

Rocky Flats Coalition of Local Governments Board Meeting Minutes
Monday, July 10, 2000
8:00 – 11:30 a.m.
Mt. Evans Room in the Terminal Building
Jefferson County Airport, Broomfield

Board members in attendance: Michelle Lawrence (Director, Jefferson County), Nanette Neelan* (Alternate, Jefferson County), Tom Brunner (Director, Broomfield), Hank Stovall (Alternate, Broomfield), Mike Bartleson (Alternate, Broomfield), Sam Dixon* (Director, Westminster), Mary Harlow (Alternate, Westminster), Lorraine Anderson (Director, Arvada), Ken Fellman (Alternate, Arvada), Carol Lyons (Alternate, Arvada), Lisa Morzel* (Director, City of Boulder), Amy Mueller (Alternate, City of Boulder), Paul Danish* (Director, Boulder County), Carolyn Dulchinos* (Alternate, Boulder County), Matt Magley (Alternate, Superior).

Note: Boulder County arrived late so there were initially only six voting Board members.

*Arrived/Departed at time indicated

Coalition staff members and consultants in attendance: David Abelson (Executive Director), John Marler (Technical Advisor), Kimberly Chleboun (Program Assistant), Donna Frost (Financial Consultant), and Barbara Tenney (Icenogle, Norton, and Seter, P.C.).

Members of the Public: John Corsi (Kaiser-Hill), Laura Brooks (Kaiser-Hill), Caprice Lawless (Kaiser-Hill), Troy Timmons (Kaiser-Hill), Bob Nininger (Kaiser-Hill), Jeremy Karpatkin (DOE), Barbara Mazurowski (DOE), Cliff Franklin (DOE), John Rampe (DOE), Paul Hartmann (DOE), Guy Williams (DOE-Golden), Chris Powers (DOE-Golden), Jeff Baker (DOE-Golden), John Herrick (DOE-Golden), Steve Tarlton (CDPHE), Rob Henneke (EPA), Heather Balsen (Louisville), Joshua Epel (Golden), Hildegard Hix (Sierra Club), Gerald DePoorter (RFCAB), Theresa Bender Sauer (Governor Owens), Janice Sinden (Senator Allard), Pete Jacobsen (Senator Allard), Doug Young (Congressman Udall), Dan Miller (Attorney General Salazar), Doris DePenning (Friends of the Foothills), Roman Kohler (RF Homesteaders), Hildegard Hix (Sierra Club), Steve Smith (Public Service Co.), Stephanie O'Mally (Patton-Boggs), Jyoti Wind (CCNWI), Pam Tumler (GAO), Amy Cramhelwich (GAO), Lee Carroll (GAO), Robert Nelson (citizen), S. Geoghan (citizen), Paula Elofson-Gardine (citizen), Linda Cassady (LL Cassady Co.), Dean Rundle (USFWS), Robin Romero (USFWS), Bruce Rosenlund (USFWS).

Convene/Agenda Review

Michelle Lawrence called the meeting to order at 8:05 a.m. There were no proposed changes to the agenda.

Business Items

- 1) **Motion to Approve Consent Agenda** – Lorraine Anderson motioned to approve the consent agenda. Hank Stovall seconded the motion. The motion passed 6-0.
- 2) **Executive Director Report** – David Abelson briefed the Board on his attendance at the June DOE conference sponsored by the Office of Worker and Community Transition in Washington D.C. Two issues the Board raised during their March lobbying trip, maintaining a skilled workforce through closure and benefits for federal and non-federal workers, were discussed at this conference. Additionally, while in Washington David learned from Gary King that the Coalition would be receiving an additional \$50,000 from DOE for this federal fiscal year. As directed by the Executive Committee, David also met with the staff of Senator Allard and Congressman Udall's offices in Washington and reiterated the Board's prior statements regarding their open space bills, explaining the Coalition's positions. He was also able to meet with Congressman Udall to discuss his bill and the progress being made towards cleanup. Next, David discussed the matter of Arvada retaining the law firm of Patton Boggs to advise them and represent them on federal matters, including Rocky Flats issues. David met with members of the law firm, Carolyn McIntosh and Mike Dino, and spoke about the Coalition's interests and where they intersect with Arvada's interests, as well as Arvada's concerns with the Allard and Udall bills. David will continue to meet with them as needed and update the Board. David then directed the Board's attention to slides providing a summation of key water quality issues from the June Board meeting. In conclusion, David stated DOE and the regulators must continue to work with the Coalition to protect both on-site and off-site water quality now and into the future.

*Paul Danish and Lisa Morzel arrived at this time.

- 3) **Coalition Audit** – David Abelson distributed bound copies of the audit to members of the Board and introduced Linda Cassady, the independent auditor who previously audited RFLII. Barbara Tenney explained the audit met requirements of being completed within six months following the audit year and was submitted within 30 days of completion. Barbara also stated the Board has no legal obligation to accept the audit. Linda then began by explaining her responsibility to express an opinion on the Coalition general purpose financial statements based on her audit, as well as her responsibility to create a report on the Coalition's internal control over financial reporting. The audit was performed in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in *Government Auditing Standards* due to federal and state funds received. The Coalition did not receive funding over \$300,000, which would require a single audit. Linda continued by describing items within the audit including the balance sheet, statement of revenues, notes to financial statements, and accounting principles. She stated she found no items of noncompliance and no material weaknesses in the internal controls. Linda also noted Donna Frost had done an excellent job at maintaining records and it had been a clean audit. A Board discussion ensued regarding the size of the budget and resulted in discussion of the Coalition's designation as a Community Reuse Organization (CRO). Lorraine Anderson questioned the Coalition's role as a CRO. David Abelson responded that the role DOE

requested the Coalition take be different than other CROs at other sites. RFLII was involved in the transition of Rocky Flats from an economic perspective while the Coalition's task involves transitioning the Site in totality, including integrating the Site into the larger community, as well as the task of reviewing stewardship issues. Michelle Lawrence suggested continuing the discussion at a future meeting in order to confirm the Coalition is fulfilling its responsibilities as a CRO. Lisa Morzel motioned to approve the Coalition audit. Tom Brunner seconded the motion. The motion passed 7-0.

Round Robin

Superior – Matt Magley introduced himself explaining he is replacing Jeff Holwell as Superior's Second Alternate. Barbara Tenney confirmed this by stating Superior did submit an official letter. She then gave Matt his oath of office for signature.

Westminster – Mary Harlow expressed Westminster's support of the new RFCA Focus Group.

Broomfield – Hank Stovall agreed with Mary Harlow in supporting the newly organized focus groups. He then expressed concern over a soil action review study he co-chaired. The study group had submitted their findings to DOE who forwarded it to Argonne Labs. A draft report has not been released to the public or stakeholders yet, and he requests this be done immediately.

Michelle Lawrence introduced Barbara Mazurowski, the new Site Manager. Barbara explained she is now officially here permanently and is busy transitioning. She then stated Kaiser-Hill's Baseline for Project Closure was delivered to DOE last week, and DOE is analyzing what impact it may have on the workplan and budget. An initial high-level review will begin in August followed by a more in-depth review for weaknesses or concerns for immediate action. She confirmed that at some point there would be an outside review. Jeremy Karpatkin added there would be a brief summary of the Baseline available this week and a more extensive summary by the end of the month, although the entire document is available in CD format. Barbara also described DOE's submittal of a proposed planning document to the Colorado Air Quality Control Commission that outlines how DOE might use prescribed burns in the year 2001 and beyond. She emphasized DOE is not currently planning any burns now or for the Fall, but was required to submit this document by July 1, 2000 to maintain the option of prescribed burning in the future.

Public Comment

In relation to the prescribed burn issue, Doug Young announced Congressman Udall had sent a letter to Barbara Mazurowski last week encouraging formation of a study group, including the public and local governments, to analyze the results of the test burn that was conducted this past Spring. David Abelson will fax a copy of the letter to the Board.

Paula Elofson-Gardine explained she had been busy networking via the Internet regarding her concerns over the prescribed burn. She is involved in a nationwide city radiological monitoring

network and noted she has air monitoring data showing extremely high readings at the time of the burn last Spring. Since Paula feels the current systems are lacking, she emphasized how the burn moratorium provides a vital opportunity for citizens to get involved in demanding better public protection.

*Carolyn Dulchinos arrived at this time.

Intermediate Record of Decision and RFCA Focus Group Presentations

David Abelson explained the Interim Record of Decision (IROD) is now being called the RFCA Integrating Decision Document (RIDD).

Paul Hartmann (DOE) distributed the current version of the Integrated Environmental Restoration (ER) Model and a draft syllabus for the RFCA Stakeholder Focus Group meetings. In response to concerns by Paul Danish, Paul Hartmann gave John Marler a glossary of acronyms to forward to the Board. He then began by describing the Integrated ER Model, which incorporates a timeline reflecting time spans for public process, which will lead to the RIDD. The Model also illustrates how evaluation criteria, like protection of human health and the environment and community values, are tied into the decision-making process. Going into more detail, Paul explained the RSAL public process is a RFCA required annual review. New information is reviewed, in this case it will be the RAC Report, and this information may cause changes to the RFCA. DOE will have a public meeting July 13th during which the public will be informed of what is being reviewed, what process it will follow, and what end product to expect. A second meeting will follow in the Fall to review the draft report for the new RSAL. There will then be a public comment period and an additional 60 days for review, and when the draft is finalized the RFCA parties will go forward with the RSAL decision. Paul Hartmann explained this same public process would occur for the 903 Pad, resulting in an Interim Measure/Interim Remedial Action. Other documents to examine will include the Industrial Area Sampling and Analysis Plan (SAP), the Buffer Zone SAP, the ER RFCA Standard Operating Procedure (RSOP), and the Water Closure Management Plan. The integration of these multiple decisions will lead to the RIDD by 2003. Paul Hartmann stated that within the RIDD all decisions would be brought together in one document so everyone will be aware of cleanup levels. Bob Nininger interjected that the RIDD is intended to be a living document, subject to annual updates. He also explained the Water Closure Management Plan would chart water management past closure. Paul Hartmann clarified that the ER Model is not a regulatory document, but a way in which to illustrate the interrelated processes that will go into the comprehensive cleanup.

Paul Hartmann then presented information on the Stakeholder Focus Group by explaining how the initial idea for a focus group began. Because of the complexities of cleanup and regulatory processes, DOE wanted to improve communication to the public. Jeremy Karpatkin elaborated by describing the two criticisms DOE is attempting address. The first is that DOE is not specific about how and when decisions are made, and the second is that they do not do a good job integrating all of the decisions. Jeremy explained since consensus is lacking on the endstate of the Site, a goal of the focus group is to close the gap on these issues and outline what needs to be

done to achieve an agreeable endstate. He also emphasized this group is not a surrogate for the entire public process, although the RFCA parties do hope to eliminate some meetings due to the focus group's in-depth review of technical and policy issues. The floor was then opened for questions and answers.

Paula Elofson-Gardine stated many people would not attend meetings if they were held at the Site. Paul Hartmann responded the next meeting is being held at Broomfield City Hall. Lisa Morzel then raised her concern that the meetings were not widely enough publicized, and stated she would like to see a public notice in local papers. Lisa also said she hoped to see meeting summaries in press releases and that it is important for meeting executive summaries to be available at city halls, county seats, and local libraries. Jeremy responded DOE did send notices to the media. David Abelson added the Coalition would work with DOE in distributing meeting minutes to the local government staff to distribute through their jurisdiction. In response to a question raised by Hank Stovall, Jeremy verified DOE would be providing financial support for an independent facilitator for these meetings by August.

*Sam Dixon and Nanette Neelan arrived at this time.

National Wildlife Refuge Presentations

Dean Rundle, Refuge Manager at the Rocky Mountain Arsenal, distributed copies of the National Wildlife Refuge System Improvement Act of 1997 to the Board, as well as a fact sheet on the Refuge System. He explained he represents the land management arm of the U.S. Fish and Wildlife Service (USFWS), while other programs include, but are not limited to, ecological services and regulatory enforcement of the Endangered Species Act. Dean then began to describe the USFWS relationship with cleanup at the Arsenal. USFWS has been providing technical assistance at the Arsenal since the 1960s, but became much more involved in 1986 when a winter communal roost of bald eagles was discovered on-site. When the Arsenal was added to the National Priorities List in 1987, USFWS worked with the Army, Shell, EPA, CDPHE, and local governments to develop remedies protective of wildlife. The Arsenal was designated a National Wildlife Refuge by legislation passed in 1992 and USFWS again worked with the Army and Shell in designing the 1996 ROD. The goal is to cleanup contamination and protect the environment without destroying sensitive habitat. Dean emphasized the Arsenal contamination and cleanup is very different from the Rocky Flats cleanup. He listed three options of cleanup: 1) burn, 2) bury on-site, or 3) bury off-site. USFWS provided input to regulatory agencies and provided detailed analysis and surveys of the chemical on-site. Dean described the 17,000 acres as mostly clean and good habitat, and described cleanup as working from the outside to the inside. Cleanup levels were designed to be protective of a refuge manager with a 30-year career, working 2000 hours a year. Dean explained that the entire remedy is guided by the Remediation Venture Office (RVO), a tri-party arrangement consisting of personnel from the Army, Shell and USFWS creating joint public relation offices. USFWS engineers design remedy projects, and the Army and Shell mitigate for habitat disturbances as they go along. Dean went into more detail in describing short grass prairie restoration that

involves in-depth scientific studies, soil analysis, and seeding 40 to 50 species of native grasses. EPA requires the Army and Shell to fund the project irrigation.

Dean then proceeded to describe the National Wildlife Refuge System and reviewed the fact sheet he had previously distributed. He explained the Refuge System, administered by USFWS, consists of the only federal lands dedicated to wildlife. There is a hierarchy of uses within the System, which begins with the top priority of “wildlife first”. This is followed by six wildlife dependent priority uses, which must be found “compatible” with the “wildlife first” purposes of the refuge. All other uses would follow, including non-wildlife-dependent recreation, such as swimming and camping, and commercial uses, such as grazing. Again, these uses must be found “compatible”. Dean stated that each refuge requires a Comprehensive Conservation Plan (CCP). This CCP is prepared in an open public forum in conjunction with local landowners and governments, is subject to NEPA compliance, and is accompanied by a NEPA document, such as an Environmental Assessment or an Environmental Impact Statement. Typically, it takes one to two years to complete a CCP; the Arsenal Plan took 18 months to prepare. Next, Dean characterized general management of refuges, including monitoring, fire management and law enforcement. He spoke to the issue of fences since it is a key issue to the Board. Dean confirmed there is no general requirement to fence National Wildlife Refuges, and this decision would be made during the planning process. Some fences may be appropriate for livestock, protection of sensitive resources, or safety considerations. Dean then relayed types of refuge acquisitions, including overlays, conservation easements, transfer of jurisdiction, and cooperative agreements. He also directed the Board’s attention to the Compatibility section of the factsheet. Dean closed by stating the USFWS position of supporting preservation of open space and habitat and that they are looking forward to the Rocky Flats dialogue, although they have no current opinion on Rocky Flats legislation. He acknowledged that although there are many similarities between Rocky Flats and the Arsenal, one major difference is the amount of lead-time USFWS had in providing remedy input.

Dean then answered questions from the Board. He confirmed that since military downsizing began in 1992 the Refuge System has acquired many contaminated sites, although their only experience with radionuclides thus far has been in Hanford. Lisa Morzel asked what type of wildlife monitoring was done to check for ingestion of hazardous substances. Dean responded there are five indicator species of bird and fish that they monitor closely, and will continue to monitor past closure. This monitoring is subject to review by the EPA every five years. He also confirmed they had seen an improvement in biologic contamination levels. Again, in response to questions from Lisa, Dean explained there is no acreage threshold for a refuge and that it would be possible that a windfarm may be ruled as an incompatible use if it was considered a threat to migratory birds. Lorraine Anderson then questioned if USFWS would characterize different areas of Rocky Flats for wildlife use or just take over the whole site. Dean explained that the refuge should consist of a manageable block of land, but that type of decision would be made during the planning process. Lorraine expressed concern over USFWS ability to monitor radionuclides in wildlife since the effects take longer to manifest themselves. Dean replied the EPA and the State are the experts in looking after human health, and that the USFWS would acquire experts in radiological contamination if necessary. Lorraine again raised the issue of a

fence and the example of the Two Ponds Refuge being fenced without prior notification to Arvada, as well as Two Ponds closure due to a lack of funds. Dean apologized if there had been an error in notifying the proper authorities, but again reiterated that plans for a fence would be addressed in the planning process. He also explained that USFWS is a small agency with a small budget, but funding at Rocky Flats would come from DOE just like funding for the Arsenal came from the Army and Shell. Costs will depend on the programs at the Site, and this is also subject to regulator input. Michelle Lawrence received confirmation from Dean that all of these types of decisions would require public input during the planning process. Hank Stovall asked if USFWS had condemnation powers and explained this is of concern due to mineral and water rights at Rocky Flats. Dean responded USFWS does have the power of eminent domain, but it is a longstanding policy that they don't use this power, and it has only been used once in the last 20 years. If USFWS requires those rights, Congress has approved them to purchase the rights.

*Carolyn Dulchinos left at this time.

Rock Creek Reserve

Robin Romero explained USFWS is currently working on the Rock Creek Reserve draft plan. The plan will go to DOE for internal review and then be open for public review. The plan will cover five years, from 2001 to 2006, and is based on ecosystem level management with a top priority of noxious weed management. Robin added that one of their options is expanding the reserve boundary, based on the size of the watershed, to encompass 1700 acres, compared to the current 800 acres. If the entire site is approved as a National Wildlife Refuge, this plan could be used as a baseline document. She also clarified that DOE owns Rock Creek Reserve and although USFWS is making recommendations, the comprehensive plan is ultimately up to DOE. Lorraine Anderson expressed frustration over the presentation not being complete and asked when they could discuss a completed plan. Michelle Lawrence answered that when the draft plan is complete David Abelson would distribute it to the Board. Ken Fellman asked if there had been any discussion over the National Renewable Energy Lab's (NREL) request for a windfarm expansion. John Rampe and Jeremy Karpatkin explained that there would be no expansion into the Rock Creek Reserve, however there is still some discussion regarding other areas of the buffer zone and reusing existing structures in the 130 trailer area for administration buildings. However, Jeremy stressed that they are not at the point of changing the planning document.

Discussion of Senator Allard and Congressman Udall's Rocky Flats Bills

David Abelson presented a slide summary illustrating a comparison of the two bills. He explained there are no basic inconsistencies between the two bills as they both continue federal ownership and protect the buffer zone in perpetuity. David then reviewed differences in eight key issue areas, starting with federal ownership. Under the Udall bill the entire site will remain in federal ownership, but under the Allard bill there is a provision for conveyance of lands. David recommended the Board ask for removal of this provision or ask if it could be amended to request the Secretary require Congressional notification. David proceeded to describe other key issues that involve the type of open space designation and the role of the Coalition in the land

management process. David recommended the Coalition let the representatives decide which language works best for the land management process. Doug Young added that the Udall bill also has the CERCLA, RFCA, and etc. language from Allard's bill. David continued by addressing the question of future use of the Industrial Area. The Udall bill postpones this decision while the Allard bill includes the IA as a refuge. A refuge could have inholdings managed by DOE, including management of long-term protections and remedy selection. David also stated the Allard bill has a specific provision to buy mineral rights while the Udall bill does not. The Allard bill also has a provision prohibiting annexation while the Udall bill does not. David emphasized that the Board needs to address the question of a refuge or open space at the August meeting so they can provide direction to staff working on a joint bill. The floor was then opened for discussion.

Ken Fellman began by expressing serious concern over the concept of a refuge designation. He said that Arvada has no problem with an open space designation for the buffer zone, although they do have concerns with the transportation corridor. Ken stated the designation as a refuge causes concern because of problems Arvada has had with Two Ponds. Thus, Arvada is leaning towards working with Congressman Udall since they are of the opinion that an open space designation is appropriate while a refuge is not. Lorraine Anderson added that she believes there should be a master planning process involving all parties before making a decision, and that the Coalition should not give the Site over to the federal government to manage on a tight budget as of yet.

Lisa Morzel commended Congressman Udall for his legislation, but stated she will recommend supporting the Allard bill to the Boulder City Council since it agrees with Boulder's position of preserving the entire site. She explained that although they are not contradictory bills, the Allard bill is appropriate for the site as there are natural resources that should be preserved and it is appropriate for the community. She expressed complete confidence the staff will work together to do the right thing and preserve the land.

Hank Stovall said both bills could be molded into one comprehensive workable bill, although Broomfield still has concerns regarding water rights, mineral rights and fencing. He expressed Broomfield's opinion that it would be appropriate for restricted areas to be fenced, but not the buffer zone. Broomfield's other concern is over funding and cleanup levels. Ken Fellman agreed a perimeter fence would continue to be a stigma in the communities. A discussion ensued and Michelle Lawrence verified with Pete Jacobsen that the Allard bill has language to provide for public input on human access and compatibility testing. Doug Young added that language in the Udall bill provides for a two-year public process. Dean Rundle stressed a refuge planning process is mandated. There was also discussion over when the Coalition should come to a final decision.

Paul Danish stated both bills have acceptable outcomes, although Boulder County prefers the Allard approach. He stressed using caution when considering opening areas to the public for recreation since there is a fair amount of uncertainty, and recommended starting out with a more restrictive policy and opening areas as more information and characterization of the Site

becomes available. He emphasized restrictions should be determined by knowledge of the danger there.

Michelle Lawrence agreed with starting with higher levels of restrictions, and making decisions as more is learned about each area and what would be appropriate. She stated she was encouraged that both bills have mechanisms for discussion since it would be premature and inappropriate to make decisions like that now. Michelle said the Jefferson County Commissioners are comfortable with the refuge designation for the entire site.

Sam Dixon agreed, but said Westminster would like to see language assuring protection of water rights. She said Westminster supports both bills, although the language in Allard's bill is tighter.

Tom Brunner brought up the issue of cleanup levels and after some discussion it was agreed to have Dan Miller revisit this issue at the next meeting. An additional discussion led to agreement to aim for September for consensus on these two bills. Michelle Lawrence asked the Board to fax special issues to David Abelson so that he and his staff could compile them for review in time for inclusion in the next Board packet, preferably by July 21st. Additionally, Michelle asked if staff from USFWS and Senator's Allard's office could collaborate on the details of the Allard bill and present their findings at the next Board meeting. Lisa Morzel also asked for an update on NREL expansion by then.

Public Comment

Doris DePenning stated Friends of the Foothills and the community is supportive of the Allard bill with few exceptions. She stated it would be good protection to have the presence of two federal entities. On behalf of the community Doris confirmed approval of a refuge, and disapproval of NREL expansion, leaving any buildings, and postponing a decision. Paula Elofson-Gardine asked about the proper process to submit public comment and urged long-term restricted access.

Review Big Picture

David reviewed the big picture. Issues for the August meeting will consist of continued discussion of Senator Allard and Congressman Udall's bills, including a review of cleanup levels and future use, and a briefing on the Kaiser-Hill Baseline document. A briefing on the Coalition's role as a CRO will be scheduled for September.

At 11:12 a.m. Lorraine Anderson motioned to move into Executive Session for the purpose of receiving legal counsel on certain contract matters. Lisa Morzel seconded the motion. The motion passed 7-0.

The Board reconvened from executive session into open session, having determined that no action had been taken during executive session. There being no further business to come before the Coalition, the Board adjourned.

The meeting was adjourned at 11:40 a.m.

Respectfully submitted by Kimberly Chleboun