting the Refuge Act. The battles amongst the governments were intense, highly political, partisan at times and fraught with deep divisions and mistrust.

Month-after-month, Arvada found itself on the defensive as they passionately defended their right to represent their own position to Congress when it conflicted with the other governments. The fights were not limited to Board meetings but frequently played out in the press, which further strained the polarized relationships. Congressional staff often found themselves acting as moderators as they sought to find common ground among the member governments.

The Board and others knew that if the Coalition could find a common voice we could then garner the support of the entire Colorado delegation and increase the likelihood of passing the bill. Many of us were therefore determined to get a consensus recommendation from the Board as anything less could have compromised our chances of securing passage of the bill.

As for Kemmis’ theory of collaborative decision making (see “**Background**”), the future use of Rocky Flats was a core reason the governments had formed the Coalition. In coming together to support the Refuge Act we worked to resolve our differences and worked with Congress to define the public interest. Unlike revisions to the cleanup standards and the Refuge management plan (explored below), it was essential that the Coalition offer a unanimous position. Whereas in many cases we had used dissent to our advantage, in this situation it could have sunk the ship and undermined the structural integrity of the Coalition. Instead we served our role as the public body defining a common vision, and the process made us much stronger as an organization than when we had started.

Because of this process the Coalition truly became a coalition. We found ways to support one another, to compromise, to learn how to agree and disagree without being disagreeable. And in the end, Arvada – which had lost the most – supported the Refuge Act without hesitation and remained an active member of the Coalition. This kind of commitment to a common good speaks to what creates a powerful coalition, but it is nothing one should take for granted.

## **Refuge Planning**

Following the passage of “The Rocky Flats National Wildlife Refuge Act of 2001” the Coalition was presented with yet another opportunity to influence the future use of Rocky Flats. The Refuge Act established broad parameters for USFWS management of the future Refuge, but required the details to be worked out through the development of a site-specific Comprehensive Conservation Plan (CCP). As USFWS ramped up the CCP process, Coalition staff and some Board members recognized that it would be a significant challenge for the Coalition to develop and agree upon a formal position on the CCP. Nevertheless, the Board remained intent on weighing in on all matters affecting future use of Rocky Flats – and committed to the principle of using the Coalition as a forum to vet issues and to resolve differences.

The Coalition’s strategy on the development of the CCP differed from our previous strategies on the Refuge Act and revisions to the cleanup agreement. With the Refuge Act, it had been imperative that the Board reach a consensus opinion; with the revisions to the RFCA cleanup standards, a formal Board position with dissention had been not only acceptable but advantageous. However, the CCP required us to utilize a different approach, to modify our model, to think differently about what it means to act as a coalition and thus to expand how the organization could serve to advance the shared interests of the seven member governments.

This new facet of our model was necessitated by the fact that it was unlikely that the Coalition could actually achieve a formal consensus position on the best management alternative for the Refuge. We had to create a new framework where success would not be defined by our ability to reach a formal position (although if this occurred it would be an added bonus). Instead the Coalition would define success by our ability to create a forum to bring member governments together to discuss and debate issues related to the Refuge planning process. The forum would be a place for members to discuss and understand the different and often competing interests, and to resolve differences whenever possible. Dialogue, not agreement, was the true goal.

The Kemmis “food processor” analogy I introduced in the “**Background**” provides insight into the utilitarian nature of this approach for any coalition. While the goal changes in this model from achieving consensus to creating a meaningful process, the Coalition would still come together to define community interests and build a dialogue, rather than acting as disparate entities whose only connection was a shared desire to sway public policy towards their individual interests. This coalition process can also influence and inform policy makers and should not be underestimated when evaluating the coalition toolbox.

To understand how the Coalition navigated the Refuge planning process one must first understand Congress’ mandate for the Refuge.

### **Background on the Refuge Act**

The Refuge Act identifies four primary purposes for the Rocky Flats National Wildlife Refuge:

1. Restoring and preserving native ecosystems
2. Providing habitat and population management of native plants and migratory and resident wildlife



3. Conserving threatened and endangered species (including species that are candidates for listing under the Endangered Species Act)
4. Providing opportunities for compatible and scientific research

The Refuge Act also provided that in managing the Refuge, USFWS “shall ensure that wildlife-dependent recreation and environmental education and interpretation are the priority public uses of the Refuge.” It was in meeting this latter element of Congressional intent – finding the proper balance between conservation and recreation – that the Coalition governments disagreed on the best management alternative for the Refuge.

### **The Coalition Refuge Subcommittee**

The Coalition formed a Refuge subcommittee to “explore the feasibility of a joint Coalition government position on Refuge issues, without resorting to lowest common denominator, focusing on issues of access, and the interplay between public use and ecological management between the northern Buffer Zone and southern Buffer Zone.” The subtext of this mission statement was that the Coalition governments would share information and seek opportunities for mutual support, but would not try to force a round peg through a square hole.

One of the strengths that the Coalition brought to the table was that each government had, in addition to dedicated Rocky Flats staff, open space/parks staff who could help the Coalition understand the numerous issues which USFWS was evaluating. The Refuge subcommittee was the only forum where Coalition governments involved staff from other departments, staff that had little or no knowledge of Rocky Flats, but who had a wealth of experience on the given topic – the development of a land management plan. The subcommittee quickly discovered that the communities would advance differing positions based primarily on (1) their values concerning the site and the purposes of wildlife refuges, (2) their interests regarding the relationship between off-site lands and Refuge lands, and (3) their varying perspectives regarding the relative safety or risk (depending on one’s perspective) of allowing human access to the Refuge.

These differences were not limited to the Coalition. As USFWS learned during their formal public meetings, the larger Rocky Flats community was likewise split on these issues and (like the Coalition members) they were passionate about their positions. While some members of the public attended the Coalition subcommittee meetings, public involvement primarily centered on the many USFWS public meetings. Various interest groups and individuals participated in these meetings, many of whom were otherwise not engaged on Rocky Flats issues. It was a positive change to have new people engaging in Rocky Flats issues.

### **Member government positions on the issues**

The Coalition governments split roughly 4-3 on the best management alternative. Following are selections for each government’s letters to USFWS.

### **Jefferson County**

- Supports USFWS' proposed alternative (Alternative B<sup>16</sup>) with modifications that the County offered to encompass "the appropriate balance between compatibility with Jefferson County's planning efforts, the recognition of historic use as a Weapon's production plant, the cleanup efforts by the Department of Energy, public use and the ecological/wildlife components the site has to offer."
- Advocates for additional loop trails as "trail loops provide an inviting experience to the public and minimizes overuse of one trail. Our experience shows that dead-end trails increase deterioration of the trail and reduce the enjoyment of trail users."
- Supports a close working relationship and coordination with surrounding jurisdictions.

### **Arvada**

- Believes Alternative B, with certain variations spelled out in their letter, "offers the best balance between the conservation of wildlife and their habitat while allowing some wildlife-dependent public use." Such use would not "materially interfere or detract from the fulfillment of the mission of the System."
- Advocates for increasing the trail connections between the Refuge and lands slated for development to the south of the site. "Public use of the Refuge is very important to the city . . . and the limited number of trails and access points on the south and southeast sites of the Refuge are detrimental to the Refuge and the users of the Refuge."
- Advocates for minimal perimeter fencing at the Refuge. "Large chain link and barbed wired fences are not the kind of outward impression that we feel a regional asset such as the Wildlife Refuge should give to its neighbors."

### **Broomfield**

- Supports Alternative B as it is their "preferred balance between public use and protection of wildlife and habitat."
- "Appreciates the efforts the Service has made to work with us to ensure proposed wildlife and habitat resource management and public uses are compatible with Broomfield's vision and goals for public use of our open spaces."
- Identifies as a priority connecting Refuge trails with trails that run through Broomfield's open space east of Rocky Flats.
- Recommends that areas with "groundwater monitoring wells, surface water monitoring stations, treatment units, and drainages" should be "secured from public access." "It is imperative that public use activities do not potentially degrade water quality or impact the ability to measure water quality both on-site and off-site."
- Does not want to negatively affect the visitor's experience, but "believes a mechanism should be in place to prevent access to the [lands retained by DOE] from the general public."

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<sup>16</sup> Alternative B – Wildlife, Habitat and Public Use: "Emphasizes both wildlife and habitat conservation along with a moderate level of wildlife-dependant public use." USFWS Final Comprehensive Plan & EIS, p. S5, September 2004.

## **Westminster**

- Raises issues similar to Broomfield.
- Requests an additional trailhead to connect with Westminster open space lands to the east and southeast.
- Notes the city “does not oppose the proposed hunting program at this time, but has a concern for potential health impacts from consumption of wild game.”
- Pledges to “continue to work with the Service to ensure the location of the [wildlife] corridor is compatible with our open space vision and the vision for the [Refuge].”

## **Boulder County**

- Supports Alternative A<sup>17</sup> with Alternative C<sup>18</sup> as their second priority. “Both of these alternatives would permit far reduced access than either Alternative B, which Fish and Wildlife is recommending, or Alternative D<sup>19</sup> which provides the greatest public access.” “There should be no rush to open this land to the public.”
- Argues that “cold war sites and prior nuclear weapons sites that are being converted to wildlife refuges be treated and staffed in a fundamentally different manner from other wildlife refuges that do not have the same kind of contamination history that Rocky Flats and other similar sites have.”
- Raises concerns about “contamination being discovered in unexpected places. Thus, we do not have the confidence we need to support an alternative that will permit extensive public use on the buffer portion of the Refuge.”
- Posits that the “trail alignments in . . . Alternative B are all in sensitive riparian habitat in Rock Creek and Woman Creek.”

## **Boulder**

- Supports Alternative C with potential modifications from Alternative B.
- Believes “we have a unique conservation opportunity of preserving a large and rare habitat that is not matched anywhere along the Front Range of Colorado.” “Management actions should all be based on preserving, and not detracting from, this rare conservation opportunity.”
- Argues that all trail use should be limited to on-trail use in order to be “cautious about potential contamination and the area being a wildlife refuge.”
- Advocates that USFWS “reserve the ability to make a trail connection on the northeastern portion of the site on the current gravel road where fragmentation and disturbance is already occurring and to provide major north/south access.” Trail would be used to connect the Refuge with city open space.
- Recommends that USFWS “consider allowing horse use in the future if kept on trail and contamination issues related to incidental grazing can be addressed.”

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<sup>17</sup> Alternative A – No Action: The USFWS “would not develop any public use facilities and would not implement any new management, restoration, or education programs at Rocky Flats.” USFWS Final Comprehensive Plan & EIS, p. S5, September 2004.

<sup>18</sup> Alternative C – Ecological Restoration: “Emphasizes Refuge-wide conservation and restoration of large areas of wildlife habitat.” USFWS Final Comprehensive Plan & EIS, p. S5, September 2004.

<sup>19</sup> Alternative D – Public Use: “The USFWS would emphasize wildlife-dependent public uses.” USFWS Final Comprehensive Plan & EIS, p. S6, September 2004.

## **Superior**

- Supports Alternative C.
- Advocates that the Rocky Flats Cold War Museum/Visitor Center be located on the Refuge.<sup>20</sup>
- Suggests “trail connections should be limited to serve museum/visitor center and overlooks.”
- Advocates USFWS “secures federal ownership of mineral rights.”

## **The Coalition’s letter**

Despite not being able to reach a consensus position on the conservation plan, the Coalition nevertheless formally weighed in with USFWS. After months of intensive conversation amongst the Coalition governments and with USFWS, in a letter to USFWS dated April 5, 2004, the Coalition formally acknowledged “it is clear that the Coalition, as an organization, does not support one alternative over another.” Our comments instead focused on “overriding principles and values that are central to the management of the Refuge.” The individual governments, we noted, would “continue to work with the USFWS on the details of the proposed options, including the preferred alternative.”

The Coalition offered four points for USFWS to consider. Our target audience was not solely USFWS, for we were also reminding DOE, the regulatory agencies and Congress of the Coalition’s position on key issues that were central to a safe and regulatory compliant cleanup:

1. *Support for the Refuge* – The Coalition reiterated its support for the Refuge, noting that while the seven Coalition governments disagreed on elements of the proposed management plan, the disagreement should not be interpreted in any way as a lack of support for the Refuge.
2. *Limit Access to DOE Retained Lands* – The Coalition reiterated its concern that USFWS was proposing to allow access to the Refuge without a clear plan for restricting access to DOE-retained lands. These DOE-retained lands hold the vast majority of the groundwater monitoring wells, settling ponds, caps, surface water monitoring stations

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<sup>20</sup> At the request of the city of Arvada and in an attempt to gain Arvada’s support for the bill, Senator Allard and Representative Udall included the following section in the final bill:

### **SEC. 3181. ROCKY FLATS MUSEUM.**

(a) MUSEUM- To commemorate the contribution that Rocky Flats and its worker force provided to winning the Cold War and the impact that such contribution has had on the nearby communities and the State of Colorado, the Secretary may establish a Rocky Flats Museum.

(b) LOCATION- The Rocky Flats Museum shall be located in the city of Arvada, Colorado, unless, after consultation under subsection (c), the Secretary determines otherwise.

(c) CONSULTATION- The Secretary shall consult with the city of Arvada, other local communities, and the Colorado State Historical Society on—

(1) the development of the museum;

(2) the siting of the museum; and

(3) any other issues relating to the development and construction of the museum.

(d) REPORT- Not later than three years after the date of the enactment of this Act, the Secretary, in coordination with the city of Arvada, shall submit to Congress a report on the costs associated with the construction of the museum and any other issues relating to the development and construction of the museum.

and other controls designed to implement and protect the site remediation. These areas will remain under DOE's jurisdiction and were to be off-limits to Refuge visitors. Through this point the Coalition reminded the parties that it was imperative that USFWS and DOE clearly plan how to restrict access to these lands prior to opening the Refuge for visitors.

3. *Additional Analysis Needs to Be Completed* – The Coalition reminded USFWS that DOE, CDPHE and EPA believed additional sampling of the Buffer Zone needed to be completed prior to the closure of Rocky Flats and transfer of jurisdiction to USFWS. We asserted that such sampling is essential for a number of reasons, “including but not limited to confirming that residual levels of contamination on the lands to be transferred to USFWS are protective of Refuge workers and thus of visitors.” While this requirement was driven by the regulatory agreement driving the cleanup and not the USFWS conservation planning process, the Coalition noted USFWS must take this information into account when finalizing decisions about public access to the Refuge.
4. *A Protective Cleanup* – The Coalition addressed an issue that still lingers today: how to proactively counter the critics who claim Rocky Flats presents a danger to future users. While the Coalition understood this issue was beyond the bounds of the CCP, given the nature of the current public dialogue, it was important to reiterate our position on this critical cleanup issue. We argued that “to suggest that the lands to be transferred will be dangerous to the community if the RFCA standard is met belies sound science and sound public policy,” and concluded by reiterating our commitment to ensuring that the cleanup be protective of human health and the environment.

Arguably, the Coalition's split recommendation on the Refuge CCP was the single issue on which we best reflected the divisions within the Rocky Flats community regarding the cleanup and future use goals of Rocky Flats. Community members, like the Coalition, were deeply divided on the best management alternative – some advocated earlier and greater access to the Refuge than USFWS was prepared to grant, while others raised deep concern about exposing future visitors to a site that they believed presented ongoing dangers to the community.

Yet, even without a consensus position the Coalition had served its role. Kemmis' ideal would be that the Coalition offer a formal recommendation, thus defining what constitutes the public interest. But in this circumstance we determined that it was better not to pursue consensus and offer a recommendation that would be reductionistic and represent only the lowest common denominator. We had fostered a dialogue amongst seven local governments and through our decision making process helped preserve the individual voices of the member governments. Jointly these actions helped to strengthen the ties that bound the Coalition, which is critical in developing and sustaining any coalition, while helping the decision maker (USFWS) better understand the competing community interests they needed to balance when adopting the conservation plan. We pursued an alternative model for coalition process and felt that on this issue it was actually more important that the decision and policy makers see the broad scope of varying concerns within the Coalition and its constituents.

The nature of the issue was such that a split on the issue, unlike with our work on the Refuge Act, was acceptable. The lesson learned was that an organization must be adaptable and know when the role of a coalition is to present a variety of perspectives versus when a consensus recommendation is vital.

### **Creating the Rocky Flats Stewardship Council**

Without question, the cleanup of Rocky Flats benefited greatly from the active involvement of the Coalition, the Rocky Flats Citizens Advisory Board (CAB), the Rocky Mountain Peace and Justice Center and many other groups over the years. The cleanup, which was completed in October 2005, significantly reduced risk to human health and the environment resulting from 50 years of weapons production. Yet, because the cleanup was based on the presumption that residual risk can be managed through a comprehensive post-closure monitoring and maintenance program, a top Coalition and community priority was the development and implementation of the site's post-closure stewardship plan.

The Coalition and the CAB largely agreed on the legal and physical systems DOE would need to ensure long-term protection of human health and the environment following the completion of the cleanup. As part of our work on long-term stewardship, the two organizations examined closely and discussed extensively the National Research Council's (NRC) August 2000 report to DOE on challenges facing implementation of stewardship at former weapons sites. Based on the conclusions of this report the Coalition and CAB believed the post-closure stewardship plan necessitated a comprehensive monitoring network, a binding regulatory agreement and ongoing community oversight of the federal and state governments' management of the site. Collectively we supported the NRC's conclusion that stewardship systems put in place by DOE and its partners needed to be redundant, and that the agencies needed to plan for failure – including mitigating the risks associated with lapses that were likely to occur. These needs were particularly important given the fact that small amounts of contamination would remain at Rocky Flats post-closure and that groundwater would need to be treated for the next 70 years or so.

The Coalition, in supporting a cleanup that relied on the ability of the federal government to manage the long-term risks, was acutely aware of the need to maintain local government and community oversight of Rocky Flats following the completion of cleanup and transition of the site to a National Wildlife Refuge. Therefore, in April 2003 the Coalition Board requested that I research and present to the Board options for developing a post-closure oversight and stewardship organization. This step was the beginning of the Rocky Flats Stewardship Council.

After a series of conversations with Coalition members, in November 2003 I traveled to Washington, D.C. and began discussing with DOE officials and Congressional staff the Coalition's idea of forming a post-closure organization. The pitch was simple – although Congressional support for the Coalition and other community organizations was waning, oversight of post-closure management of the site remained of great importance. Also, DOE would benefit from a community oversight organization because of DOE's increasing reliance on physical and legal controls to manage residual contamination at the various sites it deemed cleaned. Therefore, such an organization was clearly needed, but the idea was not to simply create yet another new DOE-funded organization. Rather, DOE and Congress should change the

Coalition – a tried and true entity – from its current make-up and focus into the first DOE-recognized post-closure organization.

Then, in January 2004 DOE’s newly-created Office of Legacy Management and the Senate Armed Services Committee staff began discussing new legislation which would create community-based post-closure stewardship organizations at Rocky Flats, Mound and Fernald (the latter two being Ohio sites also scheduled to close in 2006). All – DOE, Senate staff, Allard and Udall staff and the Coalition – agreed that the yet-unnamed and largely undefined organization would need to have broader membership than just the elected officials of the Coalition. The Coalition agreed but had one caveat: the elected officials wanted to hold the majority of the seats in the new organization. Their reasoning was that as elected officials they offered a higher level of accountability to the community than could a general community member-at-large. Following the direction set forth by the Coalition Board, I continued to work on the legislation as it moved toward Senate consideration, very conscious that one-year earlier the CAB’s Executive Director had rejected the idea of working together with the Coalition.

In late April, the legislation emerged from the Armed Services Committee as part of a much larger bill. Inexplicably, the legislation identified members of the organization – called a Local Stakeholder Organization (LSO) in DOE parlance – as “officers and directors of DOE.” Clearly, there was a drafting error, and one that had to be quickly changed. At the request of David Cherrington and Madelyn Creedon, Senate Armed Services Committee staff, I collaborated with Seth Kirshenberg, Executive Director of the Energy Communities Alliance, and rewrote the troubling provision. In our proposed re-draft, membership was, following established Coalition policy, instead defined as “elected officials and their designees”. Congress however rejected this idea and the final legislation read “elected officials or their designees”. Without further involvement of the Coalition and, more importantly, the Colorado delegation, by reading “or their designees” the legislation would have shut the door on community membership on the LSO, for elected officials were not prepared to delegate their responsibility to community members.

Only once the legislation cleared the Senate in late May 2004 did the CAB and others learn about it – and they were furious, believing that the Coalition had worked to exclude them from the process. They accused the Coalition of being opposed to open communication, of not valuing non-elected community members, of inadequately representing their interests. They argued vociferously that the Coalition should not drive the post-closure community involvement process. They were also furious at me, who they later disparaged in a December 2005 letter to DOE as the Coalition’s “chief lobbyist”.<sup>21</sup>

In a campaign to subvert the Coalition’s role in the new LSO, the CAB first wrote Senator Allard, the chief Senate sponsor, arguing that “a formal decision regarding the exact make-up of any future local stakeholder organization is premature.” On July 1, 2004, two members of the

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<sup>21</sup> What the CAB Board did not know was that in early 2003 their Executive Director had flatly rejected partnering with the Coalition. CAB staff argued that local governments have the means to fund a post-closure organization (levying taxes) while the community members did not. Only much later did it surface that CAB staff had not discussed the Coalition’s proposal with their board and that the CAB actually would have been willing to work with the Coalition under certain conditions.

CAB hastily formed an organization called “Citizens For A Rocky Flats Voice” and issued a press release stating their opposition to the pending legislation because it “looks like cities’ power grab” and was “federal legislation that would give the only future voice to a group of bureaucrats: elected officials of cities near Rocky Flats.” They went further, stating:

“Building trust is important, yet the action by Senator Allard and his apparent allies in city governments would weaken and perhaps destroy the trust in citizen participation built up over the past decade. It is undemocratic and un-American for any elected official to seek to eliminate opportunities for citizens to participate in conversations about the future management and use of the Rocky Flats site.”

The CAB elected to take a hard-line position in opposition to the pending legislation, and more importantly, to the role of the Coalition in the post-closure community group. They resorted to very vocal and negative statements in both the press and in policy statements. Ironically, it was the Coalition itself who had influenced the legislation and effectively preserved any opportunity for non-elected officials on the LSO.

Contrary to the CAB’s characterization of the Coalition, the Coalition remained steadfastly committed to including community members in the LSO and working collaboratively with them to define the mission and work plan for the new organization. The Coalition, through its staff, reached out to over 20 organizations and members of the community and found groups and individuals who were interested in both helping to define the purpose of the organization and in serving on the Board. Needless to say, because of the CAB’s aggressive and negative tactics, the Coalition was nervous about partnering with the CAB. Nonetheless, despite the CAB’s incessant attacks on our approach to reaching out to the broader community, in December 2004 the Coalition approached the CAB – first at a staff level and later at a board member level – and suggested developing a joint set of principles on the formation and management of the LSO. The idea was to highlight the depth of commitment and vision that the two organizations shared and broaden the definition and scope of the possibilities of coalition building. In doing so, it was the Coalition’s hope and expectation that any areas of disagreement between the two organizations could be outweighed by the areas of agreement, and that by approving a set of mutual principles we could better direct and shape the future course of the LSO. That idea was rejected by the CAB.

The Coalition was walking a tightrope as we sought to secure our role as the leaders in establishing the LSO, while also seeking to bring the CAB and other non-elected members of the community into our conversation and our process. We continued to take various steps to strengthen our position as the leader on LSO issues, while making sure we did not cross a line and lose the support of DOE and the Colorado Congressional Delegation. Towards this end, in April 2004, the Coalition’s Chairman (Shaun McGrath) and Executive Director traveled to Washington D.C. to meet with staffs from the Allard, Salazar, Udall and Beauprez offices. The message was simple: either the four Congressional offices needed to publicly back the Coalition’s attempt to drive the process and include non-elected community members on the LSO board, or the four offices needed to jointly write DOE to explain their expectations regarding membership. Regardless of the approach taken, the four offices, we believed, needed to publicly weigh-in on issues regarding membership and to present a united front.



Two weeks later in a letter to the Secretary of Energy, Samuel Bodman, dated April 26, 2005, Senators Allard and Salazar and Representatives Udall and Beauprez wrote “local governments should be a significant majority in the local stakeholder organization ....” The Coalition and these Members of Congress were officially on the same page regarding membership on the LSO – and the CAB, which had been advocating for equal seats for elected officials and non-elected community members, found itself on the short end of a philosophical divide. With Congress’ backing, the Coalition’s role as the leader on this issue was solidified.

Two months later, in a letter dated June 27, 2005, DOE requested the Coalition take the lead in developing a plan to address how the main activities required by the LSO’s authorizing legislation would be carried out, and the approach DOE should take in identifying community organizations and individuals to serve on the LSO. Again, the CAB objected – but to no avail.

Between the August 2005 Coalition Board meeting and the January 2006 meeting, the Coalition took a number of steps to establish the LSO:

1. Developed a work plan for approval by DOE
2. Communicated with Congress and the press the details of the work plan and process for garnering public input into the plan
3. Identified other local governments that could serve on the LSO, ultimately agreeing to ask both the city of Golden and the city of Northglenn to join
4. Identified, via a public application process, non-elected community members to join the LSO
5. Signed an intergovernmental agreement amongst the nine local governments, which provides the legal basis for establishing the organization under Colorado law.

Throughout the process it became clear that support for the CAB, the dominant community voice in the 1990s until the formation of the Coalition in 1999, was quickly waning. The Coalition, as Tom Marshall of the Peace Center who served on the CAB for many years had feared in 1999 (see “**Background**”), had usurped the influence of the CAB and other community organizations. It is hard to discern how much of this change resulted from the CAB’s actions and how much it was a result of the Coalition’s strategic efforts to bring together the collective voice of seven governments representing nearly 800,000 people. Although it is hard to either qualify or quantify, it appears that the CAB’s attacks on the Coalition and DOE, and to a lesser degree the Colorado Congressional delegation, helped strengthen support for the Coalition taking a leadership role, a role that was central in creating the LSO.

In general the Coalition had become the more effective collaborative visioning organization for representing the public interest. Throughout its history the Coalition tackled the hard questions highlighted throughout this report – how to address issues of trust, how to establish effective communication and influence channels, how to integrate change and yet maintain continuity, how to use dissension to an advantage – and in the end it proved the more enduring organization. In seeking to ensure a seat at the table for non-elected members on the Rocky Flats LSO, the Coalition also demonstrated that to be successful and enduring a coalition must know when to broaden and incorporate even more disparate voices within the community. Unfortunately the CAB could not engage in this model of coalition-based policy making, and the community lost that voice in the Rocky Flats post-closure debate.

In the end, the LSO, now called the Rocky Flats Stewardship Council, does have broader community support than one might have expected. Membership includes the seven original Coalition governments, as well as the cities of Golden and Northglenn, the League of Women Voters, the Rocky Flats Cold War Museum, the Rocky Flats Homesteaders (a site retiree group), and Ken Foelske, a community member.

The mission of the Rocky Flats Stewardship Council is:

1. To provide continuing local oversight of activities occurring at the Rocky Flats site, and to ensure that local government and community interests are met with regards to long-term stewardship of residual contamination and Refuge management.
2. To provide a forum to track issues related to former site employees, including but not limited to long-term health benefits and pension programs.
3. To provide an ongoing mechanism to maintain public knowledge of Rocky Flats and to educate successive generations of ongoing needs and responsibilities regarding contaminant management and Refuge management.
4. To provide an ongoing forum to address all other issues pertinent to Rocky Flats, as determined by the Stewardship Council Board of Directors.

The first Stewardship Council meeting was March 6, 2006. It immediately followed the final Coalition meeting. And so, the story of the Coalition ended with another beginning.

In the end, the challenge for the Coalition in achieving its post-closure stewardship goals was maintaining focus and vision while weathering the consistent challenges from the CAB. At any point the coalition that existed between DOE, Congress and the Coalition could have withered under this public and political assault. Instead, as is critical in any coalition-based process, the partners used the tension to galvanize and strengthen their mutual vision. Much to my personal frustration, the CAB never acknowledged the Coalition's hard work on the issue of post-closure stewardship. The LSO was a Coalition brain-child and we effectively collaborated with DOE and Congress to bring it to fruition. We also worked proactively with Senator Allard to secure \$500,000 in federal appropriations for the new organization. We did not rely on local governments levying taxes, as was suggested we should do, but kept in focus the necessity of the federal government's continuing financial support of the communities who will oversee long-term management of Rocky Flats.

## **Funding Battles: The Never-Ending Headache** **The Price of Building a Coalition and Achieving a Common Vision**

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The story of the Rocky Flats Coalition of Local Governments is exciting and should prove valuable for any group considering pursuing a coalition-based approach to protecting and promoting the public interest. Yet, any vision comes at a price, and every coalition requires a tenacious (and sometimes frustrating) commitment to raising funds. Although the Coalition was comprised of seven governments, the organization was highly dependent on DOE monies to support the operations budget. Member contributions were largely limited to small amounts necessary to allow the organization to lobby Congress without running afoul of federal regulations prohibiting federal grant recipients from using those funds to lobby. In order to raise operating funds the Coalition needed to build strong support within both DOE and Congress.

The Coalition was fortunate that its predecessor organization, the Rocky Flats Local Impacts Initiative (RFLII), helped secure for the Coalition a \$250,000 grant from CDPHE to focus on long-term protection issues. RFLII also provided the Coalition with close to \$240,000 it had raised from DOE but did not spend. These monies proved critical over time as federal dollars alone could not meet the Coalition's annual fiscal needs.

There were numerous times that DOE committed to providing the Coalition with \$250,000-\$300,000 per year but later reneged in whole or in part. For example, in June 1999, shortly after the Coalition was established, DOE informed us that it had diverted \$500,000 previously committed to the Coalition to a community organization in South Carolina – a state whose key senator was senior to Colorado's. Politics was clearly the game, especially given the fact that the DOE official was a former Congressional staffer. I explained in no uncertain terms that DOE had 48 hours to find the monies they had committed before the Coalition placed a call to our Congressional delegation. Thankfully (or perhaps wisely) 48 hours later DOE found the monies.

In another instance in July 2001, soon after one DOE office reduced its commitment from \$250,000 to \$100,000, another DOE office backed down on its commitment to provide the Coalition with \$120,000 to support our work on long-term stewardship. Ostensibly their reasoning for denying the \$120,000 was that they thought the DOE-Rocky Flats manager opposed Headquarters providing the Coalition with this specific grant. A short phone call to the Rocky Flats manager quickly reversed that decision.

Of all the battles, one incident warrants an in-depth discussion – the battle for funding in 2004.

In early 2004, ten of my colleagues who ran community/economic development organizations in communities neighboring other DOE nuclear weapons facilities arrived in Sarasota, Florida for our final winter meeting. These organizations, like the Coalition, were designated by DOE as "Community Re-use Organizations" (CROs). Our collective mission was to help DOE

implement Section 3161 of the “Fiscal Year 1993 Defense Authorization Act”.<sup>22</sup> This section of the Act came into being a few years after the end of the Cold War when DOE decided to close or otherwise reduce the scope of its mission at numerous weapons facilities. In 1993 Congress, led by Senator John Glenn and Representative David Skaggs, approved legislation to help workers

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<sup>22</sup> National Defense Authorization Act for Fiscal Year 1993, (Public Law 102-484, Oct. 23, 1992), SEC. 3161. DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITIES WORK FORCE RESTRUCTURING PLAN (selected sections)

(a) **In General.**--Upon determination that a change in the work force at a defense nuclear facility is necessary, the Secretary of Energy (hereinafter in this subtitle referred to as the "Secretary") shall develop a plan for restructuring the work force for the defense nuclear facility that takes into account--

- (1) the reconfiguration of the defense nuclear facility; and
- (2) the plan for the nuclear weapons stockpile that is the most recently prepared plan at the time of the development of the plan referred to in this subsection.

(b) **Consultation.**--(1) In developing a plan referred to in subsection (a) and any updates of the plan under subsection (e), the Secretary shall consult with the Secretary of Labor, appropriate representatives of local and national collective-bargaining units of individuals employed at Department of Energy defense nuclear facilities, appropriate representatives of departments and agencies of State and local governments, appropriate representatives of State and local institutions of higher education, and appropriate representatives of community groups in communities affected by the restructuring plan.

- (2) The Secretary shall determine appropriate representatives of the units, governments, institutions, and groups referred to in paragraph (1).

(c) **Objectives.**--In preparing the plan required under subsection (a), the Secretary shall be guided by the following objectives:

- (1) Changes in the work force at a Department of Energy defense nuclear facility--
  - (A) should be accomplished so as to minimize social and economic impacts;
  - (B) should be made only after the provision of notice of such changes not later than 120 days before the commencement of such changes to such employees and the communities in which such facilities are located; and
  - (C) should be accomplished, when possible, through the use of retraining, early retirement, attrition, and other options that minimize layoffs.
- (2) Employees whose employment in positions at such facilities is terminated shall, to the extent practicable, receive preference in any hiring of the Department of Energy (consistent with applicable employment seniority plans or practices of the Department of Energy and with section 3152 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1682)).
- (3) Employees shall, to the extent practicable, be retrained for work in environmental restoration and waste management activities at such facilities or other facilities of the Department of Energy.
- (4) The Department of Energy should provide relocation assistance to employees who are transferred to other Department of Energy facilities as a result of the plan.
- (5) The Department of Energy should assist terminated employees in obtaining appropriate retraining, education, and reemployment assistance (including employment placement assistance).
- (6) The Department of Energy should provide local impact assistance to communities that are affected by the restructuring plan and coordinate the provision of such assistance with--
  - (A) programs carried out by the Department of Labor pursuant to the Job Training Partnership Act (29 U.S.C. 1501 et seq.);
  - (B) programs carried out pursuant to the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990 (Part D of Public Law 101-510; 10 U.S.C. 2391 note); and
  - (C) programs carried out by the Department of Commerce pursuant to title IX of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3241 et seq.).

(d) **Implementation.**--The Secretary shall, subject to the availability of appropriations for such purposes, work on an ongoing basis with representatives of the Department of Labor, work force bargaining units, and States and local communities in carrying out a plan required under subsection (a).

and communities mitigate the impacts resulting from reductions in former DOE weapons site workforces.

Section 3161, as implemented by DOE, evolved into two related (but sometimes competing) programs: (1) develop workforce transition programs, including providing workers with federal assistance payments, and (2) develop and fund community organizations to help assist DOE transition weapon sites in a manner that the sites become/remain an asset for the community. The Coalition, like the other CROs, was funded to assist with the latter program.

All CROs, with the exception of the Coalition, were economic development organizations, for in most communities with DOE sites, ensuring the site remained a continuing asset meant some form of economic development or re-use. Rocky Flats, however, was unique because the site sat in the middle of a major metropolitan area; so, while the region might feel the effects resulting from the loss of over 6,000 jobs at the site, the economic impact from the site closing would have a lesser impact than in other communities. Therefore, for the Coalition, community transition meant cleaning up the site in a manner and to a level that protected off-site interests and facilitated its transition to a National Wildlife Refuge.

The Coalition re-use plan thus focused on the three issues that frame this report:

1. How Do We Get To Closure?
2. What Do We Need At Closure?
3. What Do We Need Post-Closure?

This approach was fundamentally different from the work of our sister organizations at other DOE facilities. Yet, when the Directors met annually in Florida we were very aware of the common interest we all shared – without DOE funding to implement all facets of Section 3161, none of us would be in business and Congress' intent would be thwarted.

So, when we met in January 2004 DOE's top official charged with managing the 3161 program told us the bad news. Despite specific Congressional appropriations to fund the community transition program, DOE had decided to stop funding the CROs. It did not matter that months earlier DOE had informed most of the CROs that they would be getting \$250,000 for 2004. It did not matter that Congress had provided DOE with the funds necessary to meet these obligations. DOE had already decided to use 2004 monies intended for community transition activities to fund workforce programs in 2005.

When we started to push back, DOE countered with a specious claim – if they funded the CROs in 2004, they would not have monies for the workers in 2005 and the blame would lie with us. The line was drawn and the only question was whether the CROs would challenge DOE and muster the fortitude to call its bluff. Two of us did.

Typically fundraising is tedious work that is often overlooked, and in the Coalition it was the Executive Director's role to raise the needed operating funds. In 2004, in order for the Coalition to maintain its federal funding for another year, it became critical that we pull out all the stops and put fundraising on the radar screen – and it was also important that I respond immediately

without waiting to create a formal position of the Board at our next meeting. So, with the Board's support, I began developing and implementing a strategy to reverse DOE's decision.

On the way back to Denver I placed a call to Senator Allard's Chief-of-Staff. Without hesitation he agreed to provide any help he could. I next called Representative Udall's Senior Legislative Counsel, one of my co-workers when I worked for Representative Skaggs, and let him know I might need help. He also agreed to help in any way he could. I then called Representative Bob Beauprez's Colorado staffer charged with focusing on Rocky Flats issues and solicited her help; she immediately placed a call to DOE. I then began feeding information to the press, letting local reporters know that DOE had reneged on its promise and that without these federal dollars the Coalition would be forced to close the office prior to completion of cleanup activities. Meanwhile, Allard and Udall began expressing their concerns to DOE.

At the February 2, 2004, Board meeting, I briefed the Board on the issue. They again supported the direction I was heading. Udall, who attended the meeting, pledged his support as well.

I did not stop there. I knew DOE-Rocky Flats and CDPHE highly valued working with the Coalition, and I trusted they would help put pressure on DOE-Headquarters to help reverse this decision. I asked for letters of support that the Coalition could share with DOE officials in Washington, D.C. Both agencies agreed. The DOE-Rocky Flats' manger wrote to DOE-Headquarters, stressing the ongoing importance of the Coalition:

“For the last several years the Coalition has played a key leadership role in advising the Site on cleanup and post-closure management issues. The Coalition has worked with DOE and contractor staff, has provided thoughtful and insightful feedback on our proposals, has participated vigorously in the public comment periods for our cleanup documents, and has provided valuable advice to help our cleanup be both better for the community and achieve greater acceptance. As a result the Site is fortunate to enjoy a great deal of community support for our cleanup. This support has been essential to our success thus far in meeting our cleanup goals under cost and ahead of schedule.”

This strategy went according to plan but with one exception – the press stories exceeded my expectations. Both local press and a trade journal in Washington, D.C. picked up the story. The highlight came on February 12, 2004, when the *Denver Post* ran an editorial calling on DOE to continue to fund the Coalition. The editorial, entitled “*Keep Close Eye on Rocky Flats*”, highlighted the importance of the Coalition in maintaining oversight of Rocky Flats:

“Political visibility and attention also will be important to ensuring that Uncle Sam keeps his word at Rocky Flats. . . . The most effective organization in this regard is the Rocky Flats Coalition of Local Governments. . . . In the future, the DOE might be tempted to shrug off the concerns of the other citizens' groups interested in Rocky Flats, but it can't ignore the united voice of the area's elected leadership. . . . To the feds, a quarter of a million dollars is peanuts, but to the affected communities it's a lot of money. Local governments can't afford the tab. . . . Frankly, the U.S. government's credibility is at stake. . . . By honoring its

promises to Colorado, the federal government would signal other states that the DOE can be trusted and that they can, like Colorado did, find cooperative solutions to extraordinarily difficult environmental problems.”

Finally, six weeks after the meeting in Florida, DOE reversed its decision, but only after confiding to me that they were stunned by my response to their decision to terminate funding. They asked that I cease Congressional pressure that had been brought on their office and that I stop the press assault.

This battle over funding speaks again to the reasons why the Coalition was ultimately successful: we worked in a manner that added value to the cleanup, worked hard to ensure that we maintained a close relationship with the Colorado Congressional delegation, and placed great importance on the partnership that developed between the Coalition, DOE-Rocky Flats, EPA and CDPHE. Our success was not attributable to always advocating the same interests or seeing eye-to-eye on how to best address the numerous technical and policy issues on which we engaged; rather, our success in getting DOE to reverse its decision was indicative of the important role the Coalition had created when we opened our doors in 1999 with an uncertain future.

## Section III – Conclusion

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On March 6, 2006, the Rocky Flats Coalition of Local Governments closed its doors for the last time. Its seven-year history had come to an end. The Rocky Flats cleanup was complete and it was time to transition to the Rocky Flats Stewardship Council.

Senator Ken Salazar honored the Coalition by placing in the *Congressional Record* a statement praising the work of the Coalition:

“The Rocky Flats Coalition of Local Governments created a forum for governments and elected officials to come together to proactively discuss and address extremely complex issues and contributed to a rapid, successful, and cost effective resolution. The Rocky Flats Coalition of Local Governments has shown us by example what can be accomplished through effective advocacy expressed in a spirit of cooperation. . . . For their devoted advocacy of the interests of fellow citizens, for the work they have done to ensure the safe and thorough cleanup of the Rocky Flats weapons facility, for the example that they have given us of what can be accomplished when governments work together, and for the tremendous success they have helped to achieve at Rocky Flats, I offer my sincere thanks and congratulations to the members of the Rocky Flats Coalition of Local Governments.”<sup>23</sup>

As the Senator recognized, we had accomplished our goal. We had brought together seven governments with differing agendas, differing ideas about what a successful cleanup would entail and differing goals regarding the future use of the site. And despite the fact that many times the Coalition peered over into the void of self-destruction, it never succumbed.

Difference and divisions, which could have wrought havoc and were often present, became essential. These differences brought the issues out so that they were not masked politically, allowing discussions to focus on the issues themselves and not the politics surrounding the issues. And in the end we knew, despite concerns to the contrary, DOE had taken us seriously. DOE, like many others, understood firsthand the value the Coalition brought to the process. It understood that in standing up for the Coalition they had stood up for something bigger than an individual entity. With all of the fits and starts, with warts and all, by standing up for the Coalition, DOE, Kaiser-Hill, the regulators, Congress and the member governments were standing up for the principle that our political and regulatory systems could work, that we could bring together these different parties and solve complex issues.

Exactly how much the Coalition affected the process is hard to discern. What we put in writing was the tip of the iceberg and what is written in this report is a slice of a complex set of relationships. Yet, I and many others remain confident that but for the Coalition, issues would

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<sup>23</sup> Congressional Record, March 6, 2006, S. 1787-1788. The full statement is reprinted in Appendix A.



have been significantly more difficult to resolve or would have been resolved without the scrutiny and benefit of the cooperative efforts of seven local governments. Had there not been a Coalition, local government influence and vision would have been limited, leaving each to work on an individual and case-by-case basis, being more reactive than proactive.

The Coalition was involved. We asked the hardest questions based on what we knew. Without the Coalition, the local governments would not have been able to engage in that manner, would not have had such a powerful seat at the table, would not have had the formal and informal partnerships that were critical to revising the cleanup standards, to passing the Refuge Act, to establishing ongoing local government oversight. Without the Coalition some governments might have tried the squeaky wheel approach, but such action is a far cry from the collective efforts and vision of an empowered coalition of local governments.

The Coalition truly became a coalition. We found ways to support one another, to compromise, to learn how to agree and disagree without being disagreeable. By the Coalition coming together in the manner it did and DOE and its partners substantively engaging with us, we proved that Dan Kemmis' approach to decision making was not simply workable but necessary. The Coalition tackled the hard issues – building trust, establishing effective channels to communicate issues and influence decisions, integrating changes to the organization and yet maintaining continuity, and using dissention to an advantage – and in doing so we represented the community interest.

The model we followed should be appropriated for other uses. As Representative Udall commented at the final Coalition meeting, this model – our model – can be used to address state-wide challenges: health care, land management, tax issues. What it takes is foresight, commitment, tenacity, patience and a desire to work regionally and to partner, recognizing that true partnership requires individual commitment to a greater collective good. Most of all it requires a willingness to face adversity in pursuit of the best outcome possible for the larger community.

**Sweet are the uses of adversity,  
Which like the toad, ugly and venomous,  
Wears yet a precious jewel in his head;  
And this our life, exempt from public haunt,  
Finds tongues in trees, books in the running brooks,  
Sermons in the stones, and good in every thing.**  
(William Shakespeare, "As You Like It")

# Appendix A – Recollections

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## Tom Brunner

After spending nearly 25 years involved with Rocky Flats, both as an elected official and working at the site, I can say that near the end I was suffering from Rocky Flats overdose. A clean up project of this magnitude and an aggressive schedule was met with a healthy dose of skepticism.

The vision of a cleaned up former nuclear weapons plant was difficult to comprehend. My indoctrination to the political side of Rocky Flats came as a member of the Rocky Flats Local Impact Initiative (RFLII). The question of what to do with a former nuclear weapons plant was the first question poised early on to RFLII members. Redevelopment, workers losing jobs and communities losing revenues were just a few of the issues RFLII members were dealing with. It is often prudent to look to others who have dealt with similar situations. No need to reinvent the wheel was an axiom that didn't ring true...the wheel hadn't been invented yet. A total clean up of the site was not on the table for some time to come.

The makeup of the RFLII was quite diverse. Peace groups, political entities, environmentalists, economic development, State and Federal regulators and citizen volunteers all had different views on final disposition of the site. Visions of economic development were spawned when it was announced that the Department of Energy would bring the National Conversion Pilot Project to the site. Building waste shipping containers would be the perfect anchor to start redevelopment. Others felt that any new development on the site was foolhardy. In the end, redevelopment was not to be, that effort may have jeopardized the ultimate goal...Clean it up and make it safe.

With the issue of new development off the table, the RFLII would morph into the Rocky Flats Coalition of Local Governments (RFCLOG). That transformation gave a different look to the board and a new mission. Groups that were for or against earlier plans on what to do at the site, although still interested, their issues had largely gone away. There was now in theory a single mindset, *get the plant cleaned up*. I was honored to chair for the first year. The behemoth task before us was daunting, and there was still some spillover friction left from the RFLII debates. One thing was clear, a splintered voice to the policymakers in Washington D.C. on what the citizens surrounding the plant wanted, would be disastrous to an already tight budget. Congress was under fire for ballooning public projects that neither came close to being on budget or on time. The Department of Energy (DOE) needed a success story and their hopes were riding on Rocky Flats. An incentive based contractor contract was new to DOE and Rocky Flats. Performance and safety was the key to contractor payments. Kaiser-Hill would oversee the cleanup with a majority of the work being conducted by the already trained nuclear workers that were there from the plants production days.

As expected, the Coalition faced many challenges during the clean up process. The fine line between, “focus on the big picture” and “the devil is in the details” was like walking a tight rope. Lobbying efforts with a united voice were presented to policymakers in Washington, D.C. Here at home, disagreements on clean up strategies were common. Seven local governments needed to work through issues to keep the cleanup moving forward. Fiscal reasonability was an underlying theme. The budgets continued to be funded at sufficient levels and it was paramount that those funds were spent wisely. Trust between the coalition members, the contractor and the DOE did not come easily. The shroud of secrecy in the name of national security was a hard habit for the DOE to break. With the end of the cold war and the subsequent decision to end production, that veil began to lift.

Members of the Coalition were granted access to the plant, it was clear that the road would be long and arduous. An entire town would have to be disassembled and hauled away. There were no road maps to follow, most of the work was unique and a project of this scale had never been attempted. The principles needed to learn to work within the budget; a blank check was not realistic. Compromises needed to be made. Soil action levels, remaining foundations and infrastructure; a left over landfill, was just a few issues that required cooperation.

I would be remiss in not mentioning that the clean up effort at Rocky Flats was accomplished with many individuals and groups working together. First and foremost were the dedicated workers who, despite working themselves out of a job, were diligent and initiative in their efforts. It was always my belief that the state and federal regulators, and DOE officials were partners, not foes, to the Coalition. On a personal note, I would like to acknowledge some individuals that were important to me during this effort. My colleagues on the Coalition were a delight to work with, their dedication and passion was inspiring. The heavy lifters for me were the staff from the City and County of Broomfield. Mike Bartleson, Shirley Garcia and Tim Holmen were indispensable. The group chose David Abelson as the executive director for the Coalition. A coup for the organization, David far exceeded our expectations and was the glue that held the Coalition together and moved us in the right direction. Gary Brosz and Lori Cox took the reins after my tenure was over, thanks for your oversight seeing the project to conclusion. And finally my appreciation to fellow council member and mentor Hank Stovall. If any one individual will leave a mark on Rocky Flats, it will be Hank. His tireless efforts were a big factor in the successful clean up...thanks for all you did Hank.

Were the goals of the community met? I would hope that is the case. A pristine cleanup was unrealistic. Issues may arise in the future and policymakers dealing with those issues may wish more was done during the initial clean up. I hope history will confirm that best practices at the time and the confines of budgets will prove the clean up of Rocky Flats to be the success story the DOE was looking for.

*Tom Brunner served as a city council member and Mayor Pro-Tem for the city and county of Broomfield from 1993 to 2003.*

## **Mary Harlow**

### **History of Coordinator Position**

Councilor Sam Dixon, City of Westminster, was the Council point person on Rocky Flats issues and served in that capacity for many years. Meetings related to the site and its future were increasing and Councilor Dixon found it difficult to attend them all and perform her council duties. Sam requested that Council provide her with a part-time staff person to attend the Department of Energy and other meetings, as well as become an alternate to her on the Rocky Flats Local Impacts Initiative. During this time period the mission of Rocky Flats changed from weapons production to the Rocky Flats Environmental Technology Site. Cleanup and closure was the new mission. Meetings increased exponentially and the Council determined that a full time Rocky Flats Coordinator position was needed to read technical documents and provide input, attend meetings and provide council with updates.

### **Cities Working Together Prior to the Coalition**

The cities of Westminster and Broomfield formed a strong coalition in order to address the surface water contamination issues that affected both cities' water supplies. This contamination was brought to light as a result of the FBI raid on Rocky Flats and the environmental crimes that surfaced as a result. The cities were unaware that the Department of Energy was allowing contamination to flow off site in both the Walnut and Woman Creek drainages. Broomfield required a new drinking water supply and Westminster required a diversion reservoir (Woman Creek Reservoir) to be built offsite in order to divert the flows from Woman Creek into Standley Lake. The trust in the DOE that the cities formerly had was challenged as a result of these events. Congressman David Skaggs and his staff (David Abelson) worked closely with the cities and through successful lobbying efforts by both Westminster and Broomfield both cities requirements were met.

Since the cities of Northglenn and Thornton also received water from Standley Lake they also were involved in obtaining the diversion reservoir. The three local governments comprise the Woman Creek Reservoir Authority and have a post closure interest in long-term stewardship.

As a result both cities closely monitored all DOE activities at the Site. Kathy Schnoor was the point person for Broomfield and Mary Harlow (Rocky Flats Coordinator) was the point person for Westminster. Because of the effectiveness of the Westminster Coordinator position, the city of Arvada hired Carol Lyons as Coordinator and Broomfield hired Shirley Garcia. Mary's expertise lay in water quality issues, Carol had experience in air quality and Shirley was a former Rocky Flats worker with extensive experience in hazardous material cleanups.

Coalition staff, other than the Director, came on board with little knowledge of the history of Rocky Flats and its issues. The general tendency was to trust the Department of Energy because it was a federal agency. The city of Westminster realized the importance of questioning and reading cleanup technical documents thoroughly in order to determine the adequacy of any DOE proposal 'the devil was always in the details.' Also, each local government had its own history and issues related to the cleanup that the Coalition staff would not be aware of. Although the Executive Director wanted total control of the local government staff, and to speak as the only voice of the local governments involved in the Coalition, this could not be accomplished because

of the complex nature of the issues some governments brought to the table. At best the Directors role was one of a mediator and a consensus builder between all parties involved.

### **Funding**

Because the Coalition wanted to be independent of any DOE influence, each local government contributed to the startup fund for the Coalition. RFLII provided the Coalition with leftover funds, however they were used for special studies.

### **Coalition History**

Councilor Dixon and Rocky Flats Coordinator, Mary Harlow, as well as then-Director of Public Works and Utilities, Ron Hellbusch, determined that the city was not getting enough detailed information from the Department of Energy through Citizen Advisory Board meetings. As a result Westminster began hosting monthly public meetings with DOE, CDPHE, EPA representatives in attendance. Detailed cleanup information as well as an opportunity for elected officials to ask informative questions was provided at these meetings.

Local governments including the city of Denver were invited to attend. Westminster, Broomfield, Arvada and Boulder were regular attendees. After nearly a year of meetings and with the demise of RFLII, the local governments decided that putting together a Coalition of Local Governments to speak with one voice on Coalition issues was the next step. The city of Arvada hosted the first organizational meeting. The meetings continued for several months with the seven local governments taking turns hosting. By-Laws were put together and an Executive Director was selected. David Abelson had prior Rocky Flats experience with former Congressman David Skaggs and the local governments were desirous of obtaining a director that could "hit the road running." David had exceptional organizational qualities.

### **Coalition Bylaws:**

The bylaws drawn up by the Coalition are unique for several reasons:

1. The bylaws call for each local government to have an elected official and alternate, and a staff representative. The staff representative was allowed to vote if neither official was present. Local government staff, especially the Coordinators, played an important role in gathering information, reading highly technical documents and providing elected officials with recommendations and discussion points for Coalition meetings. Westminster and Broomfield were significant players in the cleanup due to the impacts that their citizens had already endured to the migration of offsite contamination in waterways. Coordinators met regularly with their City Managers and other pertinent government staff to formulate position statements.
2. Election of officers was completed in a unique manner. Every local government had an opportunity to serve as chair. Officers served for one year. The vice-chair would move up to chair and the name of another local government representative was drawn out of a hat to serve as vice chair. Electing officers in this manner helped to remove politics from the process.

3. Each local government reserved the right to provide comments outside of the Coalition's recommendations if the entity felt that the issue had direct bearing on their city and needed further comment. This item is important as it retains the autonomy of the city and does not vest total power in the Coalition.

*Mary Harlow served as the city of Westminster's Rocky Flats Coordinator from 1996 through 2001. In this capacity she served as an Alternate Director on the Coalition from 1999 through 2001*

## **Senator Ken Salazar**

**Congressional Record: March 6, 2006**

### **HONORING ROCKY FLATS COALITION OF LOCAL GOVERNMENTS**

Mr. SALAZAR. Mr. President, I wish to honor and celebrate the accomplishments and service of an outstanding civic organization, the Rocky Flats Coalition of Local Governments. Having accomplished its task of working with Federal and State officials to transform Rocky Flats from a nuclear weapons facility to a wildlife refuge, the coalition will cease to exist on March 6, 2006. It is fitting that we pause to reflect on and to learn from the record of service and success of the governments and people of this coalition.

The Rocky Flats Coalition of Local Governments was established in February 1999 by agreement of the seven local governments that neighbored the Rocky Flats nuclear production site in central Colorado – Boulder County, Jefferson County, the city and county of Broomfield, the City of Arvada, the City of Boulder, the City of Westminster, and the Town of Superior. The coalition was formed to serve as the representative of these local communities and to advise the State and Federal governments in the cleanup and closure of Rocky Flats and the future use of the site.

Since its inception, the coalition has provided an effective vehicle for communities to work together on issues such as workforce safety, outreach, and advocacy, as well as future use and long-term stewardship of the site. The Rocky Flats Coalition of Local Governments created a forum for governments and elected officials to come together to proactively discuss and address extremely complex issues and contributed to a rapid, successful, and cost effective resolution. The Rocky Flats Coalition of Local Governments has shown us by example what can be accomplished through effective advocacy expressed in a spirit of cooperation.

As Colorado's attorney general, I worked closely with the coalition to refine cleanup standards to better match community interests. Together, we developed strategies to address long-term management needs of Rocky Flats, issues concerning mineral rights, and other concerns central to the protection of Rocky Flats as an asset for future generations. The coalition also worked with Senator Allard and Congressman Udall in developing and securing the passage of The Rocky Flats National Wildlife Refuge Act of 2001, one of their most significant achievements, and a milestone in the history of the Rocky Flats cleanup.

I rise today not only to recognize the Rocky Flats Coalition of Local Governments but also to celebrate the successful completion of its work and to acknowledge the significance of the coalition's accomplishments to the State of Colorado and to the Nation. The site has come a long way since the closure of the weapons plant that once stood there. After years of cleanup, hazardous material disposal, and rehabilitation, the Rocky Flats nuclear weapons facility is well on its way to becoming the Rocky Flats National Wildlife Refuge.

The dissolution of this coalition coincides with the completion of the physical cleanup and the beginning of the process to transfer oversight over much of the site from the Department of

Energy to the U.S. Fish and Wildlife Service. As the focus of efforts shifts from cleanup to future management, the members of the coalition now join with other local governments, organizations, and individual representatives to form the Rocky Flats Stewardship Council, which will continue local oversight of post-closure plans for the site. The Stewardship Council will facilitate ongoing discussion between Federal and local officials and will ensure that the best interests of Colorado citizens will be served as Rocky Flats makes its transition to wildlife refuge.

For their devoted advocacy of the interests of fellow citizens, for the work they have done to ensure the safe and thorough cleanup of the Rocky Flats weapons facility, for the example that they have given us of what can be accomplished when governments work together, and for the tremendous success they have helped to achieve at Rocky Flats, I offer my sincere thanks and congratulations to the members of the Rocky Flats Coalition of Local Governments.



## Steve Gunderson

Rocky Flats and the issues surrounding it were part of my job responsibilities for over fifteen years, from 1990 through 2005. Until January 1998, the major Rocky Flats issue that I was involved with was emergency planning and preparedness related to risks at the Site and from radioactive waste shipments from the Site. From January 1, 1998 through mid-July 2005, I was the State's Rocky Flats Project Coordinator. In that capacity, I found myself entirely consumed and preoccupied with the world of Rocky Flats, as did so many others.

My first visit of the former Rocky Flats plant occurred on a hot June afternoon in 1990, one year after the FBI/EPA raid that curtailed production operations. I was part of a bus tour by Site personnel and state agency officials, who were evaluating potential risks to the public from the large volumes of hazardous materials stored at Rocky Flats at that time. The tour entailed inspecting the storage of these toxic chemicals, including in the Protected Area. I distinctly recall seeing large numbers of Site workers basically standing around. Some made derogatory comments directed at the people from our tour as they inspected the labels on tanks and drums. You could feel the work force frustration and resentment over the indefinite suspension of operations.

A year or so later, I was part of another tour in the Protected Area, this one being a tour by the news media of Building 559, the plutonium lab. This building was one that was considered to be critical to the resumption of nuclear weapons production. Again, I was struck by the number of workers who seemed to be "hanging out" with nothing to do. Of course, resumption of weapons production never happened.

Those early visits contrasted sharply with observations made during the last few years of the cleanup of Rocky Flats. In those final years, you never saw workers simply "hanging out". The level of activity that you saw at the Site was almost overwhelming. Work was going on everywhere. The transition of the work force culture from the early 90s was absolutely complete.

I am very proud to have played a role, however small, in that transition from a plant placed on hold and without a clear mission, to a Site being cleaned up and closed. It will definitely be one of the high points of my career. However, my Rocky Flats responsibilities were never easy, and I often dreamed about when and how those duties would end. Given the controversial nature of so many of the Rocky Flats issues, working on them as a regulator often seemed like working in a fish bowl. Everything you did was under scrutiny and subject to intense criticism. When I accepted the job of RFCA Project Coordinator, I knew that interfacing with elected officials, local government officials, and activists would be part of my job. However, I underestimated the level of effort that working with what we regulators call stakeholders would require, as well as how much emotional energy that work would consume.

Needless to say, the Rocky Flats Coalition of Local Governments was a focal point of these stakeholder interactions. Like dealing with the Rocky Flats Citizens Advisory Board, I sometimes found Coalition meetings to be frustrating, contentious, and adversarial. Nonetheless, I considered the forum for dialog that was created by the Coalition to be essential to the decision

making process for cleaning up and closing Rocky Flats. The Coalition played a critical role in getting a better and smarter cleanup.

As elected officials, the Coalition could take some actions that would be difficult to do as a representative of a governmental agency. Most notably, the Coalition would frequently seek support from the Congressional delegation concerning a particular position relative to Rocky Flats, especially with respect to assuring that adequate funding be provided to complete the cleanup. The significance of this effort to the successful closure of Rocky Flats is probably substantial. Based on my observations, Colorado's Congressional delegation paid close attention to the Coalition's perspectives and was usually very responsive to them.

In addition, I had the highest level of respect for the capabilities of the Coalition staff. In many cases, Coalition staff played a role of being the facilitator between DOE and its contractor, the regulators, and community officials in resolving a controversial cleanup issue in a manner that was acceptable to all the parties. Issues where Coalition staff played an important role in facilitating dialog among the parties include selection of building demolition methods, closure of onsite landfills, long-term Site stewardship, and most notably, determination of radionuclide cleanup levels for surface and subsurface soils. As Executive Director of the Coalition, David Abelson was quite effective in guiding Coalition Board members towards a decision. That duty was not without its risks. David sometimes found himself to be subject to intense and sometimes personal criticism, either by Board members or members of the public, for asserting a particular position.

It's been over one year since I took a different position in this department. I've had time to separate myself from the day-to-day grind of Rocky Flats and can reflect on the experience with a certain amount of distance. I still marvel at the fact that those massive buildings and their infrastructure are gone from that windswept mesa; that after a half century of constant human presence, there are now frequent days and nights where the only warm blooded creatures present at the Site are four-legged ones. The emotional intensity generated during heated meetings has dissipated. Although I'm glad that it's over, it was quite a ride.

*Steve Gunderson works for the Colorado Department of Public Health and Environment. From 1990 through 2005 he focused on Rocky Flats issues.*

## **Steve Tarlton**

My involvement on Rocky Flats spanned the major shifts in the site operations, approach to cleanup, public processes and the roles of the involved entities. Starting in 1993, I served as Program Manager for the CDPHE Rocky Flats Program, and subsequently served as the first CDPHE RFCA Project Coordinator, and then the Rocky Flats Oversight Unit Leader until 2003.

Through the mid-1990s, the Rocky Flats Local Impacts Initiative provided a focus for information on Rocky Flats issues, and their role was primarily facilitation and communications. Certainly, they created momentum that influenced agency and DOE decisions, including the creation of the CAB; however, they primarily focused on the information that led to decision making. The Coalition supplanted the RFLII and replaced the focus on facilitation and behind-the-scenes influence with direct political action. Where RFLII might have admitted to bias, but not a political agenda, the Coalition overtly took the political approach as its primary focus.

Coalition-led efforts were very important to the development of a long-term view on Rocky Flats, and in using this view to shape the decisions made on cleanup. Two documents developed by Coalition-supported efforts are nationally recognized as providing the needed long-term perspective on planning, funding and managing clean up of the DOE complex. Coalition staff overcame the barriers that existed between the Coalition and the CAB to create and implement a working group to develop the long-term view of stewardship of Rocky Flats. The resultant consensus documents are particularly noteworthy due to their practicality and implementability.

Coalition staff was consistently practical in assessing the value of the various public processes. For example, the RFLII-initiated Public Participation Focus Group had made great strides in the mid-1990s in helping the diminishing site community relations staff develop and implement effective information distribution methods and means of gathering and understanding public sentiment. However, by the late 1990s, the site processes had become more structured because of the RFCA, and public participation had become focused on the more formal CAB and Coalition processes. Working with the site and the regulators, Coalition staff recommended the sunsetting of the focus group and was able to facilitate this ending without controversy.

A major contribution was the Coalition staff's role in facilitating informal communication among the interested parties, the regulators, and the DOE and its contractors. Very often, the informal communications network maintained among individuals from these various entities allowed for issues to be raised, ideas to be floated, and pulses to be taken. This helped to minimize misunderstandings and public errors, and helped to allay the mistrust among the various entities. Ultimately, these communications and the efforts at mutual understanding are what allowed the parties to come together and unify behind a clean up approach that would be supported, would be funded, and would be successful.

At the time the Coalition was formed, we also saw an increase in Rocky Flats staff positions in several local governments. These staff presented a challenge for CDPHE staff who had the responsibility for ensuring that information was widely available to interested parties, and collecting public input for decision making. Some local government staff, and the Coalition representatives they reported to, did not rely on Coalition staff to collect and distribute technical

information, but attempted to independently collect and distribute information not only to the government they represented, but also more broadly with other Coalition members and the public. This appeared to create competition among some local government staff to get the scoop on issues and identify perceived threats or problems. Aside from the drain on CDPHE and site staff time, this situation presented another complication in that local government staff generally lacked the technical background to fully understand the issues and their context. Rather than depending on Coalition technical staff, who had the background and understood the context of most issues, local government staff often ended up focusing on less important issues and missing the bigger picture. Thus, the input from the knowledgeable Coalition technical staff in Coalition decision making was diluted, which furthered the perception that the Coalition was less reliant on accurate technical information.

One example is the confusion perpetuated about the comparison of the interim soil cleanup standards to those finally recommended by the RSALOP. The interim standards were for a restricted use condition that would exist during the period of cleanup when DOE retained control over the site and final environmental clean up plans were being developed. The interim number was 651 pCi/g for plutonium in the restricted use condition. RSALOP cleanup levels were developed for unrestricted use conditions, and initially were reported to be about 70 pCi/g (which compared reasonably well with the interim standard's unrestricted value of 117 pCi/g). The RSALOP chairs worked with their consultant and the final value they reported became 35 pCi/g. Thus the misrepresented comparison was made for 651 pCi/g versus 35 pCi/g. Misrepresentation of these values, whether intentional or as a result of the confusion surrounding that project, has been repeated extensively by several Coalition members and local government staff.

*Steve Tarlton works for the Colorado Department of Public Health and Environment. From 1993 through 2003 he worked on Rocky Flats issues.*

# Appendix B – The Coalition Board of Directors

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## **Jefferson County**

Hon. Michelle Lawrence, Director (1999-2004)  
Hon. Jim Congrove, Director (2005-2006)  
Hon. Patricia Holloway, First Alternate (1999-2004)  
Hon. Kevin McCaskey, First Alternate (2005-2006)  
Nanette Neelan, Second Alternate (1999-2006)

## **Boulder County**

Hon. Paul Danish, Director (1999-2004)  
Hon Ben Pearlman, Director (2005-2006)  
Carolyn Dulchinos, First Alternate (1999-2001)  
Jane Uitti, First Alternate (2001-2006)

## **City and County of Broomfield**

Hon. Thomas Brunner, Director/ First Alternate (1999-2003)  
Hon. Hank Stovall, First Alternate/ Director (1999-2003)  
Hon. Gary Brosz, Director (2004-2005)  
Hon. Lori Coz, First Alternate/ Director (2004-2006)  
Mike Bartleson, Second Alternate (1999-2006)

## **City of Arvada**

Hon. Lorraine Anderson, Director (1999-2006)  
Hon. Ken Fellman, First Alternate (1999-2006)  
Carol Lyons, First Alternate (1999-2001)  
Clark Johnson, Second Alternate (2002-2006)

## **City of Boulder**

Hon. Lisa Morzel, Director (1999-2003)  
Hon. Shaun McGrath, Director (2004-2006)  
Mike Weil, First Alternate (1999-2002)  
Amy Mueller, Second Alternate (1999-2004)  
Carl Castillo, First Alternate (2005)  
Alice Guthrie, First Alternate (2004-2006)  
Jennifer Bray, First Alternate (2005-2006)

## **City of Westminster**

Hon. Sam Dixon, Director (1999-2005)  
Hon. Herb Atchison, Second Alternate/ First Alternate (1999-2003)  
Hon. JoAnn Price, First Alternate/ Director (2004-2006)  
Mary Harlow, First Alternate (1999-2001)  
Ron Hellbusch, Second Alternate (2002-2006)

## **Town of Superior**

Hon. Andrew Muckle, Director (1999-2001)  
Hon. Karen Imbierowicz, Director (2001-2006)  
Hon. Susan Spence, First Alternate (1999-2003)  
Joel Meggers, Second Alternate (1999-2000)  
Matt Magley, Second Alternate (2000-2003)  
Devin Granberry, First Alternate (2004-2005)

## **Ex-Officio Members**

Lisa Morzel (2004)  
Hank Stovall (2004)

# Appendix C – The Coalition Speaks

## Selection of Letters, Resolutions and Op-Ed

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### Cleanup and Closure Issues

August 1, 2005

Mr. Frazer Lockhart  
Manager, Department of Energy  
12101 Airport Way, 3<sup>rd</sup> Floor  
Broomfield, CO 80021

Dear Frazer,

As you know, the Board of Directors of the Rocky Flats Coalition of Local Governments has long supported the accelerated remediation and closure of Rocky Flats. We believe the ongoing relationship between DOE and the Coalition has been central to developing and maintaining community support for the closure project.

The Coalition's work on independent verification over the past 12 months has focused on the elements of the cleanup that we believe are of greatest interest to our constituents. The countless hours we have spent on this issue highlight the importance for us of bringing in an additional set of experts to confirm that the remedial actions DOE and its contractor, Kaiser-Hill, have taken meet or exceed the regulatory standards. In doing so, we hope to be able to provide an additional basis to ensure for our constituents that the cleanup is protective of human health and the environment. We know from DOE's commitment in hiring ORISE and providing \$25,000 to the Coalition to hire MACTEC that DOE understands the value of this independent review process.

The Coalition has been vigorously tracking the various and numerous issues through use of a matrix. This matrix, which has been broadly shared with the Rocky Flats community, identifies the key issues that the Coalition believes warrant further explanation and/or action. Attached is the latest draft of the matrix. Of the forty-nine items on the matrix, three remain open, seventeen are resolved awaiting final documentation, and twenty-nine are closed.

As we discussed at our July 11, 2005, meeting which you attended, "Resolved Awaiting Final Documentation" denotes the Coalition has asked a question which has been answered. In many cases, however, DOE cannot make a final decision until the CAD/ROD for the site is signed. While we do not want DOE to make any pre-decisional commitments, we request that you respond in writing to each of these issues and explain DOE's commitment (including post-closure monitoring commitments), timeline for making a final decision, and the document that DOE anticipates will capture the answer.

In addition, at this time we would like DOE to formally respond to the first three items on the matrix. We request DOE provide a formal written response to the issues raised and any additional information that may assist the Coalition in understanding DOE's position to help us determine whether the issue has been adequately resolved.

In particular, the first item on the matrix is an issue raised by the Coalition's soil consultant, MACTEC. MACTEC strongly recommends that ORISE expand its mini-MARSSIM soils review to include soils adjacent to 1 or 2 production buildings in the Industrial Area. MACTEC believes expanding this part of ORISE's review would add important information and would serve to strengthen the argument that ORISE is conducting a thorough independent review. We endorse MACTEC's recommendation.

DOE has provided an initial response to MACTEC's recommendation, informing Coalition staff that this request will not be granted. We appreciate the timeliness of DOE's response, but without further explanation beyond what

was included in the attached email, we are not prepared to accept this reasoning at this time. DOE's response appears to suggest that Kaiser-Hill's schedule is driving its decision. The Coalition has always supported a timely closure. However, we worry that the accelerated schedule appears to be unwisely undermining what we believe is a reasonable and necessary request.

If you have any questions about the issues in the matrix please let us know. We would welcome clarifying any issues prior to your issuing the letter.

Many thanks for your continued support of our efforts.

/s/

Shaun McGrath  
Chairman

Cc: Mark Aguilar, EPA  
Carl Spreng, CDPHE  
Dave Shelton, Kaiser-Hill  
Rocky Flats Citizens Advisory Board

August 4, 2003

Mr. Gene Schmitt  
U.S. Department of Energy  
Rocky Flats Field Office  
10808 Highway 93, Unit A  
Golden, CO 80403

Mr. Doug Benevento  
CDPHE  
4300 Cherry Creek Dr. South  
Denver, CO 80246

Mr. Max Dodson  
EPA  
999 18<sup>th</sup> Street, Suite 500  
Denver, CO 80202

Dear Mr. Schmitt, Mr. Benevento, and Mr. Dodson:

The Board of Directors of the Rocky Flats Coalition of Local Governments has reviewed the revised RFCA language and accompanying response to comments, and DOE's revised draft of the Rocky Flats stewardship strategy. We are disappointed to learn that little progress has been made as a matter of both process and substance regarding key elements of long-term stewardship at Rocky Flats. We believe the RFCA parties must be more forthcoming about their intentions regarding long-term stewardship and begin tackling the tough, likely contentious, regulatory issues. This issue is of utmost importance to the Board.

The Coalition remains a partner in defining the end-state for Rocky Flats. Our support for the revised RFCA remains predicated in part on implementing an enforceable stewardship plan. Throughout the RFCA negotiations, the RFCA parties assured the Board that they would work with us towards this end. We believe we have met our commitments and also believe the RFCA parties have not met theirs.

Clearly, little progress has been made on key questions such as regulator enforcement of long-term stewardship, including the applicability of federal and state environmental laws and regulations, and commitments regarding the use and enforcement of institutional controls (specifically what controls will the RFCA parties implement, how will these controls be enforced, etc.). The RFCA parties' decision to delay resolution of these issues until closure is not acceptable to the Coalition. The Board understands that some of the details of the long-term stewardship plan will be addressed and decided in due time (e.g., the specifics on the number of ground water monitoring wells, the specific locations of the air monitors, document repository, etc.). However, the fundamental legal and regulatory issues that are central to the stewardship plan must be addressed without further delay.

It remains in our collective interest to minimize the amount of time between physical and regulatory closure. We fear that given the continued lack of detail on key long-term stewardship issues and the disputes that the response to comments forecasts, resolution of the legal and regulatory issues will take a significant amount of time, thus delaying closure. We understand that the RFCA parties are now considering moving forward the timeline for developing the RI/FS and not waiting until the final regulatory documents (including the CAD/ROD) are signed at closure to address certain stewardship issues. We request that these discussions begin immediately and include, among other topics, a detailed examination of the enforcement of long-term stewardship at Rocky Flats.

When DOE began developing the stewardship strategy in Fall 2001, the Board was lead to believe that the document would serve as the conduit to identify the specific controls the RFCA parties will utilize post-closure and the specific regulatory roles EPA and CDPHE will occupy. Instead, as we know from discussions in the Stewardship Working Group, the draft document has morphed into a policy statement regarding what DOE may consider and options the agency could utilize in implementing stewardship. By relying on words such as "anticipates", "could", and "may", and containing statements such as "environmental monitoring will *likely* be a key component of the Rocky Flats long-term stewardship program" (emphasis added), and "the RFCA parties *anticipate* that enforceable post-closure requirements will exist to ensure the protectiveness of the remedy" (emphasis added), the value of the document for the community is minimized. We are not interested in knowing what DOE may do or anticipates doing. What we need to know is what the RFCA parties will do in implementing long-term stewardship.

Similarly, the Board remains concerned about the scope of legal enforcement of long-term stewardship. Self-regulation is not acceptable, yet there are signs suggesting that DOE may be moving in that direction. Public



accountability is critical, and to be accountable, the stewardship plan must be enforceable. Intentions without the regulators having a legal mechanism to enforce such intentions would be insufficient and therefore unacceptable.

In our September 2002 and January 2003 letters, the Coalition raised two critical issues that the RFCA parties have yet to address:

- 1) The enforcement roles that both the EPA and CDPHE will occupy must be specified. The RFCA parties need to start discussing the applicability of a RCRA/CHWA permit, Clean Water Act permit, CERCLA, state environmental covenant, and other laws and regulations. This need remains rooted in the fact that the Defense Department is questioning the enforceability of implementing, operating, maintaining, and reviewing land use controls, as well as the EPA enforcement authority.
- 2) DOE must also specify how the federal government will enforce access restrictions and other use restrictions, including the specific institutional controls that will be used.

The following RFCA parties' response in the aforementioned response to comments on the question of the role of CDPHE post-closure concerns us: "As of May 2003, DOE and CDPHE have not reached agreement as to whether a post-closure permit (or alternatively, an enforceable document as defined in 6 CCR 1007-3 §100.10(d)) will be required for Rocky Flats, and if so, whether that permit (or enforceable document) will also contain appropriate requirements for institutional controls and other long-term stewardship activities." This disagreement suggests that DOE will argue against the issuance of a RCRA/CHWA permit and in turn a substantive post-closure enforcement role for CDPHE. Alternatively, it suggests that CDPHE may not push for a substantive role post-closure.

The RFCA parties' responses also do not answer questions regarding the role of the EPA post-closure. The document states numerous times, "the RFCA parties *anticipate* that CDPHE and EPA will have a continuing regulatory role post-closure at Rocky Flats" (emphasis added). "Anticipate" is insufficient, especially in light of the ongoing dispute between DOD and EPA.

The answers to these issues are not contingent upon completion of the comprehensive risk assessment or determination that the "interim actions" under RFCA are final CERCLA actions. Therefore there is no reason as a matter of law or policy that the RFCA parties cannot expedite their timeline for discussing, debating, and resolving these issues.

In responding to this letter we are not interested in generic language regarding your commitment to these issues but rather detailed, specific answers to the interests and needs addressed above. An effective stewardship plan hinges on a number of interrelated factors, but at the core lie ability and commitment. We hope the RFCA parties use the coming months to show their ability and commitment to meet these important goals. The Coalition remains a committed partner in ensuring the success of the cleanup, and as always, we look forward to working with you to resolve these pivotal issues.

Sincerely yours,

/s/

Lorraine Anderson  
Chairman

Cc: Jessie Roberson, DOE  
Mike Owen, DOE  
Governor Bill Owens  
Senator Wayne Allard  
Representative Mark Udall  
Representative Bob Beauprez  
Attorney General Ken Salazar

January 6, 2003

Mr. Rick DiSalvo  
U.S. Department of Energy  
Rocky Flats Field Office  
10808 Highway 93, Unit A  
Golden, CO 80403

Dear Mr. DiSalvo,

The Board of Directors of the Rocky Flats Coalition of Local Governments appreciates the opportunity to provide comments on *Proposed Modifications and Additions to Attachments to the Rocky Flats Cleanup Agreement*. In addition to this letter, the Coalition requests that its September 9, 2002 end-state letter be considered as part of public comment.

The Coalition recognizes the extent to which the draft RFCA language tracks the position stated in our September 9<sup>th</sup> letter. It is clear that the RFCA parties worked hard to address and include in the draft RFCA the myriad of interests and needs the Coalition expressed. We believe the draft RFCA language serves to improve the level of cleanup at Rocky Flats by better aligning cleanup priorities with community interests and goals.

In this context we offer the following additional comments and recommendations. It is our ongoing belief and expectation that implementation of the RFCA will continue to be conducted with the full input of the Coalition governments.

#### **Subsurface Contamination Levels**

The Coalition remains concerned about the RFCA parties' approach to remediating plutonium in the subsurface three to six feet below grade. The Coalition stands behind its commitment to work with the RFCA parties to bridge the gap between its position (1nCi/g) and the RFCA parties' proposal (3nCi/g).

What the Coalition did not understand until the draft language was released for public comment was that 3nCi/g would be calculated across 80m<sup>2</sup>. As a result of this provision and another provision establishing a single point cleanup level for plutonium of 10nCi/g, concentrations as high as 9.9nCi/g could be left in the subsurface. The Coalition is troubled by the impact of the 80m<sup>2</sup> provision and cannot, as a matter of public policy, support leaving almost 10nCi/g in the subsurface. We are aware, however, that we do not know the extent of contamination between 1nCi/g and 9.9nCi/g and thus any dispute may be more intellectual than factual.

We therefore request that Section 5.3 be modified to clearly delineate the RFCA parties' obligations to the Coalition. Specifically, if contamination is found above 1nCi/g three to six feet below grade and the decision is made to not remediate it to 1nCi/g or less, the RFCA parties must inform the Coalition and provide, among other information, data detailing the areal extent and volume of contamination, concentration levels, basis for and results of the pathway analysis and risk assessment, the RFCA parties' recommended action and basis for action, and any other relevant information necessary to understand the basis for the decision. After completing the remedial action, the RFCA parties must then provide a written account of the action and basis for action, and any impacts of the action including, but not limited to, long-term stewardship requirements resulting from the action.

Finally, below six feet the Coalition recommended using a graded approach for remediating plutonium and pledged to work with the RFCA parties in developing such an analytical method. We are therefore not prepared to accept the RFCA parties' proposal to remediate below six feet based simply on a risk screen and pathway analysis, and welcome the opportunity to discuss this matter with the three agencies.

#### **Surface Cleanup Levels**

The Coalition supports the draft RFCA language establishing a surface cleanup level of plutonium of 50pCi/g and the commitment to define surface as zero to three feet below grade. We also support the action level for americium.

The Coalition is concerned, however, about the following provision: “Where plutonium and/or americium soil contamination greater than the action level is present at a depth of less than 3 feet, but did not originate at the surface, soil contamination will be removed unless, after consultation with the Lead Regulatory Agency, it is decided that the concentration and aerial extent is such that removal is not warranted.” The provision with the aforementioned caveat (“unless...it is decided...that removal is not warranted”) may result in potentially high concentrations of radionuclides being left in soils that are easily accessible by a wildlife refuge worker.

As the Coalition stated in its September 9<sup>th</sup> letter, we support removal of all radionuclides in soil zero to three feet deep, regardless of the presence or absence of a surface expression. The importance of this point cannot be understated, for one of the key principles to which the Coalition agreed in modifying existing cleanup standards was increasing surface cleanup in exchange for relief on subsurface cleanup. Any language that would modify this agreement must be stricken.

### **Surface Water Quality**

The Coalition supports the draft RFCA surface water quality provisions including, but not limited to, the establishment of POCs at Indiana Street and at the outfall of the terminal ponds.

One key issue left unresolved in the draft RFCA is the details of when an exceedance would trigger an evaluation at onsite POCs. Similarly, the draft RFCA does not identify locations of POEs and bases for when an evaluation at a POE would be triggered. The Coalition agrees with the RFCA parties’ approach that these details can be developed and agreed to at a later date. Consistent with our support, and as stated in our September 9<sup>th</sup> letter, POEs must be “developed with the Coalition governments, and in particular the affected municipalities.” However, the body of the RFCA only speaks to consulting with downstream users, and does not include provisions for consulting with the other five Coalition governments. We request that the draft attachments clearly specify a role for these governments as well.

### **Long-Term Stewardship**

The Coalition supports the inclusion of long-term stewardship into the RFCA, including the language in Section 1.2 specifying stewardship will be in all final CAD/ROD(s), in any post-closure CHWA permits, and in any modified RFCA agreement. This provision clearly meets the Coalition’s interest in making certain that both EPA and CDPHE have enforcement roles post-closure.

In addition, the Coalition supports the provisions delineating lands that may require continuing restrictions post-closure, and provisions outlining the types of institutional controls that will be needed at closure. As discussed below, we believe that the language can be strengthened and thus offer the following recommendations.

#### **1. Include provisions expressly prohibiting residential development**

“The Rocky Flats National Wildlife Refuge Act of 2001” serves as an important institutional control by, among other things, prohibiting certain uses such as residential use. However, as with all acts of Congress, future congresses can enact laws that undermine key elements of the refuge bill, including prohibitions on residential uses and other uses inconsistent with final site remedies. Thus the draft RFCA language, “[t]he Parties additionally presume that there will be no residential development at Rocky Flats,” remains insufficient. The RFCA and subsequent regulatory documents must explicitly state that residential use of the Site and other such uses inconsistent with the final remedies shall be prohibited, as current reliance on the refuge bill alone does not provide the necessary restrictions.

We believe such a provision is consistent with the intent of the refuge bill. The bill presumes institutional controls would be implemented to prohibit a number of uses – drilling of groundwater, access to areas with residual contamination, restrictions in areas above subsurface contamination, and other restrictions to protect engineered controls and monitoring stations. Some might argue that including a provision prohibiting residential uses is redundant and not necessary. However, as the National Research Council pointed out in a comprehensive report to DOE, layering of stewardship controls remains imperative. In this case, the additional control should not increase the federal government’s long-term stewardship costs.

#### **2. RFCA milestones must be established for the development of the stewardship strategy and plan**

One of the core elements of the Coalition's stewardship comments in its September 9<sup>th</sup> letter is EPA and CDPHE enforcement of long-term stewardship. The Coalition continues to believe that DOE has made great progress over the past twelve months to elevate stewardship, and believes that the ongoing dialogue with the community has served to resolve numerous issues.

Nonetheless, as Coalition staff noted in a recent memo to DOE, key elements of long-term stewardship planning have been bucked from regulator-enforceable documents to the long-term stewardship plan. We are concerned about relegating stewardship to a document (the Site's long-term stewardship strategy) that does not require regulator approval and is subject to changing policy direction and commitment by DOE.

Without regulator approval of the stewardship plan as it is developed, the potential exists that the development of the CAD/ROD and other closure/post-closure regulatory documents could become mired in differing expectations about the scope of the stewardship plan. While we presume this situation would not surface at Rocky Flats, DOE is facing such a situation at its Weldon Spring site.

One way to avoid such a situation and bring greater parity to the development and approval of the final site-wide stewardship plan is to establish RFCA milestones for the development of the stewardship plan. The Coalition therefore requests that a RFCA milestone be crafted that both holds DOE accountable to a timeline for developing the long-term stewardship plan and, more importantly, establishes a common set of criteria between the RFCA parties as to the scope and content of the stewardship plan. We believe the establishment of such a milestone is consistent with RFCA paragraph 142 because long-term stewardship is part of the remedy.

We recognize that crafting such a milestone is difficult, but we suggest DOE – Headquarters' guidance for the development of site stewardship plans is a good place to start. We trust that the RFCA parties can agree to a timeline that is achievable and that provides sufficient time to develop a plan that meets all reasonable and necessary expectations.

If you have any questions about this letter, please contact David Abelson, Coalition executive director, at (303) 412-1200.

Sincerely,

/s/

Sam Dixon  
Chairwoman

Cc: Gene Schmitt, DOE  
Doug Benevento, CDPHE  
Jack McGraw, EPA  
Senator Wayne Allard  
Representative Mark Udall  
Governor Bill Owens  
Assistant Secretary Jessie Roberson, DOE-HQ  
Alan Parker, Kaiser-Hill  
Rocky Flats Citizens Advisory Board

September 9, 2002

Mr. Gene Schmidt  
U.S. Department of Energy  
Rocky Flats Field Office  
10808 Highway 93, Unit A  
Golden, CO 80403

Mr. Doug Benevento  
CDPHE  
4300 Cherry Creek Dr. South  
Denver, CO 80246

Mr. Jack McGraw  
EPA  
999 18<sup>th</sup> Street, Suite 500  
Denver, CO 80202

Dear Mr. Schmidt, Mr. Benevento, and Mr. McGraw:

As you are well aware, as part of the RFCA parties' process for revising the end-state for Rocky Flats, the Board of Directors of the Rocky Flats Coalition of Local Governments has been asked to offer its thoughts on the parties' proposed end-state.

The RFCA parties have proposed modifying the current RFCA remediation strategy and pursuing instead a risk-based approach. Under this approach, we understand, all surface soil above a certain concentration of radionuclides will uniformly be removed. Subsurface soil will be analyzed based on the human and ecological risk of exposure and remediated only if an exposure pathway exists. This letter captures our thoughts.

#### **General Comments**

The Coalition generally supports the RFCA parties' risk-based approach, provided Congress provides sufficient funding for long-term stewardship. Our support is rooted in the understanding, based on information supplied by DOE and Kaiser-Hill, that the greater current risk to human health and the environment from radionuclides, including impacts to water quality, is due to surface soil contamination. Nonetheless, the Coalition also agrees with the RFCA parties' approach that a minimally compliant cleanup or straight risk-based approach is insufficient for Rocky Flats. There are critical factors that necessitate conducting additional remediation beyond a straight risk-based approach. These additional remediation requirements must be written into the RFCA.

Further, in revising the end-state, the Coalition trusts DOE's assertion that the funds available for the cleanup of Rocky Flats are limited to an amount roughly equal to the current contract between DOE and Kaiser-Hill, currently valued at \$3.963 billion. This limitation, we understand, necessitates developing a new end-state configuration that will not result in a net change to the overall target cost of the closure contract (hereafter called "revenue neutral").

We continue to struggle with what changes could be made so that the revised end-state will be revenue neutral. While the answer remains unclear, we expect that the individual cost of each remediation project shall be provided to us detailing the actual cost versus the estimated costs and any cost savings realized. If the cost of remediation for the entire site cost less than target costs, the federal government's share of such savings should be used for additional remediation at Rocky Flats.

In addition, this document should not be read as a statement of what the Coalition or individual governments believe should be the final end-state should additional monies become available, nor does it resolve all of our concerns regarding uncertainty and potential exposure pathways. Instead, the following positions capture how the remaining dollars under the contract should be prioritized so that long-term risks to human health and the environment shall be minimized. The health and safety of our communities is our primary concern, and we expect that mechanisms will be in place post-closure to address potential remedy failure, control failure, incorrect assumptions regarding the rates of mobility of contaminants, and changes in exposure pathways.

The Coalition offers these comments with the good faith understanding that the existing dialogue shall continue throughout closure, and that the end-state shall be clarified as the issues and uncertainties become clearer and options for addressing them become better known. We expect to offer additional comments on these and other issues as additional characterization is completed and we in turn gain a clearer picture of the details of the end-state.

Furthermore, for the issues addressed in this letter, our guiding end-state principles are reducing risk to a future user, protecting water quality, addressing uncertainty, developing and implementing a strong and comprehensive post-closure monitoring regime, and developing mechanisms to become aware of and address problems as they arise.

The Coalition recognizes that the long-term success of the cleanup depends on the development and implementation of a comprehensive, federally funded long-term stewardship plan. The current absence of an approved stewardship strategy or plan for the Site and guaranteed funding strategy heightens our concern about what a safe and protective cleanup entails.

Finally, this paper does not have the support of either Boulder County or the City of Boulder. While the County supports a number of issues, concerns, and positions expressed in this paper, they disagree on others and are withholding judgment on still others. Moreover, the County believes local governments should not be opining about issues where they do not know all of the facts nor have all of the necessary information, and the County lacks complete confidence in the facts and information they do have.

#### Surface Cleanup Levels

The Coalition supports the RFCA parties' proposal to establish a minimum surface cleanup level for plutonium of 50 pCi/g, and to define surface as 0 - 3 feet below current grade. The existing six-inch standard for defining surface is inadequate as it does not take into consideration differing rates of erosion across the Site nor challenges either DOE or U.S. Fish & Wildlife Service (USFWS) would have in enforcing access restrictions below such a shallow depth. As an example, Dean Rundle (USFWS) noted at the April 1, 2002 Coalition Board meeting that revegetation requires disturbance of the upper twelve inches of soil.

In addition, given the substantial contamination in the B-series ponds and DOE's anticipation that little surface water will flow through these ponds post-closure, the sediments in the B-series ponds and associated ditches must be remediated as surface soils.

Finally, while we support the above surface cleanup approach, we believe it may only address part of the surface soil problem. This approach may be inadequate in areas where volatile organic compounds (VOCs) were spilled or released, because a surface expression of contamination may not exist. A method needs to be in place to address potentially high concentrations of VOCs that may exist in soil down to three feet below grade, but may not have a surface expression.

#### Subsurface

Despite our general support for remediating additional surface soil in lieu of subsurface soil, the Coalition remains apprehensive about leaving in place high concentrations of subsurface contamination. This concern stems from the high degree of uncertainty regarding subsurface contaminants, concentrations, exposure pathways, and plans and means to implement a comprehensive long-term stewardship plan after the Site is closed.

Some of the uncertainty stems from the fact that the subsurface remains largely uncharacterized, especially in the Industrial Area. In many cases, the RFCA parties do not know what contaminants exist and at what concentrations and depths. For example, the Actinide Migration Evaluation group recently concluded in the "Actinide Migration Evaluation Pathway Analysis Report" (April 2002) that a significant data gap exists regarding subsurface actinide data in the Industrial Area, including potential actinide solubility in subsurface process waste lines. If plutonium and americium are found to be associated with acids in the subsurface, these compounds may be more mobile than currently thought. Another example of this uncertainty is that Kaiser-Hill found process waste lines (PWL) under the northern portion of the Building 123 foundation that were shallower than anticipated. They expected all PWLs to be 4 - 6 feet below grade, but piping was found between 0.5 - 1 foot below grade.

In addition, it is unclear whether or not the RFCA parties will incorporate a worst-case scenario of potential treatment unit/remedy or related stewardship control failure in their risk assessment calculations. The consequences of such a failure need to be fully understood in order to account for all possible exposure pathways.

Lastly, there is uncertainty about surface soil erosion rates, especially in the drainages. Surface soil may erode more quickly in a drainage than on a plateau, thus exposing subsurface contamination more quickly than anticipated.

The Coalition will accept leaving contamination in the subsurface if the pathway analysis shows with a 95% certainty that the  $10^{-5}$  risk is not exceeded and that the following, including protection of water quality and development of a comprehensive stewardship program (discussed below), are met:

1. Completely remediate the ash pits, trench 7, and trenches 3 and 4 "burrito"

The Coalition supports the RFCA parties' proposal to completely remove the ash pits, trench 7, and trenches 3 and 4 "burrito". Removal of these Individual Hazardous Substance Sites is warranted as these remedial actions will decrease risk to water quality and reduce overall risk should controls fail.

## 2. Original Process Waste Lines

The Coalition accepts the RFCA parties' proposal to remove all original process waste lines (OPWL) in the top three feet of soil. However, based on the aforementioned comments regarding uncertainty in the subsurface, we believe that should a decision be made to not remove lines below this depth, further investigation and discussion with the Coalition would be warranted. We do, however, support the characterization methodology proposed for these lines, including extensive characterization of known and suspected leaks and detailed sampling of three leaks to study actinide migration. We also support the Site's proposal to remove all valve vaults, and grout/foam OPWL that are not removed.

3. Establish a maximum allowable concentration of subsurface contamination. If exceeded, remediation of the given area would be necessitated.

Because there are ample instances of human intrusion into the subsurface at contaminated sites, even in the presence of institutional controls, we believe the possibility of human access to the subsurface must be considered when determining a cleanup level for the subsurface. Establishing a threshold concentration limit for the subsurface will help mitigate potential human and ecological risk resulting from exposure in the event of control failure.

The most recent Radionuclide Soil Action Level (RSAL) review conducted by the RFCA parties concluded that a surface soil plutonium concentration of approximately 780 pCi/g would result in a 25 mrem dose to a wildlife refuge worker. We understand the probability of accessing subsurface soil is lower than that for surface soil. Therefore, we support setting a threshold level of 1 nCi/g in the subsurface between 3 - 6 feet below current grade.

Below six feet, the Coalition supports using a graded approach. At this time, however, we are not prepared to offer a detailed recommendation, but expect the RFCA parties will continue to discuss such an approach with us.

We recognize that the RFCA parties are considering establishing a threshold limit of 3 nCi/g for the 3 - 6 feet range. We also recognize there is a great deal of uncertainty as to the extent, if any, of contamination between 1 nCi/g and 3 nCi/g in the 3 - 6 feet below grade level. Consequently, we trust the RFCA parties will work with us on developing strategies to bridge this potential gap.

## Surface Water Quality Protection

Protection of water quality has been and remains a priority for the Coalition. Post-closure, water leaving Rocky Flats as measured at the existing Points of Compliance (POC) at the Site boundary must continue to meet the 0.15 pCi/L standard measured over a 30-day average.

The Coalition supports the RFCA parties' proposal to change the compliance period of the onsite standard of 0.15 pCi/L from a 30-day average to an annual average provided:

- a. Points of Evaluation (POE) are established upstream of the ponds;
- b. "Annual" means a 365-day calendar year regardless of flow;
- c. Sampling frequency and technique will remain the same post-closure as it currently exists in the Integrated Monitoring Plan;
- d. On-site POCs and the POEs are developed with the Coalition governments, and in particular the affected municipalities; and
- e. At the onsite POCs and POEs, in addition to circumstances when there are regulatory violations of the water quality standard, evaluations shall also be triggered when:
  - i. Water at a POE or POC onsite is greater than 0.15 pCi/L standard over a 30-day average; or
  - ii. There are spikes in excess of 0.60 pCi/L.

In addition, the RFCA parties must maintain and upgrade as necessary the existing pond systems in both the Woman Creek and Walnut Creek drainages, develop the water monitoring and reporting program in consultation with the

Coalition governments (and in particular the affected municipalities), and include a mechanism to address major storm events. The RFCA parties must also prove natural attenuation of groundwater contamination is occurring and, should contaminant concentrations increase, reevaluate the groundwater strategy as necessary.

We recognize we have not defined “major storm event”. We hope to work with the RFCA parties to determine a suitable threshold and appropriate response action.

### **Long-term Stewardship**

Despite assurances DOE has provided regarding its confidence in managing the stewardship program, the Coalition is concerned about the enormity of the challenge facing future management of residual contamination. Our trepidation about leaving contamination in the subsurface is exacerbated by the lack of clarity on steps that will be taken and programs that will be implemented as part of a comprehensive stewardship plan.

We believe DOE-RFFO has made great strides over the past year to elevate the importance of stewardship. In particular, DOE’s draft RFCA stewardship section, if modified and approved, would help meet many of the interests and needs raised in this letter. However, much more can and must be done.

More specifically, the Coalition needs to know with sufficient certainty the controls that would be used, measures to enforce the controls (e.g., provisions in the Record of Decision, state environmental covenant, etc.), clarity on who can enforce the controls, the details of the operational and performance monitoring program, frequency of CERCLA reviews, communication mechanisms with the community, and frequency of reporting monitoring and maintenance information to the local communities.

As the Coalition has argued, a stewardship analysis must be integral to the development of remedies, but stewardship also goes beyond this analysis. Stewardship also includes DOE taking all necessary steps to ensure controls are enforced, and developing and implementing monitoring and reporting mechanisms so that as problems arise they are quickly and summarily addressed. Proactive stewardship planning also necessitates the RFCA parties selecting remedies that will reduce long-term requirements, such as operations monitoring and maintenance, and the risk associated with the failure or malfunction of a treatment unit and/or an institutional control.

In addition, the Coalition supports the following:

1. Adequate funding for long-term stewardship must be ensured.

The Coalition remains concerned about funding long-term stewardship through annual appropriations. The most certain way to ensure Congress provides sufficient stewardship funding is to develop a dedicated fund. The Coalition needs to know which specific mechanisms DOE intends to use to ensure reliable funding for the indefinite periods of times contemplated by long-term stewardship analyses. We also need to know how such mechanisms will be protected from the normal ups and downs of the annual budget process that may cause a raid on line items by temporary demands for funding.

While this question is most appropriate for Congress, DOE plays a significant role in stewardship funding and thus knowing DOE’s commitment and strategies remains pivotally important.

2. DOE must have onsite personnel assigned to Rocky Flats post-closure to conduct long-term stewardship activities.

Management from afar, such as out of the Grand Junction office, without employees assigned to work at or near Rocky Flats post-closure is unacceptable.

3. Long-term stewardship must be legally enforceable by third parties. The RFCA must also state how the federal government will enforce access restrictions, and specify in detail which stewardship controls will be enforceable and which will not.

We understand the Defense Department is questioning the enforceability of implementing, operating, maintaining and reviewing land use controls, as well as the EPA enforcement authority. Enforcement of controls remains a key



ingredient of managing contamination. If a control is not enforceable, then its value to the long-term protection of human health and the environment is compromised. It is imperative the RFCA parties agree on how enforcement would be implemented prior to approving amended RFCA language.

4. CDPHE and EPA must have a continuing regulatory role post-closure.

Due to the enormity of implementing and maintaining a stewardship program, it remains imperative that CDPHE and EPA have a continuing role post-closure. We understand DOE, CDPHE, and EPA are exploring various options, including a post-closure RFCA-type agreement. We support such an approach.

With respect to CDPHE, the Coalition also supports the applicability of the state of Colorado's environmental covenants bill (SB 145). Arvada and Broomfield lobbied for SB 145 with the expectation that it would be applied to Rocky Flats. Should DOE resist its applicability, DOE must provide an account of its position to the Coalition prior to final approval of the revised RFCA language.

5. Controls must be layered in order to reduce uncertainty, and contingency plans must be developed in the event of a failure or malfunction of a remedy.

The Coalition is concerned about DOE's reticence to layer controls, despite the National Research Council's recommendation to that end to DOE in its August 2000 report. There is ample evidence in Colorado of stewardship controls failing. One way to mitigate any potential problems resulting from the failure or malfunction of a control is to layer controls. Another way is ensuring there are strong enforcement provisions.

6. Frequency of CERCLA reviews must be established.

In addition to regular operational and performance monitoring, and maintenance of the remedies, the Coalition recognizes periodic reviews of remedies are required by CERCLA. For the first nine years following closure, however, the review shall take place every three years, and every five years thereafter.

While not all of the aforementioned stewardship needs must be captured in the RFCA, they remain critical to the Coalition's support of the cleanup of Rocky Flats.

### **Final Thoughts**

Clearly, not all of the Coalition's end-state and related stewardship issues are presented in this letter. For instance, per the parameters outlined by the RFCA parties, we have not addressed the critical question of remediating the original landfill and the solar ponds, nor the need for mineral acquisition. We trust that we will continue to work with the RFCA parties on these issues.

If you have any questions about this letter, please contact David Abelson, Coalition executive director, at (303) 412-1200.

Sincerely,

/s/  
Sam Dixon  
Chairwoman

Cc: Senator Wayne Allard  
Representative Mark Udall  
Governor Bill Owens  
Assistant Secretary Jessie Roberson, DOE-HQ  
Alan Parker, Kaiser-Hill  
Rocky Flats Coalition of Local Governments  
Rocky Flats Citizens Advisory Board

February 25, 2002

Honorable Spencer Abraham  
Secretary of Energy  
United States Department of Energy  
1000 Independence Avenue, SW  
Washington, D.C. 20585

Dear Secretary Abraham:

As the Board of Directors of the Rocky Flats Coalition of Local Governments, we are writing concerning the ongoing delays of shipments of plutonium metals and oxides to the Department of Energy's Savannah River Site.

The Coalition comprises elected officials from the seven local governments that surround Rocky Flats and collectively we represent approximately 800,000 people. One of the key commitments DOE has continually made to our communities is that plutonium metals and oxides will be removed at a rate to support a 2006 closure. We remain concerned that the ongoing dispute with South Carolina officials and the recent commitment made to New Mexico officials has needlessly jeopardized the goal of closing Rocky Flats in 2006.

As you noted when DOE released its "Top-To-Bottom Review", Rocky Flats serves as a model for our shared goal of expediting risk-reduction activities and, in turn, cleanup activities. Because of our involvement in Rocky Flats issues, we have first-hand knowledge from both a risk and cost perspective of the importance of focusing on high priority risk reduction activities first. We are concerned that at the same time that you are advocating applying the Rocky Flats' approach for the entire Department, the Administration's actions have hindered DOE-Rocky Flats Field Office's ability to close Rocky Flats in 2006.

Rocky Flats has all the pieces in place for an accelerated closure: a defined scope, cost, and schedule; regulatory support for closure; a protective and practical cleanup strategy; bipartisan support from the congressional delegation; measured progress; and community alignment on future use. Central to this mission is the plutonium disposition strategy, and there is no greater risk reduction activity at Rocky Flats than stabilizing and removing to an off-site location the plutonium metals and oxides.

The delay in removing these materials draws into question commitments DOE made to our communities to clean up Rocky Flats in 2006. We appreciate steps the President and you have taken to solve this complex international issue, including full funding in the President's budget. We however remain concerned that with the elimination of a disposal pathway for material slated for immobilization and delays in shipping materials suitable for MOX fuels, we have moved backwards instead of forward in cleaning up and closing down Rocky Flats in 2006.

Assurances you have provided to Senator Wayne Allard and Representative Mark Udall are important. Nevertheless, assurances without action are of little consolation to our communities, so we request DOE provide us with a written timeline, consistent with a 2006 closure, for resolving all issues related to the disposition of Rocky Flats' plutonium metals and oxides. Further, DOE must initiate shipments of plutonium metals suitable for MOX fuel in March 2002, and resolve all issues related to materials not suitable for MOX fuel to support their removal in 2002 and, in turn, a 2006 closure.

Sincerely yours,

/s/  
Michelle Lawrence  
Jefferson County

/s/  
Sam Dixon  
City of Westminster

/s/  
Lisa Morzel  
City of Boulder

/s/  
Hank Stovall  
City and County of Broomfield

/s/  
Lorraine Anderson  
City of Arvada

/s/  
Karen Imbierowicz  
Town of Superior

/s/  
Paul Danish  
Boulder County

Cc: Sen. Wayne Allard  
Sen. Ben Nighthorse Campbell  
Rep. Mark Udall  
Rep. Tom Tancredo  
Gov. Bill Owens

April 12, 2001

Ms. Barbara Mazurowski  
Manager, U.S. Department of Energy  
10808 Highway 93, Unit A  
Golden, CO 80403-8200

Dear Ms. Mazurowski:

The Rocky Flats Coalition of Local Governments (Coalition) applauds the progress the Department of Energy (DOE) and its prime contractor, Kaiser-Hill, have made towards meeting the goal of cleaning up and closing down Rocky Flats by 2006. We, however, remain concerned that the Site is currently not on schedule for a 2006 closure. Additionally, as the General Accounting Office identified in its recent report to Congress, challenges exist that must be resolved to achieve our shared goal.

Fortunately, we now have in place numerous planning tools that enable us to track progress closely and to identify potential issues that may arise months or even years ahead. We respectfully request that DOE provide the Coalition with a semi-annual progress report and presentation to the Board on the status of the cleanup of Rocky Flats. This progress report should include, but not be limited to:

- a summary of the Site budget, focusing specifically on cost and scope and whether Rocky Flats is on schedule for a 2006 closure;
- the status of major government furnished services and items required for the project, including whether such services and items are being furnished on a schedule to support closure by 2006;
- the status of major Kaiser-Hill furnished services and items required for the project, including whether such services and items are being furnished on a schedule to support closure by 2006;
- a list of any contract modifications agreed to by DOE and Kaiser-Hill, including the cost, scope and schedule impacts of such modifications; and
- any issues that may be an impediment to achieving closure on schedule, including but not limited to NEPA approvals, container certifications, regulatory approvals, receiver site availability, and funding shortfalls.

We request that this information be presented in a form that is easily readable and easy to understand. We would appreciate having the first such report by July.

Thank you for your help in this matter and for your continued commitment to work with the Coalition on the safe and timely cleanup and closure of Rocky Flats.

Sincerely,

/s/

Paul Danish  
Chairman

/s/

David M. Abelson  
Executive Director

September 18, 2000

Mr. Gene Schmidt  
U.S. Department of Energy  
Rocky Flats Field Office  
10808 Highway 93, Unit A  
Golden, CO 80403

Mr. Doug Benevento  
CDPHE  
4300 Cherry Creek Dr. South  
Denver, CO 80246

Mr. Jack McGraw  
EPA  
999 18<sup>th</sup> Street, Suite 500  
Denver, CO 80202

Dear Ms. Mazurowski, Mr. Benevento, and Mr. McGraw:

The Board of Directors of the Rocky Flats Coalition of Local Governments has been discussing the question of soil action levels, water quality protection, and final cleanup levels for the Rocky Flats site. As the RFCA parties proceed with their review of the soil action levels and embark upon a conversation with the community on how best to integrate environmental restoration decisions, the Board offers the following observations and recommendations.

The Coalition represents approximately 800,000 people, many of whom live within close proximity to the site. The Coalition governments share the goal of cleaning up and closing down Rocky Flats in a safe and secure manner to protect our communities for generations. The Board remains firmly committed to the goal of a 2006 closure, but as we have previously stated, cleanup, whether completed in 2006 or beyond, must protect human health and the environment both now and into the future, even if that results in additional cleanup costs and takes longer to complete.

The Board naturally worries about long-term costs to the community as a result of an inadequate or incomplete cleanup of Rocky Flats. We therefore applaud the RFCA parties' commitment to work with the Coalition and others on integrating environmental restoration decisions, and trust that you will continue to involve the Coalition in a collaborative role as decisions are formulated and policies are implemented. Part of involving the Coalition necessitates substantively incorporating community values into the development of Site remediation objectives, the setting of soil action levels, and the adoption of final cleanup levels.

The Board likewise supports a timely resolution of the soil action levels issue as environmental restoration planning needs to continue. Central to achieving a safe and secure cleanup is the question of soil action levels for radiological and hazardous materials. The Board shares the RFCA parties' commitment that the setting of soil action levels be technically sound and robust, and it is in this light that we offer the following recommendations.

1. The RFCA parties need to explain how the soil action levels align with the Site's remediation objectives, and explain how the nine CERCLA cleanup evaluation criteria will be applied in arriving at soil action levels and in implementing the final remediation of the Site.
2. In addition to protecting future users on the Site, the Coalition remains concerned about protecting water quality and neighboring communities, as both will be affected by residual radiological and hazardous chemical contamination at Rocky Flats. The Coalition understands that while soil action levels are solely designed to protect the future user on-site, there are additional regulatory mechanisms that protect water quality and neighboring communities. Therefore, regardless of the final soil action levels, the cleanup must ensure the final site condition protects the current RFCA water quality standards for on-site and off-site surface and ground water, and for neighboring communities.
3. Given the long-lived nature of the contaminants, the effectiveness of soil action levels and final cleanup levels must be measured for the life of the contaminants. The recently released National Research Council report on long-term stewardship concludes stewardship controls are often difficult to maintain and enforce, thereby raising questions about the long-term effectiveness of remedy selections that rely on stewardship controls. The Coalition therefore believes the RFCA parties must develop cost estimates for both soil action levels and final cleanup levels that take into account both short-term and long-term stewardship needs and associated costs for a given remediation action. Likewise, as the Coalition represents the communities that could be affected by the migration of contamination off-site, source removal must be a key priority so that the final site configuration minimizes the need for stewardship controls.

4. The RFCA soil action levels review must build on the work done by the Radionuclide Soil Action Level Oversight Panel. The Risk Assessment Corporation (RAC) raises important technical and policy issues that must be addressed in any reconsideration of the current interim soil action levels.
5. For example, during their calculation of Rocky Flats soil action levels, RAC found a significant amount of uncertainty associated with key model parameters used in RESRAD. The best way to reduce this uncertainty is to collect site-specific data to support assumptions made regarding the key parameters. The current database is inadequate. We request a more comprehensive and consistent sampling and analysis of real data. The Coalition recognizes that there may not be enough time or money to produce such site-specific data. For parameters where this situation is the case, the RFCA parties should incorporate a reasonable amount of conservatism in their calculation such that the resulting soil action levels will be both technically sound and robust.
6. In addition, events such as fire, flood, and drought were not taken into account when the current interim soil action levels were developed. Any review of these soil action levels should consider these phenomena. Central to modeling these events is using an appropriate measure of soil resuspension. Because this process is difficult to quantify, the Coalition recommends every effort be made to collect site-specific resuspension data. If generating site specific data is not feasible, conservative values should again be used for resuspension parameters.
7. The Coalition understands that current regulations guide the determination of an acceptable annual exposure limit a user could receive. However, because our increased understanding of the effects of radiation on human health and the environment has led to a decrease in the annual dose a worker could receive, good public policy suggests when deciding on an acceptable annual dose, the RFCA parties should be duly cautious and use a conservative number.
8. Over time, new data and new scientific findings will necessitate reexamination of the soil action levels for Rocky Flats. The RFCA parties must commit that the five-year review will be technically sound and substantively involve the Coalition governments, among others.

Due to uncertainties such as which cleanup level or levels will protect water quality, the Coalition is not prepared at this time to support any numeric cleanup value. The Board requests that prior to releasing draft documents, the RFCA parties brief the Board and others on their proposed conclusions. The Board reserves the right to comment further should it disagree with either the technical data or proposed policy decisions contained in the report.

Thank you for considering our thoughts on the matter. We look forward to continuing to work with you and other interested community members on the complex question of how to best protect human health and the environment during cleanup and into the future.

Sincerely,

/s/  
Michelle Lawrence  
Chairman

/s/  
David Abelson  
Executive Director

## Future Use Issues

June 6, 2005

Mr. Michael Owen  
Director, Office of Legacy Management  
Department of Energy  
1000 Independence Avenue, SW  
Washington, DC 20585

Dear Mr. Owen,

The Board of Directors of the Rocky Flats Coalition of Local Governments has been discussing the development of the post-closure Local Stakeholder Organization (LSO) for Rocky Flats.

As elected officials from the seven municipal governments that border the Department of Energy's Rocky Flats site, the Coalition takes seriously its congressionally-mandated responsibility to work with DOE to develop the LSO. While final decisions about the make-up of the LSO rest with DOE, we recognize that DOE's own guidance vests great responsibility in and deference towards local governments to identify appropriate membership for the LSO.

As you know, Section 3118 of the Fiscal Year 2005 National Defense Authorization bill provides the LSO shall be composed of "elected officials...or their designees." Senators Allard and Salazar and Representatives Udall and Beauprez stated in their April 26, 2005, letter to Secretary Bodman that the legislative language should be construed to allow for non-elected officials to be granted membership on the LSO. They further state local governments "should be a significant majority" of the LSO and some, but not all, of these non-elected officials should be granted full voting rights.

Their letter does not define what constitutes a "significant majority." All seven Coalition governments have indicated they remain interested in serving on the LSO. We therefore believe three or four would be the appropriate number of non-elected community members to serve on the LSO board. While the congressional letter suggests some, but not all, of these non-elected officials be granted voting rights, the Coalition believes these three or four members should have full voting rights. We do not support having two classes (voting and non-voting) of citizen representatives on the LSO.

To ensure some degree of accountability for non-elected members, the Coalition would propose the following appointment process: (1) The Coalition will work to identify potential LSO members; (2) interested parties would apply to the Coalition Board for inclusion on the LSO; and (3) after reviewing these applicants and conducting interviews, the Coalition would forward names to DOE for its approval. This process, we believe, follows DOE's guidance which provides "the appointment of members to the LSOs will be the responsibility of the local elected officials with concurrence by DOE." The Coalition hopes to work with the Rocky Flats Citizens Advisory Board and other interested parties to identify the appropriate groups to draw from for membership on the LSO. Potential groups would include former workers, who we believe should serve on the LSO, conservation organizations, and user groups. Additionally, we believe the relevant state and federal regulatory agencies (i.e., DOE, USFWS, EPA and CDPHE) should serve as *ex officio* members.

The Coalition recognizes that other municipal governments may be interested in serving on the LSO. In mid-April we wrote the mayors from seven neighboring municipalities who are currently not members of the Coalition inquiring into their interest in serving on the LSO. To date, only the City of Golden has formally indicated to RFCLOG their interest in serving on the LSO. We believe their inclusion is appropriate.

Finally, the aforementioned congressional letter also suggests defining "closure" for the purposes of compliance of the LSO as regulatory closure, not physical completion of site remediation activities. We support this approach and agree with their position that we must reach conclusion on all outstanding issues at the earliest possible date.

Thank you for considering our thoughts on this matter. The Coalition remains committed to partnering with DOE in developing this important organization.

Sincerely,

/s/

Shaun McGrath  
Chairman

Cc: Senator Wayne Allard  
Senator Ken Salazar  
Representative Mark Udall  
Representative Bob Beauprez  
Frazer Lockhart, DOE  
Rocky Flats Citizens Advisory Board



January 7, 2005

Honorable Spencer Abraham  
Secretary of Energy  
1000 Independence Avenue, SW  
Washington, D.C. 20585

Honorable Gale Norton  
Secretary of Interior  
Interior Building  
1849 C Street  
Washington, D.C. 20240

Dear Secretaries Abraham and Norton,

The Board of Directors of the Rocky Flats Coalition of Local Governments remains troubled by the continued delay in issuing the Memorandum of Understanding (MOU) between the Department of Energy and the Department of the Interior for management of Rocky Flats following the closure of the Site. "The Rocky Flats National Wildlife Refuge Act of 2001" clearly provides that DOE and DOI must publish a draft in the Federal Register no later than one year after enactment of the Act, with the final being approved and implemented by Summer 2003.

We understand that a draft has been held up in Washington, D.C. since Summer 2002 and that the sole unresolved issue is the question of minerals management and, possibly, acquisition. With completion of active remediation expected to occur later this calendar year, we believe the outstanding issues must be resolved and that the draft be issued in the coming months.

The Coalition is made up of elected officials from the seven local governments that surround Rocky Flats, and collectively we represent approximately 800,000 people. We worked closely with Senator Allard and Representative Mark Udall to secure passage of the Refuge Act. An important element of the Coalition's support was the assurance that all outstanding questions concerning non-federal mineral rights at Rocky Flats would be fairly addressed. We believe acquisition of these rights is a critical element in protecting the wildlife resources at Rocky Flats and support federal ownership of these rights, preferably from a willing seller.

Because of this ongoing delay in addressing this issue, there is a serious risk that important lands for refuge purposes will not transfer to DOI after cleanup and closure. DOE will then be saddled with managing important natural resources and, more importantly, active mining operations, clearly activities beyond DOE's mandate.

Delaying the MOU has broader ramifications. Specifically, one of the key elements in closing Rocky Flats and transferring jurisdiction for portions of the Site to DOI is clearly delineating the roles and responsibilities of each agency for the lands each agency will manage. The MOU, in its current draft, addresses critical issues such as DOE and DOI's response action responsibilities, identifies the roles and responsibilities for each agency in identifying lands to be transferred, describes DOE enforcement action responsibilities, and other important issues. In this regard, the MOU should also provide an important link to, and basis for, the Comprehensive Conservation Plan for the Rocky Flats National Wildlife Refuge.

Congress clearly intended that the MOU should be finalized well in advance of the issuance of the CCP. DOI is in the final stages for finalizing the CCP and yet there is no MOU. This situation must be remedied and the MOU must be issued. From a broader perspective, the MOU is a key document in delineating the long-term responsibilities at Rocky Flats. While the Coalition has not always been pleased with DOE's pace in addressing sitewide long-term stewardship issues, progress is being made. So, just as it remains imperative for DOE to finalize stewardship documents over the coming months, it is equally imperative that the MOU, a piece of the long-term stewardship strategy, also be finalized.

We are glad to know that DOE has tasked Matthew Duchesne with trying to reach agreement with DOI on the MOU. We are prepared to provide any help that he or any other DOE or DOI official may need.

Sincerely,

/s/

Karen Imbierowicz  
Chairman

Cc: Senator Wayne Allard  
Senator Ken Salazar  
Representative Mark Udall  
Representative Bob Beauprez  
Frazer Lockhart, DOE  
Dean Rundle, UFWS  
Rocky Flats Citizens Advisory Board  
Matthew Duchesne, DOE

April 5, 2004

Ms. Laurie Shannon  
Planning Team Leader  
U.S. Fish and Wildlife Service  
Rocky Mountain Arsenal NWR, Building 121  
Commerce City, CO 80022

Dear Ms. Shannon,

On behalf of the Board of Directors of the Rocky Flats Coalition of Local Governments, we are submitting the following comments on the Comprehensive Conservation Plan and Environmental Impact Statement (CCP/EIS) for the Rocky Flats National Wildlife Refuge. Because elements of these comments are beyond the scope of the CCP/EIS, we have copied the Department of Energy, Colorado Department of Public Health and the Environment, and the United States Environmental Protection Agency.

After months of intensive conversation amongst the Coalition governments and with USFWS, it is clear that the Coalition, as an organization, does not support one alternative over another. Our comments instead focus on overriding principles and values that are central to the management of the refuge. The individual governments will continue to work with the USFWS on the details of the proposed options, including the preferred alternative.

The Coalition thus offers the following comments.

1. *Support for the Refuge*

The Coalition reiterates its support for the Rocky Flats National Wildlife Refuge. As the Coalition stated in an *Arvada Sentinel* op-ed in June 2001:

The [refuge] bill would accomplish a number of the Coalition's key cleanup and future use goals. Most importantly, it would protect the land for future generations by mandating the site be managed as a national wildlife refuge, while ensuring that the cleanup protects human health and the environment. Additionally, this designation would prohibit future development of Rocky Flats and annexation of the property by any local government. The legislation would also require on-going federal ownership of the site, an integral component of a comprehensive long-term site stewardship program, and also ensure that cleanup is completed prior to the U.S. Fish and Wildlife Service assuming management of Rocky Flats.

While the seven Coalition governments may disagree on elements of the proposed management plan, this disagreement should not be interpreted as suggesting a lack of support for the refuge. The principles articulated in the op-ed hold true.

2. *Limit Access to DOE Retained Lands*

The Coalition remains concerned that USFWS is proposing to allow access to the refuge without defining how the federal government (either USFWS or DOE) will restrict access to DOE retained lands. It is our understanding that the vast majority of the groundwater monitoring wells, settling ponds, caps, surface water monitoring stations, and other controls designed to implement and protect the remedies will remain under DOE's jurisdiction. These lands, we understand, will be off-limits to refuge visitors. It remains imperative that USFWS and DOE decide how access to these lands will be restricted prior to opening up the refuge for visitors.

We recognize there are various mechanisms that can be employed, and that the respective roles of DOE and USFWS in restricting access to the entire Site and to the DOE retained lands must still be decided. Regardless of the legal mechanism(s) that USFWS and DOE ultimately adopt (including but not limited to the past-due congressionally mandated MOU between DOE and the Department of the Interior), USFWS must clearly acknowledge in the CCP/EIS that implementation of the visitor plan is contingent on resolution of this issue.

3. *Additional Analysis Needs to Be Completed*

The Coalition understands that DOE, CDPHE, and EPA believe additional sampling of the Buffer Zone must be completed prior to the closure of Rocky Flats and transfer of jurisdiction of lands to USFWS. The Coalition believes this sampling is essential for a number of reasons, including but not limited to confirming that residual levels of contamination on the lands to be transferred to USFWS are protective of refuge workers and thus of visitors. Additionally, we believe ongoing post-closure monitoring must be conducted in the Buffer Zone to verify the ongoing safety of these lands.

While we understand this sampling requirement is driven by the Rocky Flats Cleanup Agreement (RFCA) and not the CCP/EIS, we believe that USFWS must take this information into account in the CCP/EIS when finalizing decisions about public access to the refuge. Please note, though, that the Coalition remains steadfastly committed to the provision in “The Rocky Flats National Wildlife Refuge Act of 2001” that vests authority for certifying whether Rocky Flats meets regulatory standards and is thus protective in the EPA and not in the USFWS. We believe, as we posited during the drafting of the refuge bill, that the determination as to what is protective is not, as both a matter of science and public policy, the domain of the USFWS. That said, public policy also suggests that USFWS remain engaged on this certification analysis and the potential impacts on the refuge planning process.

#### 4. *A Protective Cleanup*

Recently, a segment of the community has been arguing that any level of radioactive contamination above background is dangerous, and thus USFWS should, from a human health and safety perspective, prohibit all access to the refuge. Provided that the aforementioned additional sampling confirms that the lands transferred to USFWS contain levels of residual contamination that are protective of refuge workers and visitors, we reject this argument.

The Rocky Flats Soil Action Level Oversight Panel’s review of cleanup levels at Rocky Flats concluded that lands contaminated with up to 80pCi/g of plutonium would be protective of a resident rancher that lived on the most contaminated parts of Rocky Flats, grew all their vegetables at the site, received all of their drinking water from the site, and also grazed their livestock at the site. This Panel included, among others, local government representatives and the Rocky Mountain Peace and Justice Center.

Following that study, an intensive review of cleanup levels determined that lands contaminated with up to 50pCi/g of plutonium would be protective of a refuge worker. This scenario presumes that the refuge worker spends 50 weeks a year, 40 hours per week at the most contaminated portion of the site.

It is our understanding that lands which include contamination  $>7\text{pCi/g}$  of plutonium will be retained by DOE – and that these lands, as discussed above, will be off limits to refuge visitors. Based on the aforementioned studies, to suggest that the lands to be transferred will be dangerous to the community if the RFCA standard is met belies sound science and sound public policy.

The Coalition remains committed to ensuring that the cleanup is protective of human health and the environment. We understand this latter point is well beyond the bounds of the CCP/EIS but, given the nature of the current public dialogue, we felt it important to reiterate our position on this critical cleanup issue.

Thank you for your consideration of these issues. We trust that although some of these issues are beyond the bounds of the CCP/EIS, we will continue to dialogue about them with the USFWS in the appropriate forum.

Sincerely,

/s/  
Karen Imbierowicz  
Chair

/s/  
David M. Abelson  
Executive Director

Cc: Frazer Lockhart, DOE  
Doug Benevento, CDPHE  
Max Dodson, EPA  
Senator Wayne Allard  
Representative Mark Udall  
Representative Bob Beauprez

May 2, 2003

The Honorable Conrad Burns, Chairman  
The Honorable Byron Dorgan, Ranking Member  
Subcommittee on Interior and Related Agencies  
Committee on Appropriations  
United States Senate  
Washington, D.C. 20510

**(same letter sent to U.S. House)**

Dear Chairman Burns and Ranking Member Dorgan,

On behalf of the Board of Directors of the Rocky Flats Coalition of Local Governments, I am writing in support of Senator Wayne Allard's request for federal appropriations for acquisition of privately-held mineral rights at the Department of Energy's Rocky Flats site. It is expected that Rocky Flats will be transferred to the United States Fish and Wildlife Service (USFWS) in a few years, so it is imperative that Congress appropriate \$5 million in fiscal year 2004 to begin acquiring these rights.

The Coalition comprises elected officials from the seven local governments that surround Rocky Flats and collectively we represent approximately 800,000 people. We worked closely with Senator Allard and Representative Mark Udall to secure passage of "The Rocky Flats National Wildlife Refuge Act of 2001", an act to transfer Rocky Flats to the USFWS following the remediation and closure in 2006. An important element of the Coalition's support of the Refuge Act was the assurance that all outstanding questions concerning non-federal mineral rights at Rocky Flats would be fairly addressed. We believe acquisition of these rights is a critical element in protecting the wildlife resources at Rocky Flats and support federal ownership of these rights, preferably from a willing seller.

Although Rocky Flats is not yet under the jurisdiction of the USFWS, securing the mineral rights now before they are exercised would help preserve the habitat that will be necessary to support the wildlife that populate and use the lands that will comprise the refuge. In addition, the USFWS has indicated that they would not take primary jurisdiction of any part of Rocky Flats that may contain developable privately-held mineral rights. As such, there is a serious risk that important lands for refuge purposes will not transfer to the USFWS after cleanup and closure unless these mineral rights are secured as soon as possible. The Department of Energy will then be saddled with managing important natural resources and, more importantly, active mining operations, clearly activities beyond their mandate.

The attached estimate from Trust for Public Land values the minerals at \$15 million. We recognize Congress is unlikely to fund this acquisition in one fiscal year and thus support the Trust for Public Land's recommendation that funding be phased over three fiscal years (FY 2004 – FY 2006) with initial funding of \$5 million for fiscal year 2004.

The seven governments that comprise the Coalition have protected roughly 50,000 acres surrounding Rocky Flats as open space which serves to augment the habitat of the refuge. We believe Congress' commitment to protect Rocky Flats as a national wildlife refuge must be seen through to its fruition. Acquisition of the mineral rights remains a critical component in meeting our regional vision and in protecting one of the last remaining stands of high plains xeric tallgrass prairie in the region.

Thank you for considering this request. The Coalition is available to work with the Committee on this request.

Sincerely,

/s/  
Lorraine Anderson  
Chairman

Cc: Senator Wayne Allard  
Senator Ben Nighthorse Campbell  
Representative Mark Udall  
Representative Bob Beauprez

August 6, 2001

Honorable Gale Norton  
Secretary, Department of Interior  
Interior Building, 1849 C Street  
Washington, D.C. 20240

Dear Secretary Norton:

As the Board of Directors of the Rocky Flats Coalition of Local Governments (Coalition), we are writing to urge you to support the "Rocky Flats National Wildlife Refuge Act of 2001" (S.425; H.R. 812). This important piece of legislation would designate the Department of Energy's Rocky Flats site as a national wildlife refuge after cleanup and closure.

The legislation, which is being sponsored by Senator Wayne Allard and Representative Mark Udall, is modeled after the Rocky Mountain Arsenal National Wildlife Refuge Act and reflects years of local dialogue about the future use of Rocky Flats. As elected officials representing the seven local governments that surround Rocky Flats, we unanimously support this bill for it would accomplish our key future use goals for the site.

Most importantly, this bill would protect Rocky Flats for future generations by mandating the site be managed as a national wildlife refuge. This designation would prohibit future development as well as annexation of the property by any local government, while providing a transportation corridor along the eastern boundary of the site to meet regional transportation needs. The bill also mandates cleanup to be completed prior to the U.S. Fish and Wildlife Service assuming management of the site, while guaranteeing the involvement of the Coalition and others in developing the refuge management plan. Additionally, the legislation provides for ongoing federal ownership of Rocky Flats, an integral component of a comprehensive long-term site stewardship program.

The Coalition's mission is to provide an effective vehicle for local governments in the vicinity of Rocky Flats to work together on issues of mutual concern relating to the safe, prompt, and effective cleanup and closure of the site and its future use. We have spent the better part of two years working collaboratively with Senator Allard, Representative Udall, and community members in crafting legislation that meets the myriad of local and national interests. We are pleased that the legislation has the support of the entire Colorado congressional delegation as well as Governor Owens.

We urge you to support this legislation for it would fulfill the local governments' interests as well as the national interest of preserving this unique ecosystem for future generations. We look forward to working with you as this bill moves forward and as management plans for the site are developed.

Should you have any questions, please feel free to contact us, or have Brian Wademan contact David Abelson, the Coalition's executive director, at (303) 412-1200.

Sincerely yours,

/s/  
Nanette Neelan  
Jefferson County

/s/  
Sam Dixon  
City of Westminster

/s/  
Lisa Morzel  
City of Boulder

/s/  
Tom Brunner  
City of Broomfield

/s/

Lorraine Anderson  
City of Arvada

/s/

Karen Imbierowicz  
Town of Superior

Cc: Sen. Wayne Allard  
Rep. Mark Udall  
Sen. Ben Nighthorse Campbell  
Rep. Diana DeGette  
Rep. Scott McInnis  
Rep. Bob Schaffer  
Rep. Joel Hefley  
Rep. Tom Tancredo



**Op-ed: Coalition Supports Rocky Flats Cleanup and Wildlife Refuge Bill**  
By: Michelle Lawrence, Paul Danish, Lorraine Anderson, Tom Brunner, Sam Dixon,  
Karen Imbierowicz, Lisa Morzel  
(Printed June, 2001)

The story of Rocky Flats and the surrounding area is deeply rooted in the history of our communities and in the psyche of many of our citizens. It's a story of homesteaders and bombs, of a unique natural environment and a challenging relationship with the Atomic Energy Commission.

Now fifty years after the headlines extolled the coming of the nuclear age to our communities, we are faced with the opportunity of turning this once top-secret nuclear facility into an asset for this region. With the strong support of Colorado's congressional delegation, lead by Senator Wayne Allard and Representative Mark Udall, we have the opportunity to clean up Rocky Flats and to protect its precious natural resources.

Sen. Allard and Rep. Udall have introduced a bill in Congress to enact this change, to protect Rocky Flats for future generations, free from the encroaching development that has both shaped and reflected our robust economy. "The Rocky Flats National Wildlife Refuge Bill of 2001" would designate Rocky Flats as a national wildlife refuge once the cleanup and closure of Rocky Flats is complete.

As the Board of Directors of the Rocky Flats Coalition of Local Governments, a coalition of elected officials from Boulder County and Jefferson County, the cities of Arvada, Boulder, Broomfield, Westminster, and the Town of Superior, we unanimously applaud this legislation and call on Congress to support and secure its early passage.

The bill would accomplish a number of the Coalition's key cleanup and future use goals. Most importantly, it would protect the land for future generations by mandating the site be managed as a national wildlife refuge, while ensuring that the cleanup protects human health and the environment. Additionally, this designation would prohibit future development of Rocky Flats and annexation of the property by any local government. The legislation would also require on-going federal ownership of the site, an integral component of a comprehensive long-term site stewardship program, and also ensure that cleanup is completed prior to the U.S. Fish and Wildlife Service assuming management of Rocky Flats. Finally, the bill would mandate the involvement of the Coalition and others in developing the refuge management plan.

Not unexpectedly, the bill does have a minority of detractors. Some have suggested that the bill will lead to a "dirty" cleanup for it does not specify cleanup to a level that would allow for residential use. They claim the bill will diminish or compromise the cleanup efforts. We disagree with such claims.

A careful reading of the bill clearly suggests otherwise, for it explicitly states that cleanup must protect human health and the environment. Moreover, due to its widespread support, the prospect of the bill becoming law is helping to drive a more protective cleanup — far greater than the cleanup agreed to in 1996 by the Department of Energy, the Colorado Department of Public Health and the Environment, and the Environmental Protection Agency. The Coalition, for its part, continues to work with Sen. Allard, Rep. Udall and these agencies to assure that the cleanup protects human health and the environment.

This legislation, if enacted, will chart a new course for Rocky Flats, one that few imagined just a few years ago. As Sen. Allard and Rep. Udall have often stated, the legislation will turn weapons into wildlife.

The Coalition applauds Sen. Allard and Rep. Udall's commitment and leadership in cleaning up and protecting Rocky Flats for future generations. We also applaud Governor Owens, Attorney General Salazar, and the entire Colorado congressional delegation for their support of this important legislation.

Together, we can clean up Rocky Flats and protect the resource, not just for ourselves but for our grandchildren and their grandchildren as well.

## Worker Issues

April 8, 2005

The Honorable Mike Enzi, Chairman  
The Honorable Edward Kennedy, Ranking Member  
Senate Committee on Health, Education, Labor, and Pensions  
428 Dirksen Senate Office Building  
Washington, DC 20510-6300

**RE: S. 585, "The Rocky Flats Special Exposure Cohort Act"**

Dear Chairman Enzi and Ranking Member Kennedy:

The Rocky Flats Coalition of Local Governments is writing in support of S. 585, "The Rocky Flats Special Exposure Cohort Act" and requests that the Committee on Health, Education, Labor, and Pensions schedule a hearing on this time-sensitive legislation.

This bill addresses a fundamental flaw in the Energy Employees Occupational Illness Compensation and Program Act (EEOICPA) which has prevented current and former workers at the Department of Energy's Rocky Flats site from being compensated for illnesses contracted while in the service of their country. Through the EEOICPA, Congress intended to help take care of these sick workers and their families. However, as Congress has become well aware, there have been numerous problems in implementing the EEOICPA, particularly in reconstructing worker radiation exposure received while working at Rocky Flats. These problems have resulted, in part, in workers being unable to prove their illness was a direct and proximate result of their work at Rocky Flats.

Under this bill the hurdle of proving causation would be eliminated as employees who have contracted one of the 22 cancers identified in the EEOICPA would automatically qualify for compensation. In approving this legislation, Congress would therefore not be creating new benefits, but rather would be ensuring that those for whom these benefits were intended would receive just compensation.

The Rocky Flats Coalition of Local Governments consists of elected officials from the seven municipal governments that surround the Rocky Flats site. These workers are our constituents and were at ground zero in helping to win the Cold War. Just as we have always supported the Rocky Flats workers, we have also supported Congress's efforts to address their ongoing health needs. We remain concerned that worker benefits continue to be delayed, especially as closure of Rocky Flats is rapidly approaching.

We therefore respectfully request that the Committee provide a hearing on this legislation and we urge swift passage of S. 585.

Sincerely,

/s/

Shaun McGrath  
Chairman

Cc: Senator Ken Salazar  
Senator Wayne Allard  
Representative Mark Udall  
Representative Bob Beauprez  
Samuel Bodman, Secretary of Energy  
Elaine Chao, Secretary of Labor  
Michael Leavitt, Secretary of Health and Human Services  
Rocky Flats Citizens Advisory Board

December 20, 2000

Mr. Gregory Friedman  
Department of Energy, Office of the Inspector General  
1000 Independence Ave, SW  
Washington, D.C. 20585

Dear Mr. Friedman:

The Board of Directors of the Rocky Flats Coalition of Local Governments is extremely concerned about recent safety lapses at the Department of Energy's Rocky Flats Environmental Technology Site. The Coalition consists of the seven local governments that border Rocky Flats, and collectively represents approximately 800,000 people, including the majority of current Rocky Flats workers.

Over the past few months, there has been a marked increase in worker safety violations at Rocky Flats, most recently with 10 workers being exposed in Building 771. The events in Building 771 forced site personnel to issue a building-wide work stoppage, a dramatic step that the Coalition Board understands is reserved for serious safety violations. DOE has confirmed it has forwarded to the Office of the Inspector General (OIG) information related to activities in Building 771. It is also the Board's understanding that the information may relate to the worker exposures in Building 771, and that in response the OIG will be conducting an initial review. These exposures and related safety violations are of great concern, and while the Coalition Board supports the accelerated cleanup and closure of Rocky Flats, safety cannot be compromised. For this reason, the Coalition firmly supports a thorough investigation of these safety violations.

We formally request your office keep the Coalition Board apprised of the OIG's initial review, including any decision to formally launch an investigation. The Coalition Board further requests that to the extent allowable by law, your office keep them apprised of the OIG's findings.

Thank you for your help in this matter.

Sincerely,

/s/  
Michelle Lawrence  
Chairman

/s/  
David Abelson  
Executive Director

Cc: Barbara Mazurowski, DOE  
Tony DeMaiori, Rocky Flats Steelworkers  
Senator Wayne Allard  
Representative Mark Udall  
Representative Bob Schaffer  
Representative Tom Tancredo  
Governor Bill Owens  
Bob Card, Kaiser-Hill  
Rocky Flats Citizens Advisory Board

**RESOLUTION**  
**of the**  
**Board of Directors**  
**of the**  
**ROCKY FLATS COALITION OF LOCAL GOVERNMENTS**  
**regarding**  
**Rocky Flats Workers' Health Benefits**

WHEREAS, the Rocky Flats Coalition of Local Governments is a separate legal, public entity, created by an intergovernmental agreement, as permitted by Colo. Const. Art. XIV, and section 18(2), part 2 of article 1, title 29, C.R.S., among seven Colorado local governments, Boulder County, Jefferson County, the City of Arvada, the City of Boulder, the City of Broomfield, the City of Westminster, and the Town of Superior (collectively, the "Coalition"); and

WHEREAS, the purpose of the Coalition, consistent with public health, safety and welfare, is to provide an effective mechanism for local governments in the vicinity of Rocky Flats and their citizens to work together on issues of mutual concern relating to the safe, prompt and effective cleanup and closure of Rocky Flats, its future use and long term protection, and to serve as a focal point for local government communication and advocacy with state and federal agencies regarding Rocky Flats issues; and

WHEREAS, workers at the U.S. Department of Energy ("DOE") nuclear weapons plant sites such as the Rocky Flats Environmental Technology Site, in Golden, Colorado ("Rocky Flats") and other nuclear weapons production plants, have endangered their lives during the Cold War by exposure to radioactive and hazardous materials; and

WHEREAS, plant workers today jeopardize their health and safety with the continued risk of exposure to radioactive and hazardous materials as they undertake the difficult and risky task of cleaning up and closing down the nuclear production sites such as Rocky Flats; and

WHEREAS, nuclear weapons production and cleanup involved and continues to involve unique dangers, including catastrophic nuclear accidents that private insurance carriers will not cover, as well as chronic exposures to radioactive and hazardous substances, such as beryllium, that even in small amounts can cause medical harm; and

WHEREAS, in furtherance of the Coalition's purpose, the Coalition Board of Directors is concerned about radioactive and hazardous materials exposure and its health impacts on current and former Rocky Flats workers; and

WHEREAS, studies conducted over the past 20 years indicate that DOE workers are experiencing increased risks of dying from cancer and non-malignant diseases; and

WHEREAS, several of these studies also establish a correlation between these diseases and exposure to radiation and beryllium; and

WHEREAS, the Coalition's concerns are heightened upon learning that Rocky Flats workers are deterred from filing health claims and thereby bear substantial financial burden as a result of DOE's apparent policy to oppose workers' occupational illness claims regardless of cost and merit; and

WHEREAS, the Coalition believes that Rocky Flats workers, and other nuclear weapons production workers, need adequate compensation for health care costs resulting from beryllium- and radiation-related health conditions; and

WHEREAS, the United States Congress is in the process of debating legislation which would provide for the efficient, uniform, and adequate compensation for beryllium-related health conditions and radiation-related health conditions in order to assure fairness and equity at Rocky Flats and at other DOE facilities; and

WHEREAS, DOE has announced its intention that DOE contractor and vendor workers at Rocky Flats, and at other nuclear weapons closure sites, will continue to receive health benefits after the closure of Rocky Flats.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE ROCKY FLATS COALITION OF LOCAL GOVERNMENTS AS FOLLOWS:

1. The Coalition Board commends and endorses the efforts of the Colorado Congressional delegation for its support of federal legislation that would provide for efficient, uniform, and adequate compensation for beryllium-related health conditions and radiation-related health conditions in order to assure fairness and equity at Rocky Flats and at other DOE facilities.
2. The Coalition Board believes that the establishment of such a health benefit program through legislation represents a major step forward in providing justice for workers and their families, and urges Congress to enact such legislation in a timely manner and bring closure to the issue so that workers will benefit from the provisions therein.
3. The Coalition Board further urges Congress to authorize and adequately fund long-term health benefits for both federal and non-federal workers at Rocky Flats and at other DOE closure facilities after closure, including providing for survivor benefits.

Passed and adopted this 11<sup>th</sup> day of September, 2000

ATTEST: ROCKY FLATS COALITION OF LOCAL GOVERNMENTS

/s/

Paul Danish  
Vice Chairman

# Appendix D – Additional Resources

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Rocky Flats Stewardship Council: [www.rockyflatssc.org](http://www.rockyflatssc.org)

Rocky Flats Coalition of Local Governments: [www.rockyflatssc.org/rclog.html](http://www.rockyflatssc.org/rclog.html)

Rocky Flats Citizens Advisory Board: [www.rockyflatssc.org/rfcab\\_advisory\\_board.html](http://www.rockyflatssc.org/rfcab_advisory_board.html)

Rocky Flats Cold War Museum: [www.rockyflatscoldwarmuseum.org](http://www.rockyflatscoldwarmuseum.org)

Carnegie Branch for Local History, Boulder Public Library: extensive oral history of Rocky Flats  
(personal stories of former plant workers, officials, community activists and others)