

Rocky Flats Coalition of Local Governments Board Meeting Minutes
Monday, May 6, 2002
8:30 – 11:30 a.m.
Mt. Evans Room in the Terminal Building
Jefferson County Airport, Broomfield

Board members in attendance: Hank Stovall (Director, Broomfield), Mike Bartleson (Alternate, Broomfield), Sam Dixon (Director, Westminster), Ron Hellbusch (Alternate, Westminster), Lorraine Anderson (Director, Arvada), Ken Fellman (Alternate, Arvada), Clark Johnson (Alternate, Arvada), Lisa Morzel (Director, City of Boulder), Mike Weil (Alternate, City of Boulder), Paul Danish (Director, Boulder County), Jane Uitti (Alternate, Boulder County), Karen Imbierowicz (Director, Superior), Michelle Lawrence (Director, Jefferson County), Nanette Neelan (Alternate, Jefferson County).

Coalition staff members and consultants in attendance: David Abelson (Executive Director), Kimberly Chleboun (Program Manager), Melissa Anderson (Technical Program Manager), Barbara Vander Wall (Seter & Vander Wall, P.C.), Linda Cassaday (L.L. Cassaday Company, P.C.).

Members of the Public: Dave Shelton (Kaiser-Hill), John Corsi (Kaiser-Hill), Lane Butler (Kaiser-Hill), Jeremy Karpatkin (DOE), Rick DiSalvo (DOE), Glen Doyle (DOE), Joe Legare (DOE), Dave Hicks (DOE), Anna Martinez (DOE), Steve Schiesswohl (DOE), Dean Rundle (USFWS), Laurie Shannon (USFWS), Mark Sattleberg (USFWS), Steve Gunderson (CDPHE), Kathleen Rutherford (CDPHE), Rob Henneke (EPA), Tim Rehder (EPA), Jerry Henderson (RFCAB), Patricia Rice (RFCAB), Al Nelson (City of Westminster), Shirley Garcia (City of Broomfield), Nancy Lemein (City of Arvada), Bob Nelson (City of Golden), Doug Young (Congressman Udall), Andrea Richard (Senator Allard), Doris DePenning (Friends of the Foothills), Hildegard Hix (Sierra Club), Roman Kohler (Rocky Flats Homesteaders), Robert Lynch (RF Security Guard Union), Phil Cruz (RF Security Guard Union), John Jurcheck (citizen), Bruce Hoskinson (citizen), Richard Andrews (citizen), Katy Human (Daily Camera), Berny Morson (Rocky Mountain News).

Convene/Agenda Review

Chairman Dixon called the meeting to order at 8:38 a.m. Lorraine Anderson moved to remove the Coalition mineral rights letter from the Consent Agenda for separate discussion. Sam Dixon seconded the motion. The motion passed 5-0 (the City of Boulder and Boulder County were not yet present).

Business Items

- 1) **Motion to Approve Consent Agenda** – Lorraine Anderson motioned to approve the consent agenda. Sam Dixion seconded the motion. The motion passed 5-0 (the City of Boulder and Boulder County were not yet present).
- 2) **Approval of Acquisition of Mineral Rights Letter** - There was lengthy debate over proposed changes offered by the Jefferson County Board of Commissioners. Michelle Lawrence explained the main change to the letter was in specifying mineral rights should be acquired from a willing seller. There were also a few semantic changes, and a change adding signatures from the entire Board. Other members of the Board did not want to weaken the right of eminent domain and/or did not want to limit the possibilities of obtaining the mineral rights. Eventually the Board voted on the following three changes:
 - Paragraph 2, second sentence. Lorraine Anderson motioned to approve changing the language to "The Coalition supports federal ownership of these rights, preferably from a willing seller...". Hank Stovall seconded the motion. The motion passed 6-1, with the City of Boulder voting against.
 - Paragraph 2, fourth sentence. Karen Imbierowicz motioned to keep the word "critical", as opposed to "important". Lisa Morzel seconded the motion. The motion passed 5-2, with Arvada and Jefferson County voting against.
 - Paragraph 2, fourth sentence. Lorraine Anderson motioned to delete "...as the refuge and mineral extraction are inherently incompatible." Michelle Lawrence seconded the motion. The motion passed 7-0.
- 3) **Executive Director's Report** - To keep on schedule David Abelson limited the report to three items. First, David provided an update on the situation involving plutonium shipments to the Savannah River Site, stating there are now some serious impediments to reaching 2006 closure. DOE issued the 30-day notice on April 15th in order for shipments to start on May 15th, and there are also bipartisan efforts to enact legislation to ensure plutonium is not permanently stored in South Carolina. However, there is not bipartisan agreement on the language, and South Carolina Governor Hodges has now filed a lawsuit claiming there was insufficient NEPA analysis. Additionally, there is an article in the Denver Post about the nuclear drums to be used for plutonium transport failing crash tests. Regarding the failed crash tests, Lorraine Anderson encouraged DOE to be honest and not go back to being an agency that is not trustworthy. Paul Danish said nuclear waste is a national, not state, problem and should be dealt with in the national context, including pursuing litigation if the cleanup plan is not being met. Jeremy Karpatkin (DOE) responded by stating DOE is still committed to a 2006 closure, and they remain hopeful the legislature will resolve the issue so they can continue working with their original closure plans. David asked at what point Kaiser-Hill would ask for relief from their contract due to DOE not meeting their obligations. Jeremy said they would look back at the end of the project to determine who was responsible, and to what percentage, for any delays. Joe Legare (DOE) said Kaiser-Hill has not yet initiated a formal request. Jeremy urged the Board to recognize there is no one "drop-dead" date materials must be shipped by, and the issue is complex, involving contingencies and work reconfiguration. Jeremy also addressed the issue of the transportation containers by explaining it has been known for some time that DOE has been seeking an exemption to use

the DT-22 containers, and the containers would still have to pass internal safety assessments before they could be validated for use. Dave Hicks (DOE) also provided a brief history on the containers and why DOE wants to use them. Second, regarding the issue of local government funding to the Coalition, David said after reducing the percentage local governments should put toward his salary and benefits from 10% to 5%, the total local government contribution would be \$12,600 per year. This would amount to \$1800 per government. The Board agreed this amount is acceptable and could be submitted to their budget committees for the 2003 budget. Third, David asked Melissa Anderson to give a brief summary of the Actinide Migration Evaluation Pathway Analysis Report. Melissa explained this report answers the question "how do radionuclides move in the environment at Rocky Flats?" She described the major transportation pathways addressed, including air, surface water, groundwater, and biota. The compounds studied include plutonium, americium, and uranium. Melissa stated the study concludes wind and surface water erosion are the dominant plutonium and americium offsite transport pathway, while groundwater transport appears to be a minor pathway. However, groundwater is a relatively major transport for uranium. She said the implication for closure would be to retain the A and B series ponds, minimize erosion and soil disturbance, and maintain slope. Melissa also distributed maps of surface water, volatile organic chemicals (VOC) and nitrate plumes, and mineral rights.

- 4) **Receive Coalition 2001 Audit** - Linda Cassaday provided an overview of the audit she performed in accordance with general auditing standards. She explained the audit is conducted in order to obtain reasonable assurance about whether the general purpose financial statements are free of material misstatement. The audit also reports on Coalition internal control over financial reporting and on tests of its compliance with certain provisions of laws, regulations, contracts, and grants. She stated there were no instances of noncompliance and no weaknesses found, although one challenge found is in the segregation of duties. Linda encouraged the Board to continue to review finances quarterly. Lorraine Anderson motioned to accept the 2001 audit. Michelle Lawrence seconded the motion. The motion passed 7-0.

Public Comment

Doug Young referred to the plutonium shipments issue and said Rep. Udall is encouraging cooperation between DOE, South Carolina, and members of Congress. However, he is also concerned about protecting Colorado's interests and advocates enforcing Rocky Flats milestones, if necessary. He directed the Board's attention to a copy of Rep. Udall's letter in the Board packet. Andrea Richards reiterated Senator Allard's statement to the Armed Services Committee last month in favor of resolving this conflict as soon as possible.

DOE-USFWS Memorandum of Understanding

John Rampe (DOE) discussed the current status of the Memorandum of Understanding (MOU) being negotiated between DOE and USFWS pursuant to the Rocky Flats National Wildlife Refuge Act. The MOU will determine the roles and responsibilities of each agency through the transition from cleanup to the establishment of the refuge. It must also address private property

impacts, identification of the land to be transferred as part of the refuge, and allocation of costs between the two agencies after the transfer. Explaining funding issues, John stated DOE will provide funding to USFWS for transition activities, but this money would not come from closure funds. After transition USFWS will assume refuge management costs, while DOE will retain remedy-related long-term stewardship costs. DOE may contract with USFWS at a later date to assume some long-term stewardship activities, but regulatory responsibility will remain with DOE. Additionally, DOE may provide separate funding to USFWS to assume some current Kaiser-Hill ecological activities before transfer. John then described land transfer issues, and stated that DOE will retain administrative jurisdiction and primary management jurisdiction over all lands associated with cleanup remedies. USFWS will have secondary jurisdiction over these lands, and primary jurisdiction over the rest of Rocky Flats to manage as part of the refuge system. John added that boundaries will be drawn simply and conservatively.

John and Dean Rundle (USFWS) said the two agencies have conceptual agreement on most of these issues, with the exception of privately owned mineral rights. Dean specified USFWS is particularly concerned over surface gravel mining, but it is a very complex issue and realty specialists with both agencies are researching the issues. He stated there are many refuges in which not all of the mineral rights were acquired, and it may be possible not all of the privately owned mineral rights at Rocky Flats will be sought for federal acquisition. Lisa Morzel asked about the number of gravel permits, and John Rampe said two are permitted, resulting in approximately 750 acres including the non-mining buffer. USFWS does not want to take lands with private gravel rights into the refuge. Dean referred to the Coalition mineral rights letter approved earlier in the meeting and said FWS has not used condemnation rights in the last 20 years. Additionally, the seller sometimes accepts less than the fair market value in exchange for tax breaks or other innovative solutions. Dean also stated USFWS provides revenue sharing payments, according to the Refuge Revenue Sharing Act, to counties where USFWS lands exist. John said DOE and USFWS anticipate having a draft MOU to share with stakeholders later this summer.

Dean then provided an update on the Comprehensive Conservation Planning Process. He said he has met individually with all of the Coalition governments and discussed potential issues of concern, including fencing, trails, visitor facilities, and vegetation management. Dean said DOE funding is expected by May 15, 2002 and he then expects to have contracts in place with several firms by May 19, 2002 to start initial tasks. USFWS will have an internal vision workshop in late May or early June to outline preliminary goals and objectives, and meet with the Coalition after that. Dean said the public involvement framework and schedule will be published June 26, 2002.

Endstate Conversation

Melissa Anderson provided a summary of the previous three Coalition endstate discussions. She explained the conversation today would revolve around the issue of subsurface contamination and how it will be addressed by the "risk-based plus" cleanup approach.

Joe Legare (DOE) began by describing the four areas of subsurface contamination: under-building contamination (UBC), process waste lines (PWL), trenches/disposal areas, and groundwater plumes. He stated Lane Butler (Kaiser-Hill) will discuss where the contamination is, what the Site knows about the contamination (including assumptions and risk screening), and how the Site plans to address it. Lisa Morzel asked if they knew yet how many monitoring wells would be in operation. Joe replied there were originally 1000, but through decommissioning there are now approximately 300. They will not know how many will remain after closure until they know the final contour design.

Lane then displayed a map showing UBC sites; the baseline originally forecast 27 of these sites would require remediation. Since then, additional sampling has revealed no significant contamination in Buildings 123 and 886, and biased sampling around the perimeter of Building 771 also found nothing of significance. However, they did find the expected contamination above the TRU waste level under Building 779. They have not looked under Building 776 but know that equipment that was contaminated in the 1969 fire is entombed in cement and buried in the basement.

Next, Lane presented a map reflecting the PWL locations. The Site estimates there are six miles of lines, with the majority being buried six to ten feet deep. Almost fifty percent of the lines are new and not a big issue as they are double contained, have a leak detection system, and confidence is high there is little contamination. Conversely, the original PWL (OPWL) are single wall pipes, made of clay, iron, steel, and pyrex glass. Thus far they have identified over 35 sections of OPWL leaks. Lane said everything went through these lines, but plutonium was not typically sent since an effort was made to recover as much of it as possible for economic reasons. They do expect to see plumes of volatile organic chemicals (VOCS) originating from solvents. Paul Danish asked how VOCs would interact with plutonium and americium. Lane said there would be very little interaction. Paul then asked about nitric acid, and Lane explained this was in the solar ponds, but once it hits the environment it is neutralized and becomes a nitrate. Lane said there is some uranium in the solar ponds plume, but no plutonium. Lisa asked if the lines have been completely characterized, and Lane responded they are currently using process knowledge and inventory tests and have not sampled yet except at Building 123. The baseline estimated 17% of the lines would have to be removed, and this estimate has not yet been revised. Melissa asked about the Site's characterization strategy, and Lane said it will be based on the Sampling and Analysis Plan, but they will need a confidence level for linear frequency.

Lane then discussed contamination in the Buffer Zone, including pond sediments, the 903 Pad, the present and original landfills, the east trenches, and the ash pits. They have already remediated the highest risk trenches: Ryans Pit and Trench 3-4. He said Trench 7 is the only one left with radionuclides about the current Tier 1 action level and they are all buried several feet down. The ash pits contain primarily metals and uranium. A purely risk based approach might dictate leaving these wastes in place if pathway analyses were to demonstrate the absence of a migration pathway. Melissa asked about the erosion of the subsurface in proximity to surface water. Lane provided an erosion map, based on geology, which they overlay with contamination maps to see if the sites are in erosion prone areas. Lisa asked about the landfills and Joe said

they are just starting to scope them, and they will be a separate discussion. Hank Stovall asked if they plan to remove any materials exceeding Tier 1 levels from Trench 3-4. Lane stated there has been discussion to remove the trench under a risk based plus approach. Melissa asked which subsurface site removal would shrink the DOE footprint. Lane said if they only take one trench and leave others behind it would not reduce the footprint. Additionally, remediation of the ash pits would not be risk driven, but removal would reduce the DOE footprint.

Next, Lane described the three-level risk screening process for subsurface soil. Screen 1 would compare the subsurface concentrations to the surface soil action levels, or preliminary remediation goal (PRG). If the concentration is below the surface PRG, the subsurface contamination would be proposed for no further action. If not, a second screen would be performed to determine slope stability and erosion potential. Unless there is a high potential for erosion and exposing subsurface soils, the second screen would not indicate remediation, and the analysis would pass to screening level 3. Screen 3 analyzes the mobility of the contaminant in groundwater. If found to be immobile or treatable by a plume treatment system, the subsurface contamination would be proposed for no further action. Lane also described the sitewide contaminant of concern (COC) selection process and listed the thirteen proposed COCs. Joe advised the Board that the Site and the regulators are still discussing issues such as surface depth, surface slope, a threshold level for subsurface contamination, and subsurface characterization.

David Abelson discussed the idea of an endstate conceptual agreement to be drafted by the Coalition prior to release of the Site's draft endstate concept. Coalition and local government staff are currently working on the document in preparation for Board approval at the July meeting. Lisa and Paul expressed trepidation in approving any approach until more is known about subsurface processes, and they have more confidence in how contamination will be addressed and mitigated. Lisa suggested using the caveat to revisit a decision once more information is known, and Paul suggested this endstate would only be an interim condition. Joe responded that RFCA provides the commitment to apply new technologies as they progress. He also explained this approach provides a way to get a better, more balanced sitewide cleanup with finite resources. Hank said they must abide by the basic principle to protect their communities and the environment, and this can be accomplished by addressing higher risk elements first. He said Broomfield does not want a dirty cleanup that must be revisited later, but there are many stopgaps along the way. Hank said Broomfield supports present water quality standards and the possibility of changing the way it is measured, as well as a threshold for subsurface contamination. Joe emphasized the Site will continue to have ongoing communication with the communities and relay all interactions each step of the way.

Round Robin

There was no further Board comment.

Public Comment

There was no further public comment.

Big Picture

David Abelson reviewed the Big Picture. At the June meeting the Board will continue the endstate discussion with a briefing on Site geology and water quality. David also suggested the Board consider taking a tour of the Buffer Zone sometime in the near future.

The meeting was adjourned by Sam Dixon at 11:52 a.m.

Respectfully submitted by Kimberly Chleboun, Program Manager