

Rocky Flats Coalition of Local Governments Board Meeting Minutes

March 2, 2000

2:00 p.m. - 5:00 p.m.

Jefferson County Administration and Courts Facility

Board members in attendance: Sam Dixon (Director, Westminster), Tom Brunner (Director, Broomfield), Hank Stovall (Alternate, Broomfield), Mike Bartleson (Alternate, Broomfield), Lorraine Anderson (Director, Arvada), Ken Fellman (Alternate, Arvada), Carol Lyons (Alternate, Arvada), Lisa Morzel (Director, City of Boulder), Paul Danish (Director, Boulder County), Carolyn Dulchinos (Alternate, Boulder County), Jeff Holwell (Alternate, Superior), Michelle Lawrence (Director, Jefferson County).

*arrived at the time indicated

Coalition staff members and consultants in attendance: David Abelson (Executive Director), John Marler (Technical Advisor), Katie Ewig (Program Assistant), and Barb Tenney (Icenogle, Norton, and Seter, P.C.).

Members of the Public: Gerald DePoorter (RFCAB), Bob Card (Kaiser-Hill), Ann Bormolini (GBSM/Kaiser-Hill), John Corsi (Kaiser-Hill), Mariane Anderson (DOE), Russell McCallister (DOE), Joe Legare (DOE), Paul Golan (DOE), Frazer Lockhart (DOE), Glenn Doyle (DOE), Michael Weis (DOE), Jeremy Karpatkin (DOE), Steve Gunderson (CDPHE), Steve Tarlton (CDPHE), Rob Henneke (EPA), Theresa Benda (Gov. Owens), Janice Sinden (Senator Allard), Jenna Jones (Senator Allard), Chuck Baroch (City of Golden), Ann MacRae (Public Service), Doris DePenning (Friends of Foothills), Hildegard Hix (Sierra Club), Nancy Hollinger (Blue Mtn. Homeowners Assoc.).

Convene/Agenda Review

Michelle Lawrence called the meeting to order at 2:10 p.m. She noted that the agenda had been re-arranged so that the first public comment period would come after business items and the round robin, and that there would be an additional item for the execution of the directors' oaths of office.

Business Items

- 1) **Motion to Approve Consent Agenda** – Lorraine Anderson motioned to approve the consent agenda, which included the February meeting minutes and checks. Sam Dixon seconded the motion. The motion passed 7-0.
- 2) **Executive Director Report** – David Abelson announced that he had received a copy of the amended Colorado Hazardous Substance law from Dan Miller. The bill amends the state hazardous waste law to create a method to enforce use restrictions that are part of a cleanup remedy. He urged anyone who wants a copy of the bill to call the Coalition office or Dan Miller. David then reminded the Board of a letter from Frank Stewart (DOE-Golden Field Office) about NREL's windfarm expansion plan, which proposes to reuse buildings 130 and

131 in the Industrial Area as well as build a test facility in the buffer zone. NREL has asked to brief the Board or hold a special meeting to discuss this proposal, and David anticipates this briefing will be held at the April Board meeting. The third item David Abelson addressed was the ongoing stewardship dialogue. The consultants hired for Phase I, CDR and Associates, presented their final report and recommendations on February 24th. The next Coalition-CAB stewardship meeting will be held Thursday, March 23rd. The next item David brought up was DOE's recently issued Record of Decision for the treatment and disposal of low level wastes. The decision is key to Rocky Flats because approximately 10,000 cubic meters of low level wastes are "orphan", meaning that no sites have been identified as potential receiver sites or that sites have been identified but lack the necessary permits. In closing, David circulated a draft rule put out by DOE regarding the transfer of real property at DOE facilities.

- 3) **Approve Bylaw Provision regarding Electing/Appointing Officers** –Barb Tenney reviewed the Bylaw amendment which establishes the procedures for selection of officers of the Board. She noted that the amendment is being brought to the Board for its second consideration, as a condition to any modification to the Bylaws. Lorraine Anderson motioned to approve the bylaw provision for electing/appointing Coalition officers. Tom Brunner seconded the motion. The motion passed 7-0.
- 4) Ms. Tenney distributed to each director, including the alternates, a written oath for execution. She noted that the oath serves as an affirmation of the duties of the public office of director of the Coalition.

Round Robin

Westminster – Sam Dixon stated that she was looking forward to the Coalition's lobbying trip to Washington D.C. and that she hoped the Coalition would agree to add a bullet point stating their support of the Udall bill under the Common Goals section of the lobby packet. Sam also said that Westminster had been approached by Public Service regarding transmission lines through Rocky Flats, and that the Westminster City Council would be discussing the issue at their March 20th meeting. In addition Sam stated that she would like to see the stewardship task force get to work as soon as possible. In closing Sam distributed Jim Fiore's response to Westminster's letter urging against a NAS review. She said that she is still opposed to a lengthy NAS review of the RAC's soil action levels.

Broomfield – Hank Stovall agreed with Sam's concerns and added that Broomfield sent a letter to Fiore urging against a NAS review as well. Hank stated that he would also like to see the stewardship group get to work and that Broomfield is still tracking Senate bill 168, which may affect land use at Rocky Flats.

Boulder – Mike Weil stated that Boulder endorses the prescribed burn in the buffer zone of Rocky Flats in concept but would like to see a test burn done prior to the full burn.

Boulder County – Paul Danish urged the Coalition to review and comment on DOE's draft rule regarding the transfer of real property.

Superior – Jeff Holwell thanked Jefferson County for hosting the meeting at the last minute and said that Superior would be willing to host the next scheduling Jefferson County Board meeting in exchange.

Arvada – Lorraine asked that Arvada’s round robin time be postponed until Ken Fellman arrived. Lorraine added that Arvada has no interest in the Public Service transmission line proposal.

Public Comment

Doris DePenning thanked the Coalition for their support of Udall’s Rocky Flats Open Space Act.

Bob Card announced that Kaiser-Hill had terminated operations in Building 371 but that work should restart in a few weeks. When asked by Paul Danish what prompted the termination of work, Bob responded that it was due to the mishandling of a few air reversal incidents by workers in the building. The primary missions of Building 371 are plutonium storage and residue processing.

Sam Dixon asked Bob Card to explain why there will not be a test burn such as Boulder requested prior to the full prescribed burn. Bob replied that the burn will be done in many small patches, and that each patch will be separately burned and monitored. Dave Shelton added that the community will be notified of the burn a day prior to the event and that burn plan should be released by the U.S. Forest Service within a week or two.

Finalize Washington D.C. Lobbying Materials

David alerted the Board to two changes made in the Issues Overview resulting from updated information. The first change is that the anticipated date of shipments to WIPP would be March 2000 instead of February 2000. The second change is that the plutonium special packaging system would not be operational until August 2000 instead of June 2000.

David then asked for Board comment on Sam’s suggestion to add a bullet point on the Common Goals page of the lobbying packet stating the Coalition’s support of the Rocky Flats Open Space Act. Lorraine Anderson asked if the statement could be reworded to focus on the Coalition’s common goal of the buffer zone as open space without alluding specifically to the Udall bill. The Board agreed to add a bullet on the Common Goals page that reads the Coalition supports efforts to protect the buffer zone as open space.

Hank Stovall asked if it would be good to change bullet number 3 on the Funding page (p.9) to read “Receiver sites must be funded *in their own budgets* to ensure the safe and thorough cleanup of Rocky Flats.” Paul Golan assured Hank that the chance of other sites trying to siphon money off the Rocky Flats cleanup budget this year is very low. Hank dropped his suggestion to make the change.

There were no other comments on the lobbying materials. The Board agreed that with the two minor changes noted by David and the addition of the bullet point on supporting the buffer zone as open space, the lobbying materials were ready to go to Washington, D.C.

Presentation of DOE/Kaiser-Hill Contract

*Ken Fellman arrived at this time

Paul Golan, the acting Manager of Rocky Flats, began his presentation by telling the Board about his background working at Rocky Flats and his personal commitment to the cleanup and closure of the site. He believes that both safety and public involvement are at the heart and soul of the new DOE/Kaiser-Hill contract, and that this contract is a significant improvement over the last one. The new contract incorporates all the lessons learned in the previous years and includes incentives to close by 2006 as well as disincentives to ensure the cleanup work at Rocky Flats is done safely.

Negotiations on the new closure contract began in October 1999 and continued through mid-January. The negotiation objectives included: accelerated closure, full scope of closure, improved safety performance, cost effectiveness, competitive subcontracting, and contract reform implementation. The contract was signed January 24th, 2000, and became effective on February 1st, 2000.

The contract features a cost plus incentive fee Target Cost (\$3.9 B) and Target Fee (\$340 M), and is unusual in that the contractor (Kaiser-Hill) shares 30% in cost over-runs and under-runs. There is also a schedule incentive, meaning that the \$20 M of possible fee earned by Kaiser-Hill will increase or decrease based on their final completion date. No fee will be earned until completion, although quarterly payments will be made and are conditioned on the final cost and completion date. Significant penalties of up to six months worth of fee (\$30 M) could be incurred by Kaiser-Hill for environmental safety and health violations or safety and security failures. Other features of the contract are that 80% of the contract value must be sub-contracted and that Kaiser-Hill accepts risks for differing site conditions such as unexpected under-building contamination.

The contract also specifically defines government commitments to provide certain services and items, such as TRU-PACs, certified shipping containers, and receiver sites for specific types of waste. If there is a delay in getting these items, a change order to the contract will be required.

Regarding public involvement, Paul Golan explained that the regulatory process still governs all cleanup decisions and the process for translating assumptions into decisions is unchanged. However, DOE did not commit in the contract to seek regulatory approval for the contract scope, therefore any change in the scope will require a change order, cost-benefit analysis, public comment, etc. After Paul Golan finished his presentation, the floor was opened for questions and comments.

*Lisa Morzel arrived at this time.

Tom Brunner expressed concern about things mentioned in the scope of the contract such as caps, water quality on-site, and soil action levels. He stated that he does not want the Coalition to be viewed as a hindrance to cleanup if the local governments decide they don't support a certain cleanup action or level. Paul Golan replied that several things listed in the scope of the contract have yet to be fully discussed by the local communities. DOE and Kaiser-Hill expect to receive public input on those matters when considering what action to take on issues such as the use of caps and the determination of soil action levels.

Tom Brunner then asked Paul Golan what message he would like to see the Coalition send when they go to Washington, D.C. to lobby. Paul responded that the greatest message the Coalition could send is that the local communities are aligned in their goals for the cleanup. Paul went on to explain that the reason Rocky Flats is getting its full funding is because progress is being made and that Rocky Flats can be a success. If the federal government perceives a lack of community solidarity behind the cleanup, or the cleanup falls drastically behind schedule, continued funding for Rocky Flats could be jeopardized.

Carolyn Dulchinos asked how the decision regarding the use of caps will be made. Paul Golan replied that decisions will be made via the RFCA process. Bob Card added that Kaiser-Hill's preference is to not use any caps, but caps were the only action that could be priced for use in the contract. Mary Harlow commented that several items in the contract, caps being one example, are seemingly in conflict with the RFCA. She asked how these conflicts would be remedied. Paul Golan answered that DOE and Kaiser-Hill must default to the RFCA unless and until the RFCA is changed. He agreed that in some places the scope of work in the contract does conflict with the RFCA and those differences must be worked out. However, the contract by no means trumps the RFCA.

Paul Danish inquired if there will be any continued DOE mission at Rocky Flats once the site is cleaned and closed, to which Paul Golan replied that the NREL wind site proposal is the only possible DOE mission that might utilize the site. Hank Stovall asked Paul Golan what his vision was for public involvement and expressed concern that DOE would continue to issue a decision, let the public comment, and then ignore the input. Paul explained that he would like to see the public involved while they can have an impact, before decisions are made.

Cleanup and Closure Issues

Dave Shelton gave a brief presentation on the two Kriging maps showing the distribution of plutonium and americium onsite at Rocky Flats. He explained that Kriging analysis is a geostatistical method used to take data and represent it spatially. The data used for the current analysis is the largest, most complete and up-to-date set and includes over 2400 plutonium samples and 2200 americium samples taken between 1991 and the present. The Kriging analysis divides Rocky Flats into four subsections that reflect differing concentrations and variability. This technique reduces uncertainty by reducing sample variability in each section. Looking at the two maps, Dave explained that the 903 pad is the primary source of wide-spread contamination at Rocky Flats and the extent of Industrial Area contamination is not yet well

defined. In summary, Kriging analysis has two main purposes: to support actinide migration analysis Site-wide and to be used (in combination with other data) to optimize remedial decisions for the 903 pad.

Sam Dixon stated that the 903 pad has already been remediated twice before, and if DOE would have spent more money in the beginning to do the cleanup right they wouldn't have to be doing it again for the third time. Paul Danish asked Dave Shelton exactly how much contamination is in the top 1 cm of soil at the 903 pad, but Dave did not know the answer. Lisa Morzel commented that she would like to see a three-dimensional cross section of the site showing the distribution of different elements and toxins. Dave added that more is known about the depth of the contamination at the 903 pad because holes have been drilled in order to take deeper samples.

David Abelson then gave a short presentation on soil action levels, focusing on what soil action levels are and what political and scientific questions they raise. David explained that soil action levels are key in determining the final cleanup level at the site. The current or "interim" soil action levels were derived by the RFCA principals in 1996. Soil action levels are "numeric levels which, when exceeded, trigger an evaluation, remedial action, and/or management action." Soil action levels are important because they help the RFCA principals and the stakeholders answer the question of "how clean is clean?" as well as protect the anticipated future user, surface water quality, and ecology. In addition they help DOE determine the scope and cost of cleanup work.

The soil action levels raise numerous scientific and political questions. These include science-based questions related to: 1) the importance of including fire in the modeling to determine soil action levels (RAC added fire in their modeling, the RFCA parties did not); 2) whether soil action levels will protect water quality; 3) actinide migration; 4) risks, both known and unknown; and 5) anticipated land use. The political questions soil action levels raise include: 1) how much it will cost to clean the soils to different levels; 2) the impact of soil action levels on the 2006 closure; 3) whether the soil action levels reflect community values; 4) Rocky Flats setting a national precedent with their soil action levels; and 5) anticipated land use.

David stated that the focus thus far in the soil action level debate has been on the numbers, but that the Board needs to understand the political and scientific questions and how they interact before they can make a decision about what the best levels would be. He added that he hoped the regulators could do a more in-depth presentation on soil action levels at the April Board meeting and then John Till (who led the RAC review) could do a presentation at the May Board meeting.

Round Robin (cont.)

Arvada - Ken Fellman clarified that the reason Arvada does not support Udall's Open Space Act is because Arvada wants the highest level of cleanup in the buffer zone and the bill does not guarantee this. He stated that Arvada is not interested in development possibilities at the site. He expressed disappointment that some members of the Coalition were critical of Arvada in the press and mis-represented Arvada's reasons for not supporting the Udall bill. He asked that if a

member of the Coalition has questions concerning Arvada's position on an issue that they talk directly to him and not to the press.

Public Comment

Nancy Hollinger expressed concern about the blowing soil and dust south of the buffer zone near Highway 72. The Board agreed to have someone from CDPHE respond to her concern at the April Board meeting.

The Big Picture was then reviewed by the Board and a change was made to add time at the April meeting to have someone respond to Nancy Hollinger's concern.

Ken Fellman motioned to adjourn the meeting. Sam Dixion seconded the motion. The motion passed 7-0. The meeting was adjourned at 5:08 p.m.