

# ROCKY FLATS STEWARDSHIP COUNCIL

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Jefferson County -- Boulder County -- City and County of Broomfield -- City of Arvada -- City of Boulder  
City of Golden -- City of Northglenn -- City of Westminster -- Town of Superior  
League of Women Voters -- Rocky Flats Cold War Museum -- Rocky Flats Homesteaders  
Karen Imbierowicz

## **Board of Directors Meeting – Agenda**

**Monday, October 6, 2008, 8:30 – 11:45 AM**

**Rocky Mountain Metropolitan Airport (formerly Jefferson County Airport)  
Terminal Building  
11755 Airport Way, Broomfield, Colorado**

- 8:30 AM Convene/Agenda Review
- 8:35 AM Business Items (briefing memo attached)
1. Consent Agenda
    - o Approval of August 4<sup>th</sup> meeting minutes and checks
  2. Approval of letter supporting GAO investigation
  3. Executive Director's Report
- 8:55 AM Public Comment
- 9:00 AM Board Review of Stewardship Council Activities for 2008 and Initial Review of 2009 Work Plan (briefing memo attached)
- o The 2008 Stewardship Council Work Plan provides that the Board shall review the Plan elements to help determine its ability to accomplish the stated mission and objectives.
  - o The review shall include an assessment of how the organization can improve in the coming year, focusing on areas of weakness and opportunities for improvement.
  - o The review is a first step in developing the 2009 Work Plan.
  - o The attached draft 2009 Work Plan is an update of the 2008 Plan.
  - o Formal approval of the 2009 Work Plan will take place at the November 3<sup>rd</sup> meeting.
- 9:35 AM FY 09 Budget – Initial Review (briefing memo attached)
- o At this meeting the Board will review the draft budget. Formal budget hearings will take place at the November 3<sup>rd</sup> meeting.

- 10:00 AM Start of Triennial Review of the Stewardship Council IGA (briefing memo attached)
- No later than February 13, 2009, the Stewardship Council will need to renew the organization's IGA.
  - At this meeting the Board will review the current IGA to determine if any changes to the scope and mission are warranted, and if so, the nature of those changes.
  - The Board will also need to determine a path forward for renewing the IGA.

- 10:30 AM Discuss NRD Fund Sketch Proposals (briefing memo attached)
- Five member governments and three community organizations submitted NRD Fund sketch proposals
  - The total funds being requested from the NRD Fund is approximately \$16.84 million. Approximately \$4.5 million remains in the Fund
  - The Board will discuss the proposals and try to identify which project(s), if any, it recommends that the NRD Trustees fund.
  - This discussion comes against the backdrop of the recent Beyond the Fences meeting that most members participated in earlier this week.

11:30 AM Public comment

- 11:35 AM Updates/Big Picture Review
1. Executive Director
  2. Member Updates
  3. Review Big Picture

Adjourn

Next Meetings: November 3, 2008  
February 2, 2009

## **Business Items**

- Cover memo
- August 4, 2008, draft board meeting minutes
- List of Stewardship Council checks
- Letter to GAO
- Department of Labor response to Congress re: worker issues

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## MEMORANDUM

**TO:** Board  
**FROM:** David Abelson  
**SUBJECT:** Business Items  
**DATE:** September 23, 2008

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In addition to approving the consent agenda (approval of minutes and checks), the Board will need to approve the August 25, 2008, letter to Senator Salazar, Representative Udall and Representative Perlmutter re: GAO worker investigation. The letter was signed by Lorraine Anderson. It includes all changes Board members requested I make.

The Department of Labor's response to Salazar, Udall and Perlmutter's letter follows the Stewardship Council's letter.

**Action item: Ratify and approve letter**

# **Rocky Flats Stewardship Council**

**Monday, August 4, 2008**

**8:30 AM – 12:10 PM**

**Rocky Mountain Metropolitan Airport Terminal Building**

**11755 Airport Way, Broomfield, Colorado**

**Board members in attendance:** Lorraine Anderson (Director, Arvada), Clark Johnson (Alternate, Arvada), Lisa Morzel (Director, Boulder), Matt Jones (Alternate, Boulder), Ben Pearlman (Director, Boulder County), Michelle Krezek (Alternate, Boulder County), Lori Cox (Director, Broomfield), Mike Bartleson (Alternate, Broomfield), Bill Fisher (Director, Golden), Jim Congrove (Director, Jefferson County), Kate Newman (Alternate, Jefferson County), David Allen (Alternate, Northglenn), Andrew Muckle (Director, Superior), Matt Magley (Alternate, Superior), Bob Briggs (Director, Westminster), Ron Hellbusch (Alternate, Westminster), Jeannette Hillery (Director, League of Women Voters), Sue Vaughan (Alternate, League of Women Voters), Ann Lockhart (Alternate, Rocky Flats Cold War Museum), Roman Kohler (Director, Rocky Flats Homesteaders), Kathy Bacheller (Alternate, Rocky Flats Homesteaders).

**Stewardship Council staff members and consultants in attendance:** David Abelson (Executive Director), Rik Getty (Technical Program Manager), Barb Vander Wall (Seter & Vander Wall, P.C.), Erin Rogers (consultant).

**Attendees:** Bob Darr (Stoller), John Dalton (EPA), Vera Moritz (EPA), Carl Spreng (CDPHE), Maggie Pierce (CDPHE), Jeanette Alberg (U.S. Senator Allard), Zane Kessler (U.S. Senator Salazar), John Boylan (Stoller), George Squibb (Stoller), Linda Kaiser (Stoller), Shirley Garcia (Broomfield), Alan King (Broomfield), Scott Surovchak (DOE-LM), Dale Eberharter (Mineral owner)

## **Convene/Agenda Review**

Vice Chair Jeannette Hillery convened the meeting at 8:35 a.m. There were no changes to the agenda.

## **Business Items**

Roman Kohler moved to approve the February and April meeting minutes as well as the checks. The motion was seconded by Bob Briggs. The motion passed 11-0 (Karen Imbierowicz was not present).

## **Executive Director's Report**

David began by welcoming a few new members to the Stewardship Council. Bill Fisher, a City Council member from Golden, will serve as the city's new Director on the Board. Jacob Smith will now serve as Golden's alternate. Michelle Krezek is now an Alternate for Boulder County. Finally, Kathy Bacheller is the new Alternate for the Rocky Flats Homesteaders.

Next, David spoke about a response letter that the Stewardship Council received from DOE-LM Director Mike Owen in June regarding the requested preservation of documents previously stored at the DOE Public Reading Room. The letter stated that DOE planned to maintain these boxes based on public wishes and ongoing litigation. David said that he did not know what ongoing litigation the letter was referring to, but that he had submitted two requests for more information to DOE. So far, DOE has not been responsive to David's information requests. David said he wondered why the Administrative Record was not sufficient to support any litigation needs, and whether the litigation referenced may have been regarding worker benefits, the Cook litigation, or perhaps something else. He noted that the lawyers driving this issue are not from DOE-LM, and that the head attorney is the former Rocky Flats attorney.

David noted that he has communicated with Board members via email regarding the recent release of the Request for Proposals for the use of Rocky Flats' Natural Resource Damage funds. A public meeting to kick off the process is scheduled for August 12, 8:30 a.m. until noon. A public dialogue will follow. Sketch proposals are due on August 29. A multi-stage process will continue throughout the fall. David observed that the Stewardship Council will need to discuss at which point and in what way the organization would like to be involved in this process. The Stewardship Council will not be submitting a proposal, but the NRD parties are interested in the group's opinions on the process and proposals.

*The Rocky Mountain News* recently ran a series of articles detailing how the government has been letting down former nuclear workers in terms of health benefits. The Stewardship Council has already weighed in on this issue, as did the Rocky Flats Coalition of Local Governments before it. David noted that it is clear that federal budget concerns are part of the problem. Colorado's Congressional delegation has consistently presented a unified front in support of the workers. Lorraine Anderson has asked what else the Stewardship Council can do as a Board to push this issue further. David noted that he did not feel it was very likely that additional legislation would help the situation. He said it was important for the Stewardship Council to consistently maintain its position and publicize this message, such as sending another letter to the Colorado delegation noting that the Board is continuing to pay attention to issue. Another option, when the new administration takes over next year, is to look at creating some sort of unofficial public forum to air grievances about specific impediments people are facing from a procedural standpoint. David believes this would be heavily covered by the press, and may lead to a review of the program, an oversight hearing, or other progress on the issue.

The Stewardship Council's quarterly financial report has been distributed to the Board. The organization is currently, and intentionally, below budget for the year. If there are any questions, contact David.

Bill Fisher asked whether there are other groups working on the worker benefits issue. David said that the Energy Communities Alliance is the principal forum for these issues. Lorraine Anderson is the Chair of this group. Lorraine said she would entertain a motion to send a letter thanking the delegation for their help, and requesting that staff put together ideas for a public forum. Lisa Morzel moved to direct staff to draft a letter to the Colorado Congressional delegation expressing the Stewardship Council's support for their efforts to implement the

EEOICPA, and suggesting that they begin planning a public forum to discuss implementation problems in late November or early December. The motion was seconded by Jeannette Hillery. David Allen asked if it would be helpful to try to increase the scope of forum by including workers from other sites. David Abelson suggested that multiple forums could be held simultaneously in areas around country. Lisa Morzel asked if the ECA annual meeting could be another forum for these discussions. Jeanette Alberg from Senator Allard's office said that a public forum is a great idea. She also noted that an upcoming GAO report is going to identify specific problems, and that the forum timing should take this into account. The Alliance for Nuclear Workers and Advocacy is a national group that is trying to organize a 5-state DOE protest. The motion passed 11-0 (Karen Imbierowicz was not present).

### **Public Comment**

There was none.

### **NRD Fund RFP and Proposed Legislation to Expand the Stewardship Council's Scope to include the Beyond the Fences Proposal**

David Abelson prefaced this discussion by noting that it will not be easy to reach agreement on whether to use the Stewardship Council as the forum for 'Beyond the Fences' issues. The Stewardship Council needs to discuss ideas regarding what the forum should be and next steps. The conversation will focus on two related items. The Natural Resource Trustees will provide an overview of the NRD Fund RFP that was discussed in concept at the May meeting. The Trustees will host a separate half-day public workshop which will focus on natural resource damages and the RFP. The Board will then discuss the role of the Stewardship Council in Senator Salazar and Representative Perlmutter's 'Beyond the Fences' proposal.

#### *Natural Resource Damage Fund*

Jamie Holmes from Stratus Consulting provided an update on the RFP process. He began by noting that the Federal Trustees for Rocky Flats are the Department of Energy and the U.S Fish and Wildlife Service, and the State Trustees are the Attorney General, the Executive Director of CDPHE, and the Colorado DNR's Director of Reclamation, Mining and Safety. He also reviewed that the FY06 Defense Reauthorization Act provided \$10 million to settle Rocky Flats NRD claims through purchasing essential mineral rights, paying the Trustees, or a combination of both. \$5.5 million was spent on the purchase of three parcels of mineral rights, so \$4.5 million remains to be spent by the Trustees. CERCLA mandates that the remaining funds be used to 'restore, replace, or acquire the equivalent of' the injured natural resources. The Trustees must work jointly to determine the use of the funds and are in the process of seeking proposals for this restoration.

The injured natural resources at Rocky Flats include groundwater, surface water, biota (prairie habitat, riparian habitat, wetland habitat). Restoration refers to actions taken, over and above remedial actions, which return the injured resource to its pre-release (baseline) condition. It can also mean substituting a new resource that provides the same, or substantially similar, services.

Projects that restore injured natural resources could include things such as acquiring open space or mineral rights to protect threatened habitat, or creating or improving wetlands or prairie habitat to enhance existing habitat. Projects that do not restore injured natural resources include such things as trails/paths, playgrounds, sports fields, campgrounds and visitor centers.

The RFP process includes three stages. First is development of a sketch proposal, which will consist of a 1-2 page overview that demonstrates how the proposal meets the screening criteria. This will be followed by a draft proposal with detailed project information. Final Proposals will incorporate suggested changes to the earlier drafts. The Trustees will provide feedback after sketch and draft proposals, which will allow bidders to refine their proposals. The successful bidder(s) will contract with CDPHE.

The Sketch Plans are due on August 29, following an August 12 public meeting. Draft proposals are due October 17 and Final Proposals are due December 12. A final decision by the Trustees is planned for the spring of 2009. This will allow for any work to commence during a favorable time of the year.

The Trustees will use a set of screening criteria to evaluate the proposals. These criteria include restoration of injured resources; inclusion of at least 25% matching funds; avoidance of the need for planning or operations and maintenance funds; consistency with the Rocky Flats National Wildlife Refuge CCP; and compliance with the RFP requirements.

Once projects have been screened, the Trustees will rank the proposals using the following criteria:

- Benefit and proximity to injured natural resources (35%)
- Project feasibility and technical expertise/experience of bidder (25%)
- Project cost-effectiveness and relative cost/benefit (25%)
- Project sustainability (15%)

Public comments on the proposals are due January 16, 2009. The Trustees have the flexibility to fund one or more proposals, or even reject all of the proposals. They may also determine how much of the available funding will be spent.

Andrew Muckle asked about the difference between the sketch plan and the draft proposal. Jamie explained that the sketch plans are only expected to be 1-2 pages, while the draft proposals will need to include several required sections, such as engineering and cost matching. Andrew also pointed out that, in terms of securing matching funds, it may be difficult to coordinate with the GOCO grant application cycle. Jamie said that the proposals need only include an outline of the bidders' plans to request matching funds. The Trustees may choose a proposal subject to the availability of grant funding, but can also reverse this decision if the outside grant funds are not awarded.

David Allen noted that the RFP schedule seems rather aggressive, and asked whether there was any flexibility. Jamie said he did not think there was. He added that the initial proposals will not need to be at a blueprint level of engineering. They will only be required to explain how the bidder intends to do the work. Lisa Morzel asked to what extent matching funds can be used for



development of open space, such as trails or a recreation center. Jamie said that the proposal needs to explain what the overall plans are for management and use. David Abelson pointed out that the RFP Proposal Submission section states that the Trustees may request review of the proposals by outside parties. He asked if this could be a role for the Stewardship Council, or if this would present an inherent conflict since member governments are likely to submit proposals. Jamie said that he was not able to comment on this since he is not a Trustee. Scott Surovchak said that the Trustees will have to see what is proposed first and then decide. However, they are interested in hearing about what has support from the Stewardship Council. David Abelson said that the Stewardship Council can be a forum to discuss and debate proposals, but not to submit proposals.

Matt Jones asked if there was a more complete schedule in the RFP. Jamie said there was. Matt reiterated that it is a pretty ambitious schedule and that identifying projects that everyone supports would be a great thing. He said that he heard a consensus around Section 16, and that he was worried that if the Board did not agree on areas at this meeting that there will not be time to address the proposals as a group prior to the RFP deadlines. Andrew Muckle asked if bidders will we need actual grant approval by the October 17 deadline. Jamie said that they do not, and added that the Trustees will need an explanation about what funding sources are going to be pursued and what the associated process is.

Barb Vander Wall asked what is scheduled to happen between the time the draft and final proposals are due. Jamie said there will be a public presentation of the proposals to allow for feedback on what needs to be done to make improvements to them. Lisa Morzel pointed out that the local governments will need to take any proposal through their own trustees and council, which is a somewhat complicated process. Jamie said to just make this clear in their proposal to the Trustees. Lisa added that she would like to start talking about proposals and come up with framework for moving forward at this meeting. David Allen asked if the 25% matching funds could be used for those projects not supporting restoration of injured resources, such as trails. Jamie said that the Trustees will need to know the intent of the matching funds and the effect on habitat restoration. Regarding the apparent consensus on Section 16, David said his concern would be the possibility of putting all of the Stewardship Council's efforts into one project and not have that be chosen for funding. Jamie noted that proposals may be revised drastically even after the October deadline if it makes sense to do so.

Lorraine Anderson asked if an inventory of areas that need restoration has been created for Rocky Flats site, and if the Board can get a copy. Scott Surovchak said that the site has been inventoried, and most of the needs fall under the operational jurisdiction of DOE or USFWS. Lori Cox reiterated Broomfield's position of support for the acquisition of Section 16 in lieu of pursuing separate projects. If this were to be supported by the full Stewardship Council, she asked who would submit the proposal to the Trustees. David Abelson said that someone would need to take the lead, and added that Jefferson County was the first to initiate this idea. David added that the Stewardship Council may want to have a secondary proposal identified in case the Section 16 project is not able to get done. He said it looks like there is plenty of time after the final proposals will be submitted for the Board to continue to debate and refine positions. Lori asked how the Stewardship Council should communicate its preferences to the Trustees. David said that are times scheduled into the RFP process for incorporating comments.

### *Beyond the Fences*

Lisa Morzel said that there was nothing to prevent the group from collaborating either as the Stewardship Council or as a separate coalition. Lorraine Anderson added that the 'Beyond the Fences' discussion may be a way to look at proposals that are not awarded NRD funds. Lori Cox stated that Broomfield does not support changing the scope of the Stewardship Council to address 'Beyond the Fences' discussions, but that they do support the idea that this collaboration needs to take place within a different organization. She mentioned that Congressman Udall previously proposed a Colorado Mountain Backdrop Protection study, and that Broomfield encourages the Colorado delegation to communicate with each other about moving forward with this process. She said that Broomfield is willing to work with them to host meetings, and start the ball rolling on this issue.

Lisa Morzel asked whether the group should take a vote on whether to go forward as the Stewardship Council or a new coalition to address the 'Beyond the Fences' vision. Lori asked whether it was up to this group to form a new organization or if it should be led by Senator Salazar and Representative Perlmutter, who initiated the 'Beyond the Fences' discussion. Lorraine Anderson said that the City of Arvada sent a letter to the delegation listing organizations that are already in place and could possibly serve as a forum for 'Beyond the Fences'. She noted that it would be up to local governments to form coalitions. She said she would also caution Salazar and Perlmutter that there are nuclear communities around the country that are not yet cleaned up, and Rocky Flats should not take money for open space when there are so many other cleanup needs and other sites are storing our waste. Lisa Morzel said that it would be helpful to know the status of other sites. Lorraine said that this information is available online. Lisa added that she thinks it is great to have this opportunity that can be the first time everyone works together on such a vision.

Jeannette Hillery said she likes the concept of 'Beyond the Fences', believing that the Rocky Flats community can build on the current level of collaboration and momentum, yet still not jeopardize funding at other sites. David Abelson said that it is more likely that funding for 'Beyond the Fences' would come out of separate accounts, and that there would be no competition for funds with cleanup. He added that the current President's budget for DOE is \$1.1B under the minimum regulatory requirements. Andrew Muckle said he thinks that there is a logical nexus between 'Beyond the Fences' and the Stewardship Council. He said he is not sure how another group could address the issues as well and he does not want to squander this opportunity. Lorraine suggested that the Stewardship Council could take a look at proposals left after the NRD funds are awarded and make recommendations from there. Zane Kessler from Senator Salazar's office offered that they appreciate the dialogue, and will take whatever help they can get.

Lori Cox said that she wonders if the existing organizations, such as those mentioned by the City of Arvada, would be amenable to working on these issues and possibly taking on new members from the Stewardship Council. She was also interested in finding out who these organizations were. David Abelson cautioned the group to be careful about integrating into another

community organization, which may serve to divest the Stewardship Council of its power, as opposed to being the convener of the forum. He said there are a lot of different models out there, and the group can look at the current situation as having bought some time. He added that the Stewardship Council does need to address the draft legislation expanding the scope of this organization. Ben Pearlman noted that the discussion was leading him to think that the group is not analyzing the question correctly. He said that the Stewardship Council will be addressing the 'Beyond the Fences' land use questions one way or another, whether there is another organization or not. As two organizations may create additional complexity, the Stewardship Council should consider serving this role. He asked if those opposing this could take another look. Lorraine Anderson said that the group will not make a decision today. Lori Cox questioned whether waiting until a later date to take a position on this issue may serve to put Senator Salazar in a bad position. Zane Kessler said that the timing of the Defense Authorization Act is an issue.

David Abelson pointed out that there are two parts of the proposed legislation. First, under current legislation, when using federal funds, the Stewardship Council can work only on any issues that are directly related to the DOE Rocky Flats mission. The proposal is to amend the legislation to widen the Stewardship Council purview to include everything related to Rocky Flats. David asked if this was acceptable to the members. Northglenn and Broomfield stated that they are opposed to this change. David Allen said that Northglenn does not support this because, everyone has a different vision in terms of open space uses, and Northglenn may not want to participate in every aspect of that. He said that he anticipates future controversy, which will ultimately take the focus away from the original mission of the Stewardship Council. David Abelson clarified that he was not talking about 'Beyond the Fences' at this point, only issued that are unrelated to DOE cleanup. He said that a different piece of the proposed legislation addresses the issue of regional open space coordination.

Jeanette Alberg noted how difficult it was to originally secure the funding for this group, and that she was not sure how easy it would be to get this changed. Zane Kessler said that Senator Salazar did not see this as a problem. Lori Cox said that Broomfield is opposed to both of the two changes David mentioned as part of this proposed legislation. Broomfield thinks this legislation will change the issues upon which the Stewardship Council will focus. David pointed out that the Stewardship Council's IGA and work plan have the same broader scope, even though most of the issues addressed so far have been DOE-related. In response to a clarification request from Barb Vander Wall, Lori stated that the Stewardship Council already has access to enough funding to do the things Broomfield thinks it should be doing. Bill Fischer asked how much input the Stewardship Council can provide regarding the NRD proposals. He said that unless the group makes a decision that it is not interested in any of this, we will end up in position to create a new group in the future. David Allen said that if the scope for the Stewardship Council's DOE grant is broadened, there may also be a risk that funding will not be forthcoming in future. Lisa Morzel referred back to the Rocky Flats Local Impacts Initiative, and said that the original discussion was about the future of Rocky Flats, and that she believes that the site is the site, regardless of jurisdiction. She sees the proposed changes as a move toward efficiency, not losing focus. She thinks it is part of original vision of transforming Rocky Flats into something that all of the surrounding communities can embrace. Zane Kessler said that Senator Salazar's top

priority is public health and safety, and these plans will not change that. Lorraine Anderson closed the discussion.

### **DOE Briefing on Plans to Notch Dams**

George Squibb briefed the Stewardship Council on DOE's plans to notch dams A-1, A-2, B-1, B-2, B-3, and B-4. The purpose of the notching is to reduce the active management and maintenance needs. This decision follows the *Pond and Land Reconfiguration Environmental Assessment Comment Response and Finding of No Significant Impact* that DOE completed October 2004 during closure activities. They will be implementing this project in three phases over 8-10 years. The first phase involves the six smallest interior dams, and is a continuation of a project approved during cleanup in 2004. Just prior to closure, DOE decided to leave these dams in place to evaluate the hydrological impacts of closure. Dams are not part of the remedy. DOE currently manages 12 dams within the COU. Currently, runoff is routed around the higher ponds via bypass pipeline. Once water is put into these ponds, however, the equipment to release water at the outlet does not work. The whole intent of this project is to notch the structures so they can divert low levels of water through the ponds. Bypasses will still be used in high precipitation events. Notches are designed to last 100-200 years. The plan is to have everything done by March, 2009.

Second phase construction is slated to begin in 2012, and final phase construction is planned for 2018. DOE will design the final phase at the same time as the second phase. A technical planning discussion is scheduled for next week. Mike Bartleson asked if there will be a public process to discuss first phase plans. George said that there is no hazard involved. During the second and third phases the site will follow the NEPA process that includes an opportunity for public comment. Jeannette Hillery observed that, because the site was planning to create more natural conditions, and will be able to use the data in subsequent steps, this seems like a good process. David Abelson said that the next Rocky Flats Five-Year Review will take place in 2012, and will provide for another look at site status. The following review will take place in 2017, which dovetails with the schedule for a holistic view in terms of the dams. Ron Hellbusch asked if there will be additional sampling done as they breach the ponds. George said that the required monitoring will not change, but DOE may choose to do additional monitoring.

### **Host DOE Annual Meeting**

Representatives from Stoller at Rocky Flats were present to brief the Stewardship Council on site activities for the first quarter of 2008 (January – April). DOE has posted the report on their website.

#### Surface Water

George Squibb provided an update on Surface Water Monitoring and Operations for the first quarter of 2008. There were no pond discharges. Current pond levels are very low. Pond B5 is the only one with much in it, and it is only at 23%. The site saw only 0.8 inches of total precipitation during the quarter, which was 59% of 1993-2007 average. It has continued to be very dry since the first quarter as well, which results in low or absent flow rates. Levels of

plutonium, americium, and uranium were well below applicable standards. Total uranium activity was a bit lower after hovering around the standard for a couple months. Water quality at all Points of Monitoring, except GS10, was below applicable standards. Reportable values for total uranium at GS10 continue to be observed, and are likely caused by groundwater contributions of naturally-occurring uranium to South Walnut Creek.

At the Original Landfill, surface water quality results indicated that the remedy was functioning properly. At the Present Landfill, surface water quality results triggered monthly sampling for dissolved silver. Dissolved silver was not detected in the first monthly sample, so monthly sampling was discontinued.

### Colorado Water Quality Control Commission

Linda Kaiser provided an update on the status of Colorado Water Quality Control Commission rulemaking. Three segments are underway at the present time. The first is a petition to adopt the statewide basic uranium standard at Rocky Flats. Natural uranium in groundwater now higher proportion of surface water, based on samples completed in 2007 (2008 samples have been collected). This move would eliminate Rocky Flats' site-specific standards. The WQCC Hearing Notice is to be published 10/10/08.

The second item is an annual review of Rocky Flats' expiring temporary modifications. The Rocky Flats temporary modifications are set to expire on December 31, 2009. A WQCC Hearing Notice is to be published September 10, 2008, with a hearing to follow in December. The site believes that Solar Ponds Treatment Systems upgrades should reduce nitrate loading.

The final water quality item is the Triennial Review of the South Platte River Basin. An Issues Scoping hearing was held in October, 2007. Potential Rocky Flats issues include expiring Rocky Flats temporary modifications; a new statewide basic standard for arsenic below the site-specific standard; possible CDPHE adoption of new EPA methodology for copper and other metals; and the uranium petition already scheduled for rulemaking. An Issues Formulation hearing is scheduled for November 10, 2008, and a Rulemaking Hearing will take place in June, 2009.

Lorraine Anderson asked how site conditions for arsenic match up with the new standard. Linda said that, most often, it would not be an issue. Lisa Morzel asked what triggered the site's decision to petition to change the uranium standard. Linda said that since closure groundwater become a greater proportion of the surface water and bringing natural uranium with it. The standard does not distinguish between natural and man-made. Lisa asked if this was anticipated. Scott Surovchak said that it was anticipated at GS10. Jeannette pointed out that things are always evolving with EPA changes. Lisa Morzel said that many in the community are concerned about why this is happening at this point in time. Scott pointed out that many different entities are currently dealing with this issue related to natural uranium. Mike Bartleson said there was concern about continuing to monitor isotopic levels. Scott said that the site will continue to monitor and, if the standard were to be exceeded, additional analysis would occur. Lori Cox expressed a concern that this additional analysis will not be triggered until a higher standard has been exceeded than is currently in place. Scott said this was true, but that the statewide standard is a drinking water standard.

Carl Spreng clarified that the reason for the proposed change of standard at Rocky Flats is that EPA changed their standard, so CDPHE changed their regulations to be consistent with EPA standard. As a result, DOE and CDPHE are now they are looking to align the Rocky Flats standard with the new state standard. Lisa Morzel asked the agencies to understand that the communities are a little nervous about the purpose of doing this. Carl responded that this is a public process and if anyone has suggestions about how agencies can better inform the public, they are very interesting in hearing it. David Abelson said that DOE and the regulators can adopt a provision that defines trigger points for additional analysis, as a means of analyzing trending. He observed that the concern is really how quickly the site will react to upward trends. Linda said that the site will be looking at doing something well before any standards are met.

### Groundwater

John Boylan presented information about Groundwater Monitoring at the site for the 1<sup>st</sup> Quarter of 2008. There are six RCRA wells at the Present Landfill and four at the Original landfill. All were sampled successfully. The results were generally consistent with previous results and will be evaluated in the 2008 Annual Report.

John moved on to an update on the Solar Ponds Treatment System. Interceptor Trench System (ITS) remnants are present upgradient and downgradient of SPPTS groundwater intercept trench. Untreated groundwater at the Discharge Gallery is from ITS remnants, as confirmed through potholing investigation in spring 2007. In terms of a path forward, improvements will be performed in phases. Phase I will begin in August and will involve the installation of a collection sump. It will be located where ITS lines converge (near the former Interceptor Trench Pump House). This sump will collect water that is transferred (via pre-existing line) to SPPTS for treatment and discharge treated water via pre-existing, un-perforated line to the discharge gallery. Data collected following Phase I will define and inform any additional phases. John said that the site is fairly confident these changes will lead to decreased nitrate concentrations. Lorraine Anderson asked if there will be any sludge produced as a result of this treatment. John said no.

### Site Operations

John provided an update of 1<sup>st</sup> Quarter Site Operations activities. At the Original Landfill, inspections were performed monthly, and a vegetation inspection was performed in February. Seep #7 was dry for first quarter. Seeps #4 and #8 showed active groundwater seepage throughout 1st quarter (~ 1-3 gpm). The slumping areas of the OLF continued to be monitored and no significant changes were identified.

OLF settlement monuments were surveyed during the quarter and data were within the expected range, based on the OLF Monitoring and Maintenance Plan. Consolidation monitors were surveyed monthly, and no significant movement was identified.

A geotechnical investigation was also completed at the OLF in order to determine subsurface conditions and the possible causes of observed localized slumping and settling of the OLF cover.

Nine test pits were excavated in February. Seven boreholes were drilled beginning in late March and extending into second quarter 2008. The report was issued in June 2008. Lisa Morzel asked how many holes were dug. John said there were nine test pits, and seven boreholes. Lisa mentioned a paper that was just published which describes landslides in this area and will give copies to the site.

At the Present Landfill, there was a quarterly inspection, a vegetation inspection, and settlement monument survey.

Linda Kaiser provided additional information about the OLF Geotechnical Investigation and the path forward. There were eight test pits (20' long and 11-13' deep). A ninth pit, just 3 feet deep was dug to buttress drain depth. The seven boreholes were 28-39' deep (into bedrock) and were continuous core samples. Inclinerometers were installed to accurately measure movement. A clay layer with organic materials appears to be a weak interface area, Modeling predicts small-scale instability. The buttress was performing as modeled. No large-scale OLF instability was found. The analysis showed migration of surface water from upslope areas, as preferential pathways and porous zones intersect the ground surface. Slope failures appear to shift pathways somewhat. Seep volume and occurrence change over time. Seep #8 is likely a result of water collected by the buttress drain. Collected water is not adequately percolating through subsurface as intended. Directing seep water that surfaces on cover to the perimeter channels/buttress drain will improve weak layer stability.

High and low spots in the channel allow minor ponding in low-flow condition. Heights below two feet are due to minor settlement and localized slumping. High-flow (24 hour/100 year and 1,000 year event model) condition would overtop the berms.

A path forward has been developed:

- Repair localized slumping/differential settlement by filling or grading (area below Berm #1 repaired last summer with good results).
- Fill/regrade perimeter channel to reduce slope and improve stability at berm ends, as needed.
- Two-foot berm height difficult, so height will be adjusted along length based on sub-basin model.
- Conduct routine maintenance for observed ponding in berm channels – regrade high and low spots.
- Install extension to Seep #7 drain to direct water to buttress drain.

Lisa Morzel requested a copy of the presentation and was told it will be posted on the Rocky Flats website. She also asked if any unanticipated materials were collected during this project. Linda said there was not. Lisa asked what materials were placed into the landfill during the time of its use. Linda said it was primarily construction debris. Lisa asked how thick the landfill is. There was no answer given. She said she would like to have a better idea of what is in there. Scott Surovchak said that there is a report that has geotechnical logs. The site did not encounter anything they could identify as waste. The bedrock depth in this area is 15-30 ft. Lisa asked if they did analyses of the core samples. Linda said they did not do isotopic analysis, just geotechnical.

## **Public comment**

There was none.

## **Updates/Big Picture Review**

**October 6, 2008** (special meeting, needed for budget process)

### *Potential Business Items*

- Initial review of 2009 budget
- Stewardship Council Triennial IGA Review (desire to continue, changes in scope)

### *Potential Briefing Items*

- Continue discussing use of NRD funds
- Annual review of Stewardship Council activities
- Begin discussing 2009 work plan
- Begin discussing interpretive signage for Rocky Flats.

**November 3, 2008**

### *Potential Business Items*

- Budget Hearings for 2009 budget/adoption
- Approve 2009 work plan
- Stewardship Council Triennial IGA Review (needs to be approved by councils and commissions by Feb. 1)

### *Potential Briefing Items*

- Host DOE-LM quarterly public meeting
- Continue discussing use of NRD funds
- Continue discussing interpretive signage for Rocky Flats

David and Lorraine will be in Idaho in October giving a presentation at an ECA Peer Exchange on public involvement and the Rocky Flats models.

The meeting was adjourned at 12:10 p.m.

*Respectfully submitted by Erin Rogers.*



9:56 PM  
09/10/08

## Rocky Flats Stewardship Council Check Detail June 16 through September 10, 2008

Type	Num	Date	Name	Account	Paid Amount	Original Amount
<b>Check</b>		<b>6/30/2008</b>		<b>CASH-Wells Fargo-Operating</b>		<b>-2.00</b>
				Admin Services-Misc Services	-2.00	2.00
TOTAL					-2.00	2.00
<b>Check</b>		<b>7/31/2008</b>		<b>CASH-Wells Fargo-Operating</b>		<b>-2.00</b>
				Admin Services-Misc Services	-2.00	2.00
TOTAL					-2.00	2.00
<b>Bill Pmt...</b>	<b>1279</b>	<b>7/2/2008</b>	<b>Crescent Strategies, LLC</b>	<b>CASH-Wells Fargo-Operating</b>		<b>-7,058.10</b>
Bill	6/30/...	6/30/2008		Personnel - Contract	-6,850.00	6,850.00
				Telecommunications	-123.93	123.93
				TRAVEL-Local	-68.18	68.18
				Postage	-15.99	15.99
TOTAL					-7,058.10	7,058.10
<b>Bill Pmt...</b>	<b>1280</b>	<b>7/2/2008</b>	<b>HUB SW</b>	<b>CASH-Wells Fargo-Operating</b>		<b>-2,980.82</b>
Bill	11173	6/1/2008		Insurance	-2,980.82	2,980.82
TOTAL					-2,980.82	2,980.82
<b>Bill Pmt...</b>	<b>1281</b>	<b>7/2/2008</b>	<b>Jennifer A. Bohn</b>	<b>CASH-Wells Fargo-Operating</b>		<b>-365.50</b>
Bill	4208	6/30/2008		Accounting Fees	-365.50	365.50
TOTAL					-365.50	365.50
<b>Bill Pmt...</b>	<b>1282</b>	<b>7/2/2008</b>	<b>Seter &amp; Vander Wall, P.C.</b>	<b>CASH-Wells Fargo-Operating</b>		<b>-1,687.76</b>
Bill	53797	5/31/2008		Attorney Fees	-1,687.76	1,687.76
TOTAL					-1,687.76	1,687.76
<b>Check</b>	<b>1283</b>	<b>7/2/2008</b>	<b>Qwest</b>	<b>CASH-Wells Fargo-Operating</b>		<b>-74.13</b>
				Telecommunications	-74.13	74.13
TOTAL					-74.13	74.13
<b>Check</b>	<b>1284</b>	<b>7/2/2008</b>	<b>Qwest</b>	<b>CASH-Wells Fargo-Operating</b>		<b>-27.13</b>
				Telecommunications	-27.13	27.13
TOTAL					-27.13	27.13
<b>Check</b>	<b>1285</b>	<b>7/2/2008</b>	<b>Excel Micro</b>	<b>CASH-Wells Fargo-Operating</b>		<b>-10.75</b>
				Telecommunications	-10.75	10.75
TOTAL					-10.75	10.75
<b>Bill Pmt...</b>	<b>1286</b>	<b>8/3/2008</b>	<b>Crescent Strategies, LLC</b>	<b>CASH-Wells Fargo-Operating</b>		<b>-7,338.58</b>
Bill	7/31/...	7/31/2008		Personnel - Contract	-6,850.00	6,850.00
				Telecommunications	-141.61	141.61
				TRAVEL-Local	-37.88	37.88
				Postage	-115.99	115.99
				Printing	-166.95	166.95
				Misc Expense-Local Government	-26.15	26.15

9:56 PM

09/10/08

**Rocky Flats Stewardship Council**  
**Check Detail**  
 June 16 through September 10, 2008

Type	Num	Date	Name	Account	Paid Amount	Original Amount
TOTAL					-7,338.58	7,338.58
<b>Bill Pmt...</b>	<b>1287</b>	<b>8/3/2008</b>	<b>Jennifer A. Bohn</b>	<b>CASH-Wells Fargo-Operating</b>		<b>-425.00</b>
Bill	5108	7/31/2008		Accounting Fees	-425.00	425.00
TOTAL					-425.00	425.00
<b>Bill Pmt...</b>	<b>1288</b>	<b>8/3/2008</b>	<b>Seter &amp; Vander Wall, P.C.</b>	<b>CASH-Wells Fargo-Operating</b>		<b>-143.00</b>
Bill	53995	6/30/2008		Attorney Fees	-143.00	143.00
TOTAL					-143.00	143.00
<b>Check</b>	<b>1289</b>	<b>8/3/2008</b>	<b>Qwest</b>	<b>CASH-Wells Fargo-Operating</b>		<b>-27.73</b>
				Telecommunications	-27.73	27.73
TOTAL					-27.73	27.73
<b>Check</b>	<b>1290</b>	<b>8/3/2008</b>	<b>Qwest</b>	<b>CASH-Wells Fargo-Operating</b>		<b>-73.81</b>
				Telecommunications	-73.81	73.81
TOTAL					-73.81	73.81
<b>Bill Pmt...</b>	<b>1291</b>	<b>9/2/2008</b>	<b>Erin Rogers</b>	<b>CASH-Wells Fargo-Operating</b>		<b>-587.50</b>
Bill	8/25/...	8/25/2008		Personnel - Contract	-587.50	587.50
TOTAL					-587.50	587.50
<b>Bill Pmt...</b>	<b>1292</b>	<b>9/2/2008</b>	<b>Excel Micro</b>	<b>CASH-Wells Fargo-Operating</b>		<b>-10.75</b>
Bill	0037...	8/8/2008		Telecommunications	-10.75	10.75
TOTAL					-10.75	10.75
<b>Bill Pmt...</b>	<b>1293</b>	<b>9/2/2008</b>	<b>Jennifer A. Bohn</b>	<b>CASH-Wells Fargo-Operating</b>		<b>-382.50</b>
Bill	6008	8/31/2008		Accounting Fees	-382.50	382.50
TOTAL					-382.50	382.50
<b>Check</b>	<b>1294</b>	<b>9/2/2008</b>	<b>Exchange Monitor Publi...</b>	<b>CASH-Wells Fargo-Operating</b>		<b>-495.00</b>
				Subscriptions/Memberships	-495.00	495.00
TOTAL					-495.00	495.00
<b>Check</b>	<b>1295</b>	<b>9/2/2008</b>	<b>Qwest</b>	<b>CASH-Wells Fargo-Operating</b>		<b>-74.20</b>
				Telecommunications	-74.20	74.20
TOTAL					-74.20	74.20
<b>Check</b>	<b>1296</b>	<b>9/2/2008</b>	<b>Qwest</b>	<b>CASH-Wells Fargo-Operating</b>		<b>-27.21</b>
				Telecommunications	-27.21	27.21
TOTAL					-27.21	27.21
<b>Bill Pmt...</b>	<b>1297</b>	<b>9/2/2008</b>	<b>Blue Sky Bistro</b>	<b>CASH-Wells Fargo-Operating</b>		<b>-108.00</b>
Bill	1489	8/4/2008		Misc Expense-Local Government	-108.00	108.00

9:56 PM

09/10/08

**Rocky Flats Stewardship Council**  
**Check Detail**  
 June 16 through September 10, 2008

Type	Num	Date	Name	Account	Paid Amount	Original Amount
TOTAL					-108.00	108.00
<b>Bill Pmt...</b>	<b>1298</b>	<b>9/2/2008</b>	<b>Crescent Strategies, LLC</b>	<b>CASH-Wells Fargo-Operating</b>		<b>-7,796.47</b>
Bill	8/31/...	8/31/2008		Personnel - Contract	-6,850.00	6,850.00
				Telecommunications	-137.63	137.63
				TRAVEL-Local	-85.42	85.42
				Postage	-15.99	15.99
				Printing	-2.43	2.43
				TRAVEL-Out of State	-705.00	705.00
TOTAL					-7,796.47	7,796.47
<b>Bill Pmt...</b>	<b>1299</b>	<b>9/2/2008</b>	<b>Seter &amp; Vander Wall, P.C.</b>	<b>CASH-Wells Fargo-Operating</b>		<b>-159.50</b>
Bill	54171	7/31/2008		Attorney Fees	-159.50	159.50
TOTAL					-159.50	159.50

# ROCKY FLATS STEWARDSHIP COUNCIL

P.O. Box 17670  
Boulder, CO 80308-0670  
www.rockyflatssc.org

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(303) 412-1211 (f)

Jefferson County -- Boulder County -- City and County of Broomfield -- City of Arvada -- City of Boulder  
City of Golden -- City of Northglenn -- City of Westminster -- Town of Superior  
League of Women Voters -- Rocky Flats Cold War Museum -- Rocky Flats Homesteaders  
Karen Imbierowicz

August 25, 2008

Senator Ken Salazar  
702 Hart Senate Office Building  
Washington, DC 20510

Representative Mark Udall  
100 Cannon House Office Building  
Washington, DC 20515

Representative Ed Perlmutter  
415 Cannon House Office Building  
Washington, DC 20515

Dear Senator Salazar, Representative Udall and Representative Perlmutter,

On behalf of the Board of Directors of the Rocky Flats Stewardship Council, I am writing to voice our support for your request that the General Accountability Office (GAO) investigate implementation of the Energy Employees Occupational Illness Program Compensation Act (EEOIPCA).

Like you, we remain extremely concerned about ongoing delays former Rocky Flats workers have encountered in achieving just compensation under the EEOIPCA. The EEOIPCA is critical to ensuring that workers who have suffered as a result of exposures to radioactive and hazardous materials while working at Rocky Flats and other Department of Energy (DOE) facilities be compensated for their illnesses. The problems workers have faced throughout the DOE complex are particularly acute at Rocky Flats.

While GAO investigations can take some time, during which time workers entitled to compensation will continue to face great challenges and resistance from managing agencies, it is vital that you and your colleagues continue to identify the scope and reasons for the many delays and barriers workers and their families have encountered. Only by identifying needed systematic

changes in agency procedures can we begin to ensure workers receive just and timely compensation. For this reason we support this GAO investigation.

In addition to administrative changes, we continue to support legislative fixes including special cohort legislation. We therefore recommend the GAO investigation be expanded to include identifying whether legislative changes should be enacted and the scope of such changes.

The Colorado Congressional delegation's leadership on behalf of former workers has been critical and we remain committed supporting your efforts. Many of those harmed are our constituents and we support their efforts to receive just compensation under the EEOIPCA.

Regards,

[original signed]

Lorraine Anderson  
Chairman

Cc: Senator Wayne Allard  
Representative Diana Degette  
Representative John Salazar  
Representative Marilyn Musgrave  
Representative Doug Lamborn  
Representative Tom Tancredo  
Samuel Bodman, Secretary of Energy  
Elaine Chao, Secretary of Labor  
Michael Levitt, Secretary of Health and Human Services



AUG 13 2008

The Honorable Mark Udall  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Udall:

I am writing in response to your letter of July 24, 2008, co-signed by Congressman Ed Perlmutter, regarding the three-part series titled "Deadly Denial: Nuclear weapons workers who risked their safety in the Cold War now must fight for compensation," which was recently published in the *Rocky Mountain News*.

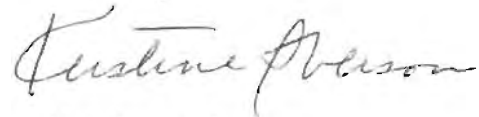
Your letter makes some strong statements asserting that the Department of Labor did not respond to the author of this series, Ms. Laura Frank. The fact of the matter is that the Department of Labor has responded to Ms. Frank's numerous inquiries and those of her colleague, Ann Imse, over the many months that the *Rocky Mountain News* has run articles about the Energy Employees Occupational Illness Compensation Program Act (EEOICPA). The truth of this is borne out by the quotes from departmental officials that have appeared in these articles. The Department has even hosted Ms. Frank at the Department for personal briefings with EEOICPA officials both in Washington and in Denver at the EEOICPA claims center. The Department of Labor has gone the extra mile in accommodating Ms. Frank's requests for information and on the record responses.

What is truly unfortunate is that Ms. Frank continues to be inaccurate in her reporting. If the *Rocky Mountain News* chooses to take an editorial position that is critical of DOL, that is the paper's prerogative; but, such editorials are more appropriately placed on the opinion pages. Readers of this newspaper who rely on it for information - including EEOICPA claimants - are being poorly served by the fact that Ms. Frank has allowed her advocacy to eclipse her journalistic integrity.

Once again, there are serious inaccuracies in the recent three-part series on

EEOICPA. I have enclosed information that I hope will be useful to you in your efforts to assist your constituents. I assure you that this is our goal as well.

Sincerely,

A handwritten signature in cursive script that reads "Kristine Iverson". The signature is written in black ink and is positioned above the printed name.

Kristine A. Iverson

Enclosures

August 12, 2008

**Department of Labor Response to "Deadly Denial" Series in the Rocky Mountain News, July 20-22, 2008**

*"[L]abor is not pursuing a strategy to deny benefits, and further, ... its comments and involvement are helpful in adjudicating claims fairly."*  
Government Accountability Office Report GAO-08-4, pg. 38, October 2007

The recent *Rocky Mountain News* (RMN) articles about the Department of Labor's management of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) paint an inaccurate picture of how the program is being administered by the Department of Labor to assist the nuclear weapons workers for whom it was designed.

Over the life of the EEOICPA program, the DOL has responded to numerous requests from the *Rocky Mountain News*, and has spent countless hours explaining this complex program to the RMN's staff.

Following a series of inaccurate articles in November 2007, the Department of Labor made several key officials available to the *Rocky Mountain News* in an attempt to again assist the writers' understanding of the EEOICPA program. Notwithstanding these efforts, the *Rocky Mountain News* published another series of articles in February 2008, which continued to substantially misinterpret how the program works and to assail the Department's motives.

The Department (DOL) wrote to the *Rocky Mountain News* to address the errors published in that series to ensure that mistaken impressions regarding the EEOICPA program would be corrected. Although the *Rocky Mountain News* published a partial correction at that time, their portrayal of the program continues to be inaccurate and incomplete.

**Setting the Record Straight**

The July 2008 stories repeat allegations made in a number of earlier articles, and like them, indict the entire program based on a small number of individual claimants' experiences. These cases are described with dramatic allegations of delays, indifference, and denial, and frequently descend into accusations of intentional "stonewalling" and retaliation.

It is notable that most of the allegations of program failure involve cases where DOL did in fact make full lump sum payments allowed by law. A review of each case described in the stories reveals that all have been processed according to the law and as promptly as possible, with the exception of one or two cases where inadvertent delays did occur. Contrary to allegations in these articles, none of these claimants has been intentionally stonewalled or retaliated against by the Department of Labor. In most cases, EEOICPA program staff have made extraordinary efforts to address and resolve the complicated issues involved in these cases. The *Rocky Mountain News* stories did not present any



credible evidence of such malfeasance. If anyone presented any such evidence, we would review it carefully and take strong disciplinary action where warranted.

EEOICPA is an extremely complex benefit program and, like any such program, some claims will be denied, and a few honest mistakes will be made. As a result, some claimants will be disappointed. The Department regrets any situations where mistakes have been made for claimants or have caused them difficulty. Nevertheless, the Department of Labor has continuously focused on assisting claimants by providing sympathetic service as promptly as possible. Where problems do arise, we have many processes in place to provide redress, and they work.

The image painted by the *Rocky Mountain News* of a program bent on mistreating workers, hiding information, and intentionally creating roadblocks is patently untrue. All claimants are treated with the dignity and respect they deserve, and receive the benefits to which the statute entitles them. The Department's success in issuing \$4 billion in benefits to 43,000 claimants under EEOICPA is testimony to our true intent as stewards of this program.

The *Rocky Mountain News* series quotes two former Department of Labor employees to buttress its accusations of "wrongdoing." One asserts – with no evidence whatsoever – that claims staff are instructed to deny claims indiscriminately, while the other says no such instructions were issued, but notes that there was pressure to quickly resolve the massive claim backlog DOL inherited from the Department of Energy when the Part E program was created in 2004. The former accusation is simply untrue. The latter observation is correct. DOL management did, and continues, to ensure that workers who had been waiting for decisions for many years under the old Part D program at the Department of Energy get a final decision on their eligibility as soon as possible. This was a commitment that Congress explicitly sought from us when the Part D program was abolished and the claims transferred to DOL. As a result, all but a handful of the 26,000 original Part D claimants have received a final Part E decision on their eligibility for either lump sum and/or medical benefits. To date, that group of claimants has received \$620 million in Part E benefits.

The following is a selection of some of the most misleading accusations leveled by the *Rocky Mountain News* series and our response.

#### Individual Allegations and Responses

1. The *RMN* series strongly suggests – without any support whatsoever – that Congress intended all sick nuclear weapons workers would be compensated ("some 165,000 claims have been filed, but fewer than 43,000 have been paid") as a basis for indicting the Department of Labor for willfully "blocking" deserving claimants.
  - In fact, of the 165,782 claims filed as of July 29, 2008, only 124,686 were valid claims. (Examples of "invalid" claims, or "non-covered applications" include those for which the medical condition claimed is not one of the three conditions

covered by the Act (Part B); or the claimant did not establish that the employee had covered employment (Parts B and E); or a survivor did not meet the relationship or dependency requirements.) Further, 43,000 compensation payments have been made and thousands of additional claims have been approved for medical benefits. Moreover, many claims that will eventually be paid are still going through the adjudication process, or are awaiting a dose reconstruction at the Department of Health and Human Services's National Institute for Occupational Safety and Health (NIOSH).

- In fact, Congress created a program that would only compensate cases in which medical or scientific evidence supported a relationship between a medical condition and workplace exposures to toxic substances. Congress thus established clear eligibility criteria for EEOICPA – including the requirement to prove causation of medical conditions by workplace exposures, and including the complex dose reconstruction process. DOL has no legal basis to approve claims outside of these statutory boundaries.
  - Although some advocates would like the legislation to cover all workers at any covered facility who get sick, that is not what the law does. DOL must implement the law as it was passed. Virtually all of the *RMN* allegations are examples of DOL being blamed for carrying out its legally required adjudicatory role, which is to determine when a worker has a disease, and whether that disease comes within the coverage of EEOICPA.
2. The *RMN* series frequently refers to “automatic compensation” situations and suggests DOL simply ignores these “requirements” to pay.
    - The cited examples of “automatic compensation” are not “automatic” at all. For example, although a Part B approved case is guaranteed approval for medical causation under Part E, to obtain lump sum compensation, workers or survivors must meet certain additional tests or provide certain evidence. DOL advises claimants of their additional potential eligibility and assists them in meeting their evidentiary burden, but, under the law, compensation is not “automatic.” The *RMN*'s statements in this regard suggest they do not understand the program.
  3. The *RMN* series once again alleges that DOL mounted a cost containment agenda in 2006.
    - This accusation is completely without merit. The *RMN* knows that the Secretary of Labor, senior DOL officials, and OMB officials have testified to Congress on numerous occasions that there was no intent to limit payments to eligible claimants and no such plans were ever carried out, nor will they be.
  4. The *RMN* series frequently accuses DOL of “changing the rules in midstream” to block claimants.

- This is a distortion of the truth. Most of the rule and procedure changes cited are the responsibility of the National Institute for Occupational Safety and Health (NIOSH), not DOL, yet they were presented as “evidence” of DOL’s intent to deny claims. One of the two examples of a DOL “rule change” is the *RMN* discussion of our bulletins carrying out NIOSH’s definition of the Special Exposure Cohort (SEC) classes at Rocky Flats. As we have carefully and repeatedly explained to *RMN* staff, including during a two-hour interview in February 2008 on this very subject, our bulletins in no way limit or restrict eligibility for the Rocky Flats SEC classes. Rather these bulletins explain to our claims examiners and others how to apply the class definition crafted by NIOSH. In fact, DOL’s bulletins actually made demonstrating membership in the classes somewhat easier by including an additional Rocky Flats building in the list of those associated with the SEC class criteria. The tiny handful of Rocky Flats claimants cited whose recommended approvals were remanded for another review were not rejected because “it became clear ... they would garner automatic compensation.” Their cases were remanded because the NIOSH-established definition of the SEC classes required that result.
  - The other alleged example is the *RMN*’s assertion that DOL issued so-called “no pay lists” to deny workers “the benefits Congress intended for them.” This is completely false. The procedural bulletins in question simply listed certain medical conditions for which links to toxic exposures had not been identified. These bulletins did not, however, prohibit acceptance of claims for such medical conditions. Moreover, they explicitly directed claims staff that claimants could present evidence in support of such links. The bulletins have subsequently been superseded by use of the Site Exposure Matrices – which have more information than the bulletins and are constantly updated.
  - The *RMN* series is likewise critical of DOL for not using information found on the Internet to approve claims, finding, “The Rocky discovered the links through a simple search of an Internet database of disease studies ...” However, the information on toxic substances and related health effects used by DOL has been peer reviewed and published by the National Institute of Health’s National Library of Medicine on the Hazardous Substances Database specifically for the purpose of identifying medical conditions that have been scientifically established to be occupationally linked. The Internet is replete with studies and articles that provide “suggestive” or possible linkages. DOL is obligated to base decisions on peer-reviewed science established by NIOSH to be the standard for determinations.
5. The *RMN* series repeats insinuations that DOL waits for claimants to die to avoid making payments.
- This is categorically untrue and offensive. DOL is dedicated to helping claimants and makes extraordinary efforts to expedite payments when it is learned that claimants are near death. Moreover, the *RMN* is well aware of the Department’s

efforts. Despite this, the *RMN* series reiterated an earlier claim that DOL “delayed payments to Douglas DelForge, who died in 2008.” In fact, DOL paid Mr. DelForge \$187,500, and was working on an additional payment when he died unexpectedly. It is regrettable that the additional payment was not finalized before his death; but to suggest that DOL staff intentionally delayed that payment is wholly without merit.

6. The *RMN* series also criticizes DOL because cases are returned to NIOSH for a new dose reconstruction and implies that none of the returned cases are compensated.
  - In fact, 28 percent of all claims returned for a new dose reconstruction are then accepted for benefits under the program. Without the new evaluation, these claimants would not have received the benefits to which they are entitled. Specifically, the *RMN* criticizes the reevaluation of exposure from “Super S” plutonium and suggests that the cases were sent back in the full knowledge that it was unlikely that the resulting new reconstructions would lead to cases being compensated. In fact, a large number of claimants have been approved for compensation as a direct result of the new dose reconstructions caused by the change to NIOSH’s dose reconstruction procedures regarding “Super S” plutonium, and many more cases are still under NIOSH review.
7. The *RMN* series asserts that DOL has ignored Congressional concerns based essentially on a 2005 letter from several members of Congress commenting on the DOL interim final rule for Part E.
  - Unfortunately, the *RMN* reporting on this issue is incomplete since it prints the Congressional letter without also publishing, or even mentioning, DOL’s detailed response to that same letter in the preamble to the final rule implementing Part E. DOL took the Congressional comments into account, and carefully explained its reasoned and lawful position on the matters in question. A letter signed by Members of Congress cannot overturn the law itself.
8. The *RMN* series also asserts that “Criminals have the right to know what evidence is used against them, but sick nuclear weapons workers do not,” a reference to their assertion that claimants are denied benefits based on “secret reports.”
  - This accusation is false. In fact, the so-called “secret report” referred to is a DOL health physicist’s technical report to the deciding official that is placed in the claimant’s case file and is fully available to the claimant upon request. These reports are fully explained in the deciding official’s decision; they are provided to the claimant upon request; and they are fully described in DOL’s procedural bulletins, which are available to the public on the Internet.
9. The *RMN* series states that program officials “considered in 2006 asking the labor department’s inspector general to put a sick claimant under surveillance,” and implies

(based upon a single email) that surveillance is a common practice. It further claims that DOL has never published evidence of fraud in the program.

- It is the government's fiduciary duty to refer suspected fraudulent activity to the DOL Office of the Inspector General. Throughout the entire history of the EEOICPA program only a handful of cases have been referred to the Office of the Inspector General, and it is that office's responsibility to determine the appropriate course of action. While fraud has been rare, at least one indictment has been handed down in connection with the EEOICPA program.
10. The *RMN* series publishes a listing of all DOL employees' bonuses received in connection with EEOICPA from 2001 to 2007 and their amounts, and suggests that these bonuses were wasteful and improper: "Executives at the U.S. Department of Labor are apparently happy with the operation of the program to compensate sick nuclear weapons workers. More than \$3.2 million in bonuses has been paid to those administering the program since it started in 2001."
- Publication and ridicule of the annual bonuses of more than 500 Federal civil servants, most at grade GS-11 or below, was inappropriate. Annual awards of this kind are tied to individual job performance standards and actual performance, and such awards are a standard (and perfectly appropriate) facet of compensation within the civil service. EEOICPA program employee performance standards are based on productivity, timeliness and overall quality of decisions, responsiveness to inquiries, and similar program performance goals.
11. The *RMN* series criticizes the costs of administering the EEOICPA and repeats the assertion that administration accounts for one-third of the total cost of the program.
- The *RMN* statistic is incorrect. Through 2008, DOL administration of the Part B portion of the program has cost \$359 million, or about 11 percent of the total cost of the program. The same statistic for Part E is 15 percent. Since EEOICPA comprises two relatively recent programs, these percentages are expected to decline as the programs mature and start-up investments make up a shrinking portion of the total of each. DOL has knowingly devoted a high ratio of staff (and hence resources) to these programs to ensure that the huge initial backlogs of claims on hand at the inception of each Part could be addressed as rapidly as possible. We believe those expenditures were appropriate.
  - It is true however, that Part B is costly to administer, because of the Congressional mandate for the dose reconstruction process managed and implemented by NIOSH. This process, while believed to be the most effective way to assess probability of causation of cancer by radiation, requires an extremely labor-intensive, time-consuming approach to each nuclear facility and each EEOICPA case. In addition to the DOL costs for Part B, NIOSH costs have exceeded \$336 million, or 10 percent of the total cost of that program. With

NIOSH and DOL costs taken together, the overall administrative cost ratio for Part B is 21 percent – not 33 percent as claimed by the *RMN*.

12. The *RMN* series also discusses the case of E. Levi Samora, Jr., stating that he was denied benefits for 5 years before his case was finally accepted. It argues that DOL had all of the records necessary for an acceptance of chronic beryllium disease (CBD) for all of those 5 years.
  - Although DOL is precluded by the Privacy Act from discussing the specifics of Mr. Samora's case, the *RMN* story fails to explain that the law requires specific tests be conducted to establish CBD coverage under Part B. Often claimants present compelling evidence of lung disease and exposure to beryllium and even have test results that establish beryllium sensitivity (but not disease) without being able to meet the statutory testing criteria for CBD coverage. If a claimant's later test results meet the statutory criteria, DOL can then award Part B lump sum compensation to the claimant.
13. The *RMN* published a flow chart that appears to detail the EEOICPA claims procedures. However, this chart is completely inaccurate and inappropriately displays the official DOL seal in the background of the document suggesting that it is an official document.
14. The *RMN* continually conflates the work of the Department of Labor and that of NIOSH, a branch of the Department of Health and Human Services (HHS), and invariably blames DOL for any difficulties arising from the HHS portion of the program. For example, the series alleges that "Millions of dollars have been spent redoing technical work that was faulty, while top labor department officials...have collected tens of thousands of dollars each in bonus money."
  - The technical reworks referenced are NIOSH dose reconstruction activities, necessitated by changes in NIOSH policy and procedure. DOL officials have no authority or ability to influence NIOSH changes, and can only address the handling of cases affected by those changes so as to protect those claimants' due process rights.
  - Likewise, the articles frequently point to the multiple years many claimants must wait for a decision, without ever explaining that cases that require a NIOSH dose reconstruction take on average more than two years to receive a final decision, while those cases decided by DOL without a NIOSH dose reconstruction average about eight months.

When enacting EEOICPA, Congress established a complicated procedure involving several different federal agencies. These agencies were tasked to make determinations on issues that have eluded state workers' compensation systems for decades – whether cancer and other occupational illnesses suffered by workers covered by EEOICPA were related to their employment. In doing so, Congress recognized that cancer and many

other diseases were common in the general population and thus required that payment of EEOICPA benefits be based on scientific and medical evidence.

## **Stewardship Council 2009 Work Plan**

- Cover memo
- Draft 2009 Work Plan

## **Stewardship Council 2009 Budget**

- Cover memo
- Draft 2009 budget
- Comparison of 2009 budget to 2008 expenditures

## **Stewardship Council IGA Triennial Review**

- Cover memo
- IGA
- Draft resolution



# ROCKY FLATS STEWARDSHIP COUNCIL

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League of Women Voters -- Rocky Flats Cold War Museum -- Rocky Flats Homesteaders  
Karen Imbierowicz

## MEMORANDUM

**TO:** Board

**FROM:** David Abelson

**SUBJECT:** Board Review of Stewardship Council Activities for 2008 and Initial Review of Draft 2009 Work Plan

**DATE:** September 23, 2008

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At this meeting the Board will assess its efforts in 2008 and begin reviewing the draft 2009 Work Plan (attached). Any changes to the Plan will be incorporated into a revised draft that will be reviewed, modified as necessary, and approved at the November 3<sup>rd</sup> meeting.

### **Review of 2008 Activities**

The 2008 Work Plan contains the following provision:

“How the Stewardship Council will measure its success is important. Many organizations use sophisticated techniques to measure success, but these are not necessary for the Stewardship Council. Rather each year the Stewardship Council will pause and reflect on its Work Plan elements to help determine its ability to accomplish the stated mission and objectives. The review shall include an assessment of how the organization can improve in the coming year, focusing on areas of weakness and opportunities for improvement.”

The first part of the conversation will be the Board’s assessment. That conversation will then be used to set goals for 2009 and make changes to the draft 2009 Plan.

From a staff perspective, we thought the year was successful. We tackled a number of issues ranging from addressing NRD issues and reviewing data monitoring data to maintaining our commitment to support workers in their quest to receive just compensation under the EEO/PCA. We also developed a comprehensive set of briefing materials that we can use to educate your

colleagues and community members about the ongoing importance of oversight of Rocky Flats activities. We also secured additional federal funding.

Two areas where we question whether we met the Board's intent were hosting regular staff technical meetings and identifying mechanisms to keep constituencies engaged. We believe these warrant Board discussion.

#### Technical staff meetings

When the organization formed it was agreed that the Board would be briefed on and would discuss site monitoring data. These briefings take place no less than quarterly. However, knowing that time at Board meetings is limited and that the interest among Board members for how involved in the technical details they want to get varies, the Board directed staff to hold quarterly technical meetings with DOE and CDPHE. Those staff meetings would supplement the Board meetings and provide an opportunity to discuss and debate issues at a more in-depth level. It was further agreed that local government staff and not Stewardship Council staff would schedule and host the technical meetings.

Throughout the last year local government staff decreased the frequency of the technical staff meetings from quarterly to going 8-9 months without a meeting. Stewardship Council staff does not disagree with staffs' decision to only hold meetings as necessary; nor too do we question local government staffs' conclusion that more frequent meetings were unnecessary.

At this meeting we want to check in with the Board about its intent and expectations to make sure that meetings on an as-needed basis meet the Board's intent.

#### Keeping constituencies engaged

As the Board has discussed at various points, one of the challenges in long-term oversight of Rocky Flats is keeping constituencies engaged. The Board does a good job of keeping its fellow elected officials apprised of issues and members likewise keep their constituencies engaged. My understanding of the work plan item was to extend beyond your councils/commissions and members to reach new constituencies.

Due to the busy meetings agendas I did not schedule time this year for the Board to discuss this item. During your review of 2008 activities and planning for 2009 activities I recommend you discuss this issue and start to chart a course for how you want to tackle this item.

#### **Draft 2009 Work Plan**

There are no significant changes to the Work Plan, but like 2008, there continues to be important work elements. Two items are continued oversight of site operations, including the site's monitoring and maintenance program, and working with DOE, USFWS and others on interpretative signage for Rocky Flats (our focus, I believe, should be Rocky Flats site history as opposed to refuge management issues). We will also need to renew the IGA.

The other changes I trust are self-explanatory. Please let me know what questions you have, particularly if there are any items I did not include in the draft Plan.

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League of Women Voters -- Rocky Flats Cold War Museum -- Rocky Flats Homesteaders  
Karen Imbierowicz

## 2009 Work Plan

*Draft #1, October 2008*

### Mission:

The mission of the Rocky Flats Stewardship Council is to provide continuing local oversight of activities at the Rocky Flats site and to ensure local government and community interests are met with regards to long-term stewardship of residual contamination and refuge management. The mission also includes providing a forum to track issues related to former site employees and to provide an ongoing mechanism to maintain public knowledge of Rocky Flats, including educating successive generations of ongoing needs and responsibilities regarding contaminant management and refuge management.

### Preface: **2009** Challenges and Opportunities

In 2007 jurisdiction over Rocky Flats transferred from DOE's Office of Environmental Management to both DOE's Office of Legacy Management and the Department of the Interior. With this transfer of management responsibility, the Stewardship Council fully stepped into its long-term mission – engage on the range of issues underpinning the long-term management of Rocky Flats and use and protection of the site as a national wildlife refuge.

As the sole Local Stakeholder Organization (LSO) in the DOE complex, the Stewardship Council has established the framework for how a successful LSO functions. The involvement of the four non-governmental entities on the Stewardship Council provides important ideas and opportunities for engaging broad audiences on issues and histories related to the site.

Some of the challenges to address in 2009 will likely include:

- Continuing to expand and strengthen the organization's relationship with DOE's Office of Legacy Management (LM)
- Developing relationships with the new Administration and new members of the Colorado Congressional delegation.
- Identifying new opportunities to educate constituencies beyond the Stewardship Council's core constituencies about the ongoing management needs at Rocky Flats

Deleted: 2008

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Deleted: Continuing to implement an effective public outreach program that not only reaches the current Rocky Flats audience but identifies

Deleted: others

- Reviewing and modifying as necessary organizational systems to ensure members remain engaged and the Stewardship Council functions efficiently

## **Background:**

The Stewardship Council occupies two roles: (1) serving as the LSO for Rocky Flats, and (2) engaging USFWS on the management of the Rocky Flats National Wildlife Refuge.

### Local Stakeholder Organization

Legacy Management approved the LSO Plan for Rocky Flats on December 21, 2005. This Plan identifies how the main responsibilities Congress identified in the legislation authorizing the creation of LSO (Section 3120 of the Fiscal Year 2005 Defense Authorization bill) are to be carried out at Rocky Flats. These responsibilities are summarized as follows:

- Solicit and encourage public participation in appropriate activities relating to the closure and post-closure operations of the site.
- Disseminate information on the closure and post-closure operations of the site to the State and local and Tribal governments in the vicinity of the site, and persons and entities having a stake in the closure or post-closure operations of the site.
- Transmit to appropriate officers and employees of DOE questions and concerns of governments, persons, and entities referred to in the preceding bullet.

In fulfilling these responsibilities, the Stewardship Council has been tasked with helping DOE meet its public involvement obligations identified in the Post-Closure Public Involvement Plan (PCPIP) for Rocky Flats.

### Rocky Flats National Wildlife Refuge

“The Rocky Flats National Wildlife Refuge Act of 2001” established that Rocky Flats shall become a national wildlife refuge following EPA certification that the site has been cleaned to the agreed-upon regulatory standards. In July 2007 DOE conveyed jurisdictional responsibility over nearly 4000 acres to the Department of the Interior for the Rocky Flats National Wildlife Refuge. Additional lands will likely be conveyed in 2009.

In April 2005, USFWS published the Rocky Flats Comprehensive Conservation Plan (CCP), the conservation plan for the Rocky Flats National Wildlife Refuge. The CCP describes the desired future conditions of the Refuge and provides long-range guidance and management direction. Per the CCP, in the coming years USFWS anticipates developing the following “step-down” management plans, which provide specific guidance for achieving the objectives established in the CCP:

1. Vegetation and Wildlife Management Plan
2. Integrated Pest Management Plan
3. Fire Management Plan
4. Visitors Services Plan
5. Health and Safety Plan
6. Historic Preservation Plan

Deleted: <#>Securing additional federal appropriations¶  
<#>Keeping constituencies engaged¶

Deleted: 8

Due to funding restrictions, USFWS will delay implementation of the CCP, including delaying the timeline for opening the Refuge for public access.

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## Work Plan Elements

The Work Plan is divided into the following five sections:

1. DOE Management Responsibilities
2. Rocky Flats National Wildlife Refuge
3. Former Rocky Flats Workforce
4. Outreach
5. Business Operations

### DOE Management Responsibilities

#### Overview:

One of the key roles of the Stewardship Council is to understand and engage the various issues regarding the cleanup and post-closure management of Rocky Flats, and to provide a forum to foster discussions among DOE, the regulatory agencies, and community members.

#### 2009 Activities:

1. Review information regarding the long-term stewardship and management of the Rocky Flats site, including but not limited to the results of the operational and performance monitoring data of site operations and DOE status reports.
2. Work with DOE on implementing its Post-Closure Public Involvement Plan (PCPIP), including the meetings DOE identified in the PCPIP.
3. Review DOE budgets for implementation of DOE responsibilities.
4. Participate in DOE, CDPHE and/or EPA assessment(s) of remedy operations and effectiveness.
5. As needed, evaluate legal and regulatory issues regarding implementation of site-wide long-term stewardship plans and provide information to the Stewardship Council and to the community.
6. Work with DOE and the regulators to understand technical data regarding implementation and effectiveness of cleanup remedies and long-term controls, and provide information to the Stewardship Council and to the community.
7. Track issues related to DOE's petition to Colorado Water Quality Control Commission to change uranium and other standards for Rocky Flats.
8. Transmit to appropriate officers and employees of the DOE questions and concerns of governments, persons and entities regarding Rocky Flats.
9. Work with USFWS and DOE on interpretative signage on refuge lands that includes history of Rocky Flats and cleanup, and ongoing DOE monitoring and surveillance program.
10. Discuss with Rocky Flats Cold War Museum efforts to establish a museum and other related actions.

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Deleted: <#>Work with USFWS and DOE on access restrictions to DOE-retained lands, as provided in the Rocky Flats Legacy Management Agreement.¶

11. Track issues related to transfer of administrative jurisdiction over former mineral parcels from DOE to Department of the Interior for inclusion in the Rocky Flats National Wildlife Refuge.

## Rocky Flats National Wildlife Refuge

### Overview:

A core function of the Stewardship Council is to engage on issues related to the development and management of the future Rocky Flats National Wildlife Refuge. This work includes tracking and addressing as necessary issues related to the interface of the Refuge to lands that DOE will retain as part of its management responsibilities.

### 2009 Activities:

1. As necessary, work with USFWS on implementation of Comprehensive Conservation Plan for the Rocky Flats National Wildlife Refuge.
2. Track Congressional action affecting funding for USFWS.
3. Provide a forum for the community to raise issues related to development of management plans and other issues affecting USFWS responsibilities at the Rocky Flats National Wildlife Refuge.

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Deleted: <#>As necessary, work with USFWS on access restrictions to refuge lands.¶

## Former Rocky Flats Workforce

### Overview:

One of DOE's primary post-closure responsibilities is to manage the health and pension benefits of former site workers. Many of these workers are the constituents of the Stewardship Council governments. Further, the Rocky Flats Homesteaders, which represents more than 1800 former site workers, sits on the Board of the Stewardship Council. For these and other reasons, as noted in the Stewardship Council's IGA, worker issues will continue to play a role for the Stewardship Council.

### 2009 Activities:

1. Track issues related to the implementation of the Energy Employee Occupational Illness Program Compensation Act (EEOIPCA), including ongoing federal legislation and pending review of the program by the General Accountability Office. Respond as needed.
2. Communicate worker concerns to the new Administration and to new members of the Colorado Congressional delegation.

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Deleted: <#>Track issues related to DOE's development and implementation of health and pension benefit programs for former Rocky Flats workers. ¶

## Outreach

### Overview:

As the LSO for Rocky Flats, a core responsibility for the Stewardship Council is reaching out to the community and providing a mechanism to educate people about Rocky Flats and the ongoing management needs. As part of this mission it remains essential that the Stewardship Council maintain close communications with DOE, EPA, CDPHE, USFWS and Congress.

The local communities have developed over the period of many years a very good working relationship with the two primary regulatory agencies that oversee the site, EPA and CDPHE. It is imperative that the Stewardship Council continue this tradition of partnership with these agencies.

The Colorado congressional delegation likewise played a critical role in addressing Rocky Flats issues. The Stewardship Council shall remain an important vehicle for addressing issues of concern to the delegation and for providing community interface with the delegation on the numerous site-specific issues and concerns.

### 2009 Activities:

1. Hold quarterly Board meetings and provide opportunity for public comment and public dialogue.
2. Communicate with other local officials, DOE, state and federal regulators, the Colorado congressional delegation, and other stakeholders about the Stewardship Council's mission and activities, as appropriate.
3. Seek public input and involvement on issues related to DOE and USFWS responsibilities at Rocky Flats.
4. Evaluate Congressional action affecting DOE and USFWS and administrative action that could affect Rocky Flats.
5. Maintain communication with state legislators, as appropriate, and track state legislation as needed.
6. ~~Provide~~ communications materials ~~to~~ newly elected officials.
7. ~~Provide opportunities at meetings and in between meetings for education and feedback.~~
8. Work with DOE to disseminate information on the cleanup and post-closure operations of Rocky Flats.
9. Begin to identify methods for keeping constituencies engaged on Rocky Flats issues.
10. Identify mechanisms for educating successive generations about the residual contamination at Rocky Flats and the continued need for a comprehensive site-wide stewardship program.
11. Participate in local, regional and national forums.
12. Implement mechanisms for the Stewardship Council and the general public to be informed of the results of the monitoring data and other relevant information, recognizing that not all communication between DOE and Rocky Flats constituencies will flow through the Stewardship Council. Options include:
  - o Periodic reports
  - o Email updates
  - o White papers

Deleted: 2008

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Deleted: and provide such information to these officials.

Deleted: <#>As needed, develop briefing materials for new Stewardship Council Board Members.¶

- Letters
- Press releases

## **Business Operations**

### **Overview:**

Business Operations refers to organizational management responsibilities – conducting the annual audit, hiring staff, submitting financial reports to DOE, adopting annual Work Plan and annual budget, etc.

### **2009 Activities:**

1. Operate Stewardship Council in compliance with state and federal regulations.
2. Conduct financial audit.
3. Prepare and adopt the annual work plan and the annual budget.
4. Submit financial reports to DOE.
5. Renew the Intergovernmental Agreement.
6. Review and renew as necessary consulting agreements.

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Deleted: <#>Secure additional federal appropriations.¶

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## **Success Measurement Criteria**

How the Stewardship Council will measure its success is important. Many organizations use sophisticated techniques to measure success, but these are not necessary for the Stewardship Council. Rather each year the Stewardship Council will pause and reflect on its Work Plan elements to help determine its ability to accomplish the stated mission and objectives. The review shall include an assessment of how the organization can improve in the coming year, focusing on areas of weakness and opportunities for improvement.



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League of Women Voters -- Rocky Flats Cold War Museum -- Rocky Flats Homesteaders  
Karen Imbierowicz

## MEMORANDUM

**TO:** Board  
**FROM:** David Abelson  
**SUBJECT:** Draft 2009 budget  
**DATE:** September 25, 2008

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In accordance with Colorado law, attached for your review is the first draft of the Stewardship Council's fiscal year 2009 budget. I have scheduled time at the meeting for you to discuss and modify as necessary this draft. As a unit of local government under the Colorado Constitution, the Stewardship Council must hold budget hearings prior to adopting a final budget. The budget hearings will be held at the November 3<sup>rd</sup> meeting. You will adopt the budget at that meeting.

**Overview:** In accordance with the Board's direction in past years, the budget is for more than the anticipated costs (20% above projected costs for 2008). That way the Board has some latitude in how it manages the expenditures. This proposed budget reflects a net decrease of \$19,025 over the 2008 budget; 2008 was a reduction over 2007. A comparison of the 2009 and 2008 budgets follows. Below is an accounting of the changes.

<b>BUDGET CATEGORY</b>	<b>CHANGE FROM FY 2008</b>
------------------------	----------------------------

<b>A. Personnel</b>	<b>(\$12,000.00)</b>
• The budget is reduced but actual expenses are expected to remain the same.	
<b>B. Fringe Benefits</b>	<b>\$0.00</b>
• No change	
<b>C. Travel</b>	<b>(\$600.00)</b>
• Out-of-state budget is reduced.	
<b>D. Computer Equipment</b>	<b>(\$500.00)</b>
<b>E. Supplies</b>	<b>(\$300.00)</b>
• Decreased by \$25/month.	

**F. Contractual** **(\$5,380.00)**

- Attorney & Accounting Services: No change
- Admin. Services:
  - Miscellaneous Services: Reduced by \$2500
  - Minutes Preparation: No change
- Local government expenses: Reduced by \$2880

**G. Construction** **\$0.00**

- No change

**H. Other** **(\$245.00)**

- Printing: No change
- Postage: No change
  - **PLEASE NOTE:** The reason the 2008 costs to date are so low is that we switched from Pitney Bowes to Stamps.com. With this change we received a significant rebate from Pitney Bowes.
- Liability Insurance: Increased by \$100.
- Telephone, email etc.: No change
- Website:
  - Hosting: Reduced by \$1000.
- Subscriptions/Memberships:
  - Weapons Complex Monitor: Increased by \$55
  - ECA Membership: No change
  - Conference Registration Fees: Increased by \$500
  - Newspapers: Increased by \$100

**TOTAL NET DIFFERENCE FROM 2008 BUDGET ..... (\$19,025.00)**

**ROCKY FLATS STEWARDSHIP COUNCIL**  
*2009 Budget -- DRAFT #1*

<b>A. Personnel</b>		<b>\$96,000.00</b>
	Executive Director and Technical Advisor (\$8000/month for 12 months)	
<b>B. Fringe Benefits</b>		<b>\$0.00</b>
	<b>Benefits</b>	<b>\$0.00</b>
	Presumes staff are contract employees	
<b>C. Travel</b>		<b>\$5,400.00</b>
	<b>Out of State</b>	<b>\$4,200.00</b>
	National DOE-related trips \$1400/trip X 3 trips	
	<b>Local Travel</b>	<b>\$1,200.00</b>
	\$100/month for 12 months	
<b>D. Computer Equipment</b>		<b>\$500.00</b>
	Purchase misc. hardware, software	<b>\$500.00</b>
<b>E. Supplies</b>		<b>\$1,200.00</b>
	Supplies (\$100/month for 12 months)	<b>\$1,200.00</b>
<b>F. Contractual</b>		<b>\$40,600.00</b>
	<b>Attorney &amp; Accounting Services</b>	<b>\$33,500.00</b>
	Legal Services (\$1400/ month for 12 months)	\$16,800.00
	Accounting (\$850/month for 12 months)	\$10,200.00
	Audit Report	\$6,500.00
	<b>Admin. Services</b>	<b>\$4,600.00</b>
	Misc. Services: budget notices, computer tech, etc	\$1,000.00
	Minutes Preparation (6 meetings)	\$3,600.00
	<b>Local Government Expenses</b>	<b>\$2,500.00</b>
	Miscellaneous expenses not covered by DOE funds (includes meeting exepnses)	
<b>G. Construction</b>		<b>\$0.00</b>
	None	
<b>H. Other</b>		<b>\$18,550.00</b>
	<b>Printing &amp; Copy</b>	<b>\$3,500.00</b>
	<b>Postage</b>	<b>\$1,500.00</b>
	\$125/month for 12 months	
	<b>Liability Insurance</b>	<b>\$4,000.00</b>
	Property Contents/General Liability	\$500.00

Board Members	\$3,500.00	
<b>Telephone, email, etc</b>		<b>\$3,400.00</b>
<b>Website</b>		<b>\$3,250.00</b>
Hosting	\$500.00	
Web master	\$2,750.00	
<b>Subscriptions/Memberships</b>		<b>\$2,900.00</b>
Weapons Complex Monitor	\$550.00	
ECA membership	\$950.00	
Conference registration fees	\$750.00	
Newspapers	\$650.00	

<b>J. Indirect Costs</b>	<b>\$0.00</b>
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N/A

<b>TOTAL BUDGET</b>	<b>\$162,250.00</b>
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Net Change from 2008 budget (\$19,025.00)

**REVENUE FOR 2009**

Local government contributions	\$8,000.00
Department of Energy grant	\$125,000.00
RFCLOG carry-over	\$29,250.00
<b>TOTAL</b>	<b>\$162,250.00</b>

## ROCKY FLATS STEWARDSHIP COUNCIL

### Budget Comparison: 2009 to 2008

	2009 Budget (Proposed)	2008 Budget (Adopted)	2008 (Projected through 12/31)	2008 (Actual Through 9/2/08)
<b>Personnel</b>	\$ 96,000.00	\$ 108,000.00	\$ 82,200.00	\$ 54,800.00
<b>Fringe Benefits</b>	\$ -	\$ -	\$ -	\$ -
<b>Travel</b>				
Out-of-State	\$ 4,200.00	\$ 4,800.00	\$ 3,859.00	\$ 2,559.00
Local	\$ 1,200.00	\$ 1,200.00	\$ 751.87	\$ 531.87
<b>Computer Equipment</b>	\$ 500.00	\$ 1,000.00	\$ -	\$ -
<b>Supplies</b>	\$ 1,200.00	\$ 1,500.00	\$ 699.78	\$ 349.78
<b>Contractual</b>				
<u>Accounting and Legal</u>				
Legal	\$ 16,800.00	\$ 16,800.00	\$ 10,410.26	\$ 7,110.26
Accounting	\$ 10,200.00	\$ 10,200.00	\$ 7,710.00	\$ 5,610.00
Audit	\$ 6,500.00	\$ 6,500.00	\$ 4,658.08	\$ 4,658.08
<u>Admin. Services</u>				
Misc. Service	\$ 1,000.00	\$ 3,500.00	\$ 224.00	\$ 14.00
Minutes Preparation	\$ 3,600.00	\$ 3,600.00	\$ 2,750.00	\$ 2,162.50
Local Government (incl. meetings)	\$ 2,500.00	\$ 5,380.00	\$ 1,469.26	\$ 959.26
<b>Other</b>				
Printing and Copy	\$ 3,500.00	\$ 3,500.00	\$ 992.30	\$ 642.30
Postage	\$ 1,500.00	\$ 1,500.00	\$ 71.84	\$ (192.12)
<u>Liability Insurance</u>				
Property/General Liability	\$ 500.00	\$ 900.00	\$ 500.00	\$ 500.00
Board Members	\$ 3,500.00	\$ 3,000.00	\$ 2,980.82	\$ 2,980.82
Telephone	\$ 3,400.00	\$ 3,400.00	\$ 3,015.98	\$ 2,089.73
<u>Website</u>				
Hosting	\$ 500.00	\$ 1,500.00	\$ -	\$ -
Webmaster	\$ 2,750.00	\$ 2,750.00	\$ 710.00	\$ 210.00
<u>Subscriptions/Memberships</u>				
Weapons Complex Monitor	\$ 550.00	\$ 495.00	\$ 495.00	\$ 495.00
ECA Membership	\$ 950.00	\$ 950.00	\$ 950.00	\$ 950.00
Conference registration fees	\$ 750.00	\$ 250.00	\$ 715.00	\$ 515.00
Newspapers	\$ 650.00	\$ 550.00	\$ 618.88	\$ 618.88
<b>TOTAL</b>	<b>\$ 162,250.00</b>	<b>\$ 181,275.00</b>	<b>\$ 125,782.07</b>	<b>\$ 87,564.36</b>

# ROCKY FLATS STEWARDSHIP COUNCIL

P.O. Box 17670  
Boulder, CO 80308-0670  
www.rockyflatssc.org

(303) 412-1200  
(303) 412-1211 (f)

Jefferson County -- Boulder County -- City and County of Broomfield -- City of Arvada -- City of Boulder  
City of Golden -- City of Northglenn -- City of Westminster -- Town of Superior  
League of Women Voters -- Rocky Flats Cold War Museum -- Rocky Flats Homesteaders  
Karen Imbierowicz

## MEMORANDUM

**TO:** Board

**FROM:** David Abelson

**SUBJECT:** Start of Stewardship Council IGA Triennial Review

**DATE:** September 24, 2008

---

As I communicated to you via email on September 19, 2008, by February 13, 2009, the Stewardship Council will need to renew the organization's IGA. Per my discussions with Barb Vander Wall, the Stewardship Council's attorney, the easiest and most efficient way to continue the organization for another three years is to adopt a resolution. Attached for your review is the proposed resolution.

The IGA contains a "triennial review" provision, which in short provides you must renew the IGA by February 13, 2009, or the organization shall cease. The applicable language from the IGA states as follows:

10. Term, Withdrawal and Dissolution. This IGA shall commence on the date of its full execution by all the Parties, and shall remain in effect until the earliest of

- a. termination or rescission by the unanimous written agreement of all Parties, or
- b. decrease of the number of Parties to fewer than six, or
- c. **lack of a unanimous triennial determination by the Parties that the Stewardship Council should continue for an additional three (3) years. Every third calendar year, commencing from the effective date of this IGA until termination of the Stewardship Council, the Parties agree to consider whether to continue the Stewardship Council's existence.**

At October meeting we will need to

- (1) Start discussing whether to continue the organization (I assume the answer is "yes");
- (2) Determine whether any changes to our structure or mission are warranted;

- (3) Depending on the answer to these and other questions, identify the path forward for renewing the IGA; and
- (4) Identify a timeline for each government's determination as to whether the government would want to remain a member of the Stewardship Council.

The resolution should be approved by each government no later than February 13, 2009; however, we may want to give ourselves some flexibility so that we can determine a "Plan B" should any party choose not to allow the Stewardship Council to continue for 3 years.

Should the Board not change the mission and structure of the organization, the attached resolution that Barb has prepared would provide the easiest and most efficient way to renew the IGA for another 3 years. The attached resolution in short makes a finding not to terminate the Stewardship Council at this time, and to allow it to continue for an additional 3 years. Barb requests that all parties adopt substantially the same form of resolution so that we can recognize the unanimous determination without question. For this reason, she drafted the language of the resolution to be stated as simply as possible.

Should the board change the structure and/or the mission of the organization a different resolution would be needed. However, each government would still need to approve essentially the same resolution.

In preparation for the meeting, please:

- (1) Talk with your councils/commissions about continuing to be part of the organization
- (2) Have your attorneys review the attached resolution
- (3) Let Barb and me know what questions you have that we can address prior to or during the meeting.

The IGA is attached for your review.

Please let me know your thoughts. Thanks.

INTERGOVERNMENTAL AGREEMENT  
ESTABLISHING THE  
ROCKY FLATS STEWARDSHIP COUNCIL

This Intergovernmental Agreement (“IGA”) establishing the Rocky Flats Stewardship Council is made and entered into as of this 13<sup>th</sup> day of February 2006, pursuant to Colo. Const. Art. XIV, Section 18(2), part 2 of article 1, title 29, C.R.S., by and among the following parties who have executed this IGA: BOULDER COUNTY, a body politic and corporate and political subdivision of the State of Colorado, JEFFERSON COUNTY, a body politic and corporate and political subdivision of the State of Colorado, the CITY OF ARVADA, a home-rule municipal corporation and political subdivision of the State of Colorado, the CITY OF BOULDER, a home-rule municipal corporation and political subdivision of the State of Colorado, the CITY AND COUNTY OF BROOMFIELD, a Colorado municipality and county, the CITY OF WESTMINSTER, a home-rule municipal corporation and political subdivision of the State of Colorado, the TOWN OF SUPERIOR, a municipal corporation, the CITY OF GOLDEN, a home rule municipal corporation and political subdivision of the State of Colorado, and the CITY OF NORTHGLENN, a home-rule municipal corporation and political subdivision of the State of Colorado (singularly and/or collectively, “Party/Parties”).

RECITALS

WHEREAS, the Rocky Flats site (“Rocky Flats” or “Site”) is a U.S. Department of Energy (“DOE”)-owned cleanup and closure site located in Jefferson County and adjacent to or near Boulder County, the City and County of Broomfield, the cities of Arvada, Westminster, Golden and Northglenn, the Town of Superior, and the City of Boulder; and

WHEREAS, since 1995, Rocky Flats has been undergoing nuclear deactivation and decommissioning, waste management and shipment, special nuclear material removal, environmental cleanup and site closure, pursuant to an accelerated closure contract between DOE and Kaiser-Hill Company; and

WHEREAS, as successor to the Rocky Flats Local Impacts Initiative formed in 1993, the Rocky Flats Coalition of Local Governments (“Coalition”) was established by Intergovernmental Agreement dated as of February 9, 1999, and amended by Amended Intergovernmental Agreement, dated as of November 3, 2003, by and among the following seven governments: the City and County of Broomfield, the Counties of Boulder and Jefferson, the Cities of Arvada, Boulder and Westminister, and the Town of Superior, for the purpose of working together to have a coordinated local government involvement in information sharing, advocacy and planning concerning Rocky Flats; and

WHEREAS, effective October 13, 2005, the Rocky Flats Site has been declared to be “physically cleaned up” and closed down, with DOE’s regulatory approval of the closure anticipated to be reached in late 2006; and



WHEREAS, pursuant to the “Rocky Flats National Wildlife Refuge Act of 2001,” vast portions of Rocky Flats will become a National Wildlife Refuge, managed by the Department of the Interior (“DOI”) through the United States Fish and Wildlife Service (“USFWS”), with retained jurisdiction by DOE for continuing responsibility for management of cleanup remedies; and

WHEREAS, Section 3120 of the 2005 National Defense Authorization Act, Public Law No. 108-375, directs the DOE Office of Legacy Management to establish a “local stakeholder organization” (“LSO”) at the Rocky Flats Site; and

WHEREAS, the DOE Office of Legacy Management has provided the Coalition with certain guidance in the establishment of the LSO, based upon the language of the 2005 National Defense Authorization Act, including parameters for the development of an LSO operating plan, and elected official and non-elected membership of the LSO; and

WHEREAS, the Coalition parties and the parties to this IGA, with participation from representatives of other key stakeholders and members of the public, have developed and submitted to DOE a plan which includes an LSO mission, organizational objectives and scope of work (“LSO Plan”), which LSO Plan was approved by DOE on December 21, 2005; and

WHEREAS, the Coalition parties and the parties to this IGA desire to provide (1) continuing local oversight of activities occurring at the Rocky Flats site, to ensure that local government and community interests are met with regards to long-term stewardship of residual contamination and refuge management; (2) a forum to address issues facing former site employees, including but not limited to long-term health benefits and pension programs; and (3) 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; and

WHEREAS, the Coalition parties and the parties to this IGA have determined to establish the Rocky Flats Stewardship Council (“Stewardship Council”) to oversee all post-closure Rocky Flats activities, including serving as the LSO and implementing the LSO Plan; and

WHEREAS, following the creation of the Stewardship Council, it is anticipated that the Coalition will conclude its existence, having fulfilled its purposes; and

WHEREAS, the Constitution and the laws of the State of Colorado permit and encourage local governmental entities to cooperate with each other to make the most efficient and effective use of their powers and responsibilities; and

WHEREAS, pursuant to Colorado Constitution Article XIV, Section 18(2), and part 2 of article 1, title 29, C.R.S., the parties may cooperate and contract with each other to provide any function, service or facility lawfully authorized to each and, further, any such contract may provide for joint exercise of the function, service, or facility, including the establishment of a separate legal entity to do so; and

WHEREAS, such cooperation would be of particular benefit for the purposes stated in this IGA and, additionally, would be in the best interest of the Parties, the region and the people of the State of Colorado; and

WHEREAS, the Parties are all local governments which shall exist in perpetuity, and which have a fiduciary duty to protect the health and welfare of their communities, and thereby desire to establish the Stewardship Council; and

WHEREAS, it is not intended that the powers and responsibilities of governmental entities be in any way usurped;

THEREFORE, the Parties to this IGA hereby covenant and agree as follows:

### DEFINITIONS

As used in this IGA, unless the context otherwise requires:

“Alternate Director” means, in reference to a Permanent or Rotating Party, one of up to two alternates designated by a Party, who may be either an elected official or employed by the Party, to serve as a voting Director in the event of absence or resignation of a Director. In addition, in reference to a Member who is acting on behalf of an *entity* (as opposed to a Member who is an individual acting for him or herself), “Alternate Director” means one of up to two alternates designated by a Member, to serve as a voting Director in the event of absence or resignation of a Member Director.

“Board” means the Board of Directors of the Rocky Flats Stewardship Council.

“Bylaws” means that set of operational procedures of the Rocky Flats Stewardship Council adopted, revised, repealed, re-enacted and amended from time to time by the Board.

“Committee” means any committee established by the Board as provided in the Bylaws for purposes of assisting the Board in the discharge of its duties and making recommendations on matters before the Board, whose members shall be appointed by the Board and whose membership may include persons representing entities other than local governments.

“Director” means each individual selected by each Party, who shall be an elected official of the Party, to be a voting member of the Board, and shall include Alternate Director(s) who shall act in the absence of his/her director. In addition, in reference to a Member, “Director” means the individual appointed by a Member to be a voting member of the Board.

“DOE” means the U.S. Department of Energy.

“DOI” means the U.S. Department of Interior.

“LSO” or “Local Stakeholder Organization” means the Rocky Flats post-closure entity organized under the direction of the DOE Legacy Management, pursuant to Section 3120 of the 2005 National Defense Authorization Act, Public Law 108-375.

“Meeting” means a regular or special meeting of the Board as more specifically defined in the Bylaws.

“Member” means one of up to four (4) community stakeholder representatives with a right to appoint a Director to the Board, selected pursuant to the procedures established by the Stewardship Council in its Bylaws.

“Party” means a unit of local government who is either a Permanent party or a Rotating Party and a signatory to this IGA.

“Permanent Party” means a public entity signatory to this IGA whose ability to appoint Directors to the Board does not rotate with other Parties, and includes the City and County of Broomfield, the Counties of Boulder and Jefferson, the Cities of Arvada, Boulder and Westminster, and the Town of Superior.

“Rocky Flats” means the entire Rocky Flats closure site, a federal facility currently under the jurisdiction of the United States Department of Energy located in Jefferson County, Colorado, and inclusive of all lands within such site regardless of whether or not management of such lands is transferred to either DOE or to DOI.

“Rocky Flats National Wildlife Refuge” means the area designated as such pursuant to the Rocky Flats National Wildlife Refuge Act of 2001, approved by the U.S. Congress and signed into law on December 28, 2001, and as may be amended from time to time.

“Rocky Flats Stewardship Council” or “Stewardship Council” means the entity established by this IGA.

“Rotating Party” means an eligible public entity signatory to this IGA whose right to appoint Directors to the Board rotates with other parties and includes the Cities of Golden and Northglenn.

“USFWS” means the U.S. Fish and Wildlife Service who is tasked with the management of the Rocky Flats National Wildlife Refuge under the DOI.

## COVENANTS AND AGREEMENTS

1. Establishment and Denomination of Stewardship Council. The Parties hereby establish a separate legal entity to be denominated the “Rocky Flats Stewardship Council.”
2. Mission Statement. The mission of the Stewardship Council is --

- a. To provide continuing local oversight of activities occurring at the Rocky Flats site, to ensure that local government and community interests are met with regards to long-term stewardship of residual contamination and refuge management;
  - b. To provide a forum to track issues related to former site employees, including but not limited to long-term health benefits and pension programs;
  - c. 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; and
  - d. To provide an ongoing forum to address all other issues pertinent to Rocky Flats, as determined by the Stewardship Council Board of Directors.
3. Purposes. Specifically, the purposes of the Stewardship Council are:
- a. To provide a forum for elected officials and community members to discuss with federal, state, and local elected officials and agencies issues related to the long-term stewardship and management of the Rocky Flats site.
  - b. To provide a forum for elected officials and community members to be briefed on the results of the operational and performance monitoring data of site operations.
  - c. To provide a mechanism for keeping elected officials and community members informed of the results of the monitoring data.
  - d. To provide a mechanism for educating succeeding generations about the residual hazards and the continued need for a comprehensive site-wide stewardship program.
  - e. To provide a forum for USFWS staff to work with elected officials and community members on issues related to the management of resources under that agency's jurisdiction.
  - f. To serve as the designated LSO, pursuant to Section 3120 of the 2005 National Defense Authorization Act, Public Law 108-375.
  - g. To serve as a participating agency under the National Environmental Protection Act (NEPA) for preparation of environmental impact assessments, serve as a participating agency under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

Section 120(f), and assist the Parties in their consultative roles as provided in Section 27, Section 281 of the 1996 Rocky Flats Cleanup Agreement.

- h. To act as a spokesperson for the community's interest in Rocky Flats in discussions with other public and private entities concerning local issues affecting Rocky Flats.
- i. To provide a forum for all other issues pertinent to Rocky Flats, as determined by the Stewardship Council Board of Directors.

4. Powers. The Stewardship Council shall have the following powers, to the extent such powers are delegable functions or services lawfully authorized to the Parties, and to the extent they are reasonably related to the purposes stated above:

- a. Enter into contracts;
- b. Sue or be sued;
- c. Solicit and accept funds and in-kind contributions in whatever form, including grants, donations or loans;
- d. Incur revenue-based or other non-general obligation debt;
- e. Own, buy, sell and lease real estate and personal property;
- f. Hire employees and retain agents, consultants and services;
- g. Administer and supervise grants and loans to other entities;
- h. Obtain insurance;
- i. Advocate policies, programs, funding and legislation with other governmental entities;
- j. Prepare and disseminate public information;
- k. Indemnify its directors, officers and employees to the extent they are operating within the scope of their capacities with the Stewardship Council;
- l. Establish projects, committees, trusts, foundations or other vehicles to help further the purposes of this IGA;
- m. Negotiate agreements on behalf of the Stewardship Council;
- n. Engage in lobbying activities in accordance with state and federal law;
- o. Perform services for a fee;
- p. Adopt bylaws;

And to have such other powers as may, from time to time, be agreed upon by the unanimous consent of the Parties pursuant to recommendation of the Board, except that the Stewardship Council shall not have the power to levy taxes.

5. Reservation of Powers. The powers of the Stewardship Council shall not be construed as restricting or limiting any Party, individually or severally, from performing any governmental or regulatory powers or duties otherwise granted by law. Each Party expressly reserves and retains its right to develop, adopt, implement and enforce, in its sole discretion, land use plans, land use, zoning and building regulations, redevelopment plans, capital improvement plans, and public improvement or service plans for property, buildings, and facilities within its

jurisdiction. Nothing in this IGA shall be deemed to restrict, modify or otherwise impair the powers of any Party in any manner, including any separate or discrete actions which may be taken by any Party relating to Rocky Flats. However, it is the intention of the Parties that the Stewardship Council will be the forum for discussion of issues of mutual interest as pertaining to Rocky Flats.

6. Operations. It is the intent of the Parties that the Stewardship Council shall be a political subdivision, and unit of local government of the state of Colorado and that the Stewardship Council shall abide by all federal, state and local laws applicable to governmental entities. To the extent that any of the Stewardship Council's funds are contributed by the Parties, then such funds shall be subject to their lawful appropriation by the respective Party. To the extent it is subject to the provisions of Article X, Section 20 of the Colorado Constitution, the Parties intend to establish the Stewardship Council as an enterprise thereunder. The procedures and operations of the Stewardship Council shall be subject to the provisions of this IGA and the Bylaws of the Board.

The Board shall annually prepare and adopt a budget pursuant to the provisions of Title 29, Art. 1, Part 1, C.R.S. The Board shall provide for an annual audit conducted by an independent accountant which complies with Title 29, Art. 1, Part 6, C.R.S., and with applicable federal regulations for receipt of federal funds. The Treasurer of the Board or his/her designee shall provide a detailed quarterly financial statement to all Directors and Alternate Directors. The Board shall annually prepare and distribute to the Parties and make available to the public a report of its performance. The financial statement shall include all revenues, revenue sources, expenditures and balances. The Stewardship Council shall operate in accordance with the Open Records Act, §§ 24-72-201, *et seq.*, C.R.S.

7. Board of Directors. The legislative and administrative power of the Stewardship Council shall be vested with a Board of Directors not to exceed twelve (12) in number, one representing each of the seven Permanent Parties, one representing one of the Rotating Parties, and one representing each of the Members (not to exceed four); each with one equal vote. The Directors shall be selected as set forth in this paragraph:

a. Permanent/Rotating Parties. Directors shall be designated in writing by each Party upon execution of this IGA, and annually thereafter on or before February 1 of each year. Parties may appoint one Director who shall be an elected official of the Party, and up to two Alternate Directors. A Director serves at the pleasure of the Party designating him or her and may be replaced by the Permanent Party at any time. Failure to take action by the specified dates shall not prevent a Party from designating its Director and Alternate Director(s). The Rotating Parties shall annually alternate with each other for each term of office for Director and Alternate Directors on the Stewardship Council Board. The process for selection of the Rotating Party to initially serve on the Board shall be provided for in the Bylaws.

b. Members. Following selection of the Members to the Board, and annually thereafter on or before February 1 of each year, each Member shall designate in writing one Director and up to two Alternate Directors, to serve on the Board. However, in the

event a Member is an individual rather than an entity, then such Member shall not be entitled to the appointment of Alternate Directors. A Member Director serves at the pleasure of the Member designating him or her, and may be replaced by the Member at any time. Failure to take action by the specified dates shall not prevent a Member from designating its Director and Alternate Director(s).

c. Term. A term of office for each Director shall be for one year, beginning February 1 and expiring January 31 of the following year, without limitation on successive or additional terms served by any Director, except as applicable for Rotating Parties.

d. Oath. The Directors and Alternate Directors shall take an appropriate oath of office.

e. Alternate Directors. Alternate Directors may serve in lieu of Directors in the event of absence, resignation or removal of Directors.

f. Compensation. Directors shall receive no salary or compensation for their services, except to cover such expenses as may be provided in the Bylaws.

g. Ex-Officio Directors. The Board may provide in the Bylaws for non-voting ex-officio members.

h. Chair/Officers. The Board shall annually elect a Chair of the Board in accordance with procedures established in the Bylaws, who must also be a Director, who shall preside at all regular or special meetings of the Board and who shall serve at the pleasure of the Board, and such other officers as may be provided in the Bylaws. The Board may act by motion or resolution.

i. Board Procedures. Board procedural matters, including agenda, quorum, voting, meeting and notice requirements shall be established in the Bylaws, except as set forth in this IGA.

j. Actions of Board. Actions of the Board require an affirmative vote of at least nine Directors. In the event a decision is made with less than a unanimous vote, a Director in the minority may include a statement in the record reflecting its views.

8. Establishment of Committees. The Board may establish committees to assist the Board in the discharge of its duties and to make recommendations on matters before the Board. Committees may include members who are not Directors. Committee members shall be appointed by the Board. The composition, appointment, duties, and operations of committees shall be defined in the Bylaws.

9. Meetings. Regular meetings of the Board shall be held at such times as the Board shall from time to time establish, but not less than quarterly, unless otherwise provided for in the Bylaws. No regular meeting of the Board shall occur without written notice to each Director and

Alternate Director of the time, date, and place of such meeting, together with a written agenda; provided, however, the actions of the Board shall not be limited to matters on such agenda. Special meetings of the Board may be held as provided in the Bylaws. All regular and special meetings of the Board and committees shall be conducted pursuant to the Open Meetings Law, §§ 24-6-401, *et seq.*, C.R.S.

10. Term, Withdrawal and Dissolution. This IGA shall commence on the date of its full execution by all the Parties, and shall remain in effect until the earliest of

- a. termination or rescission by the unanimous written agreement of all Parties, or
- b. decrease of the number of Parties to fewer than six, or
- c. lack of a unanimous triennial determination by the Parties that the Stewardship Council should continue for an additional three (3) years. Every third calendar year, commencing from the effective date of this IGA until termination of the Stewardship Council, the Parties agree to consider whether to continue the Stewardship Council's existence.

Any Party may withdraw from participation in this IGA upon thirty days' written notice to the Board of its intent to withdraw, and contingent upon adequate provision for satisfaction of its outstanding debt or other obligations of the withdrawing Party which such Party had previously agreed to pay.

11. Distribution, Disposition, or Division of Assets. The Board shall have the power to make all decisions regarding the distribution, disposition, or division of assets of the Stewardship Council as it deems appropriate.

12. Amendments. This IGA contains all the terms agreed upon by and among the Parties. Any amendments or modifications to this IGA must be reduced to writing and executed by all Parties to be valid and binding.

13. Indemnification. To the extent permitted by law, the Stewardship Council shall indemnify and defend each Director, Alternate Director, officer and employee in connection with any claim or actual or threatened suit, action or proceeding (civil, criminal, or other, including appeals), in which he or she may be acting in his or her official capacity by reason of his or her being or having been such Director, Alternate Director, officer or employee, or by reason of any action or omission by him or her in any such capacity, and shall pay any judgment resulting therefrom, except any liability arising from criminal offenses or willful misconduct or gross negligence. The Stewardship Council shall further indemnify and defend each Party in connection with any claim or actual or threatened suit, action or proceeding (civil, criminal, or other, including appeals), in which the Party may be acting in its capacity as a participant in the Stewardship Council, and shall pay any judgment resulting therefrom, except for liability arising from criminal offenses or willful misconduct or gross negligence. Such indemnification and duty to defend in either event shall be subject to and limited by the resources of the Stewardship Council available for such purposes. This indemnification shall in no way be construed to be an indemnification of a Party in connection with a claim, suit, action or proceeding brought by



another Party, Director, Alternate Director, officer or employee, nor shall it be construed as a waiver of the Governmental Immunity Act. The Board shall obtain and maintain in force liability and public officials' insurance in amounts it deems appropriate.

14. No Obligations. No obligations of the Stewardship Council shall be deemed to be an obligation or indebtedness of any Party. The Stewardship Council may not impose any involuntary charges or assessments on Parties.

15. Severability. If any provision of this IGA, or the application thereof to any person, entity or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this IGA, which can be given effect without the invalid provision or application, and to this end the provisions of this IGA, and each and every provision thereof, are declared to be severable.

16. Applicable Laws. This IGA shall be governed by and construed in accordance with the laws of the State of Colorado.

17. Assignability. No Party to this IGA may assign or transfer any of its rights or obligations hereunder without the prior written consent of all the non-assigning Parties.

18. Binding Effect. The provisions of this IGA shall bind and shall inure to the benefit of the Parties and to their respective successors and permitted assigns, if any.

19. Enforcement. The Parties agree and acknowledge that this IGA may be enforced in law or in equity, by decree of specific performance. No Party's rights under the Colorado Governmental Immunity Act shall be modified, abridged or deemed to be waived pursuant to the application or interpretation of this paragraph.

20. Counterpart Execution. This IGA may be executed in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this IGA effective as of the date first written above.

RFCLLOG/LSO  
BTWV1114  
0504.0211  
0756.0301

**RESOLUTION**  
of  
[COUNTY/CITY/TOWN of \_\_\_\_\_]  
Regarding

**Triennial Determination for the Continuation of  
The Rocky Flats Stewardship Council**

**WHEREAS**, effective as of February 13, 2006, the City and County of BROOMFIELD, the Counties of BOULDER and JEFFERSON, the Cities of ARVADA, BOULDER, GOLDEN, NORTHGLENN and WESTMINSTER, and the Town of SUPERIOR (collectively, the "Parties"), entered into an intergovernmental agreement ("IGA") establishing the Rocky Flats Stewardship Council, a separate legal public entity created by such IGA as permitted by Colorado Constitution Article XIV and section 18(2), part 2 of article 1, title 29, C.R.S. ("Stewardship Council"); and

**WHEREAS**, the Stewardship Council was established to allow local governments to continue working together on issues related to the long-term protection of Rocky Flats, as described in the IGA; and

**WHEREAS**, pursuant to the terms of the IGA, the Stewardship Council shall terminate absent, *inter alia*, the unanimous triennial determination by all Parties that the Stewardship Council should continue for another three years; and

**WHEREAS**, the [BOCC/COUNCIL] of the [COUNTY/CITY/TOWN] now desires to consider and make a determination concerning the continuation of the Stewardship Council;

**NOW, THEREFORE, BE IT RESOLVED BY THE [BOARD OF COUNTY COMMISSIONERS/COUNCIL] OF [COUNTY/CITY/TOWN OF \_\_\_\_\_] AS FOLLOWS:**

That the [BOCC/COUNCIL] of the [COUNTY/CITY/TOWN of \_\_\_\_\_] does hereby find and determine that,

- a. It is not desirable for the Stewardship Council to terminate at this time; and
- b. The Stewardship Council should continue for an additional three (3) years from its establishing date of February 13, 2006, pursuant to the terms and provisions of the IGA.

**APPROVED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

[BOCC/COUNCIL]

By: \_\_\_\_\_  
Chair

ATTEST:

By: \_\_\_\_\_

First Reading:  
Second Reading:

DRAFT

RFSC/RESO/08  
BTWV1354  
0756..0007

## **NRD Sketch Plans**

- Cover memo
- Sketch plans:
  - Boulder County, Boulder Superior – Section 16
  - Boulder County, Boulder – Ecological restoration
  - Broomfield – Section 16
  - Broomfield – Wildlife migration corridor
  - Broomfield – Open space acquisition
  - Superior – Open space acquisition
  - Westminster – Open space acquisition
  - Enviro-Support – Section 16 facilitation
  - Jefferson County Nature Association – Rocky Flats restoration enhancement
  - Trust for Public Land – Mineral rights acquisition

# ROCKY FLATS STEWARDSHIP COUNCIL

P.O. Box 17670  
Boulder, CO 80308-0670  
www.rockyflatssc.org

(303) 412-1200  
(303) 412-1211 (f)

Jefferson County -- Boulder County -- City and County of Broomfield -- City of Arvada -- City of Boulder  
City of Golden -- City of Northglenn -- City of Westminster -- Town of Superior  
League of Women Voters -- Rocky Flats Cold War Museum -- Rocky Flats Homesteaders  
Karen Imbierowicz

## MEMORANDUM

**TO:** Board

**FROM:** David Abelson

**SUBJECT:** NRD Sketch Plans – Initial Discussion

**DATE:** September 25, 2008

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I have scheduled time for the Board to continue discussing the NRD proposals five member governments and three community organizations submitted in late August. This discussion comes against the backdrop of the recent Beyond the Fences meeting that most members participated in earlier this week.

Attached for your review are the 10 sketch plans which were submitted. Due to their size I removed some of the maps/photos. The complete proposals can be found at:  
<http://www.cdphe.state.co.us/hm/rf/plans.htm> Draft proposals are due October 17<sup>th</sup>.

### **Overview of Sketch Plans**

10 projects have been sketched. The combined request from the NRD Fund is approximately \$16.84 million. The Fund has approximately \$4.5 million in it.

The plans can be divided into three categories:

1. Acquisition/preservation (\$4.848 million from NRD Fund)
2. Section 16, including facilitation of Section 16 dialogue (\$7.516 million from NRD Fund)
3. Establishment of wildlife corridors (\$4.5 million from the NRD Fund)

### **Stewardship Council Role**

One of the items the Stewardship Council needs to discuss at the October meeting is its role vis-à-vis the NRD proposals. As the Board discussed at prior meetings, the Trustees would like the Stewardship Council to weigh in on the proposals, and, if possible, to identify what project(s) it supports. Earlier this week many of the Stewardship Council members met in their individual

capacities to discuss Beyond the Fences. I understand the meeting participants agreed to work together and directed their staffs to begin to develop acquisition/restoration proposals that all could support. (I was not at the meeting so my information is second-hand.)

One of the items the group discussed was the relationship of Beyond the Fences to the NRD proposals. My sense is that the NRD proposals provide a clear roadmap for both the NRD Fund and (initial?) Beyond the Fences projects. The challenge for the Board then is what projects, if any, should it recommend be funded from the NRD Fund.

### **Recommendation**

Given that there is approximately \$4.5 million in the NRD Fund, I recommend the Board support item #1 above: Acquisition/preservation (\$4.848 million from NRD Fund).

My reasons are as follows:

1. Each Stewardship Council member who submitted a proposal for NRD funding would receive project funding. In addition, two of the three community projects, including acquisition of additional minerals rights within Rocky Flats, would be funded.
2. Taking steps to further protect and perhaps acquire Section 16 is extremely ambitious and is broadly supported. Given the many parties who would need to be involved, that project might be a better fit for Beyond the Fences than the NRD Fund.
3. Should the parties pursue work on Section 16, process facilitation might be needed. It however appears too early to determine the best party to serve that role and the scope of that work. Should it be Enviro-Support then their funding request of \$16,000 would be relatively easy to cover.
4. Wildlife corridors, like Section 16 funding, is ambitious and requires the consent and agreement of a number of parties that are currently not at the table. It also, like Section 16, may be most appropriate to tackle under Beyond the Fences.

As you consider this recommendation, bear in mind that I am not a natural resource scientist, nor am I privy to or have reviewed each government's open space strategy. I am simply looking for a means for the Board to support each other while recognizing there is a parallel process ongoing (Beyond the Fences).

Please let me know what questions you have.

**Project Name:** Rocky Flats National Wildlife Refuge  
Section 16 Preservation

**Project Description:** Conservation of a portion of parcel of land known as the Section 16  
State Land Board Property.

**Project Offeror:** Boulder County, with partners- City of Boulder and Town of  
Superior

**Point of Contact:** Ben Pearlman  
Boulder County  
P.O Box 471  
Boulder, Colorado, 80306  
(p) 303-441-3500  
(f) 303-441-4525  
[bpearlman@bouldercounty.org](mailto:bpearlman@bouldercounty.org)

**Alternate Point of  
Contact:** Ron Stewart  
Boulder County  
5201 St. Vrain Road  
Longmont, Colorado 80503  
(p) 303-678-6278  
(f) 303-678-6179  
[restewart@bouldercounty.org](mailto:restewart@bouldercounty.org)

**Total Project Costs:** \$4,000,000

**Amount of NRD Funding  
Requested:** \$3,000,000

**Matching Funds and  
Sources** \$500,000-cash, Boulder County, committed  
\$500,000-cash, City of Boulder, committed

**Signature of  
Authorized  
Representative**



Chair, Boulder County Board of Commissioners

## **Project Description-Acquisition of Section 16 State Land Board Property**

Overview: Boulder County and the City of Boulder are proposing to preserve a portion of the Section 16 State Land Board Property that borders the Rocky Flats National Wildlife Refuge (RFNWR) on the southwestern boundary of the Refuge (please refer to the attached regional open space map). The entire Section 16 State Land Board Property comprises 640 acres. This project will preserve a portion of this entire section, and the project partners will work towards preserving the remaining acreage, as funding is available. The project is supported by Jefferson County, who already owns an open space holding in the section comprising a long-term lease with the State Land Board of 60 acres of prime habitat area, and an agreement with La Farge to not mine an important Xeric Tallgrass prairie area. In addition, at Jefferson County's recommendation, 105 acres of the northern portion of the Section 16 parcel are included in the Stewardship Trust designation category of the State Land Board, which comprises parcels of high natural values (please refer to the attached map that details these areas). This purchase provides the best opportunity to preserve the largest remaining contiguous land parcel adjacent to Rocky Flats National Wildlife Refuge. The purchase would create a buffer from development to the south, wildlife connectivity to the southeast, protection of key wildlife and riparian corridors, and to secure the integrity of the RFNWR and Front Range backdrop at the landscape scale. The purchase could also provide for a future trail connector from Arvada/JeffCo through Rocky Flats and into Boulder County.

The project partners are requesting to have flexibility in the structure of this acquisition, either through a fee simple purchase of a portion of the property, or the purchase of a conservation easement (purchase of the development rights on a portion of the property). A conservation easement purchase would allow for preservation of more land, as the purchase price for conservation easements are lower than fee simple purchases. Boulder County and the City of Boulder have been very successful in preserving land for open space using this method. A conservation easement on this property would limit the uses of the property and would be negotiated to benefit wildlife and wildlife habitat management.

If this first land preservation is successfully funded by the Rocky Flats Natural Resource Damage Fund, Boulder County and the City of Boulder will work towards preserving the remaining Section 16 State Land Board Property with other potential partners such as Jefferson County, the Jefferson County Nature Association, members of the Rocky Mountain Backdrop project, the Nature Conservancy and Great Outdoors Colorado.

How Project will compensate for Natural Resource Injuries: Open Space acquisition of Section 16 provides permanent protection for biological resources, including wildlife living in wetland, riparian, and prairie habitats, and surface water and groundwater recharge. Acquiring the land would provide the equivalent of natural resources injured at the site, directly proximate to RFNWR. Biological resources protected would include the federally listed threatened Prebles meadow jumping mouse, the rare forktipped threeawn, rare xeric tallgrass prairie, riparian vegetation, and numerous other native species including elk and deer habitat. Not having development of the area would protect surface water flows through the Woman Creek drainage and preserve groundwater recharge.

Project Timeline and Risk: If grant funding is awarded, the project partners will begin working with the State Land Board, the agency who currently owns the Section 16 State Land Board Property to structure a purchase transaction. Completion of this purchase will require an appraisal, and other due diligence such as a survey, environmental assessment and title work. We are estimating two years to complete this first purchase. The risk of this project not occurring is low, based on other transactions



that the project partners have worked on with the State Land Board. The project partners will keep the Trustee Council apprised of project progress through quarterly updates, and more frequent communication if requested.

Natural Resource Benefits: This section of land is the largest unpreserved property near the RFNWR. A grant would offer the best opportunity to open the doors to preserving this last remaining contiguous parcel that is adjacent to the RFNWR. The purchase would create a buffer from development to the south, wildlife connectivity to the southeast, protection of key wildlife and riparian corridors, and would secure the integrity of the RFNWR and Front Range backdrop at the landscape scale. Providing this buffer will not only limit interference with use of the Refuge by associated wildlife, it will protect habitat that is highly dependent upon the integrity and management of surrounding properties. Protecting this land for open space will ensure that this occurs.

Long Term Planning, Maintenance and Monitoring: If preserved by Boulder County and the City of Boulder, this property will be included in a portfolio of 90,000 acres of Boulder County preserved land and 45,000 acres of City of Boulder preserved land. Boulder County and the City of Boulder will enter into a management agreement that will address the issues of long-term plans, maintenance and monitoring. Boulder County and the City of Boulder have annual funding to maintain and monitor this property.

Budget and Match: The total project costs will be \$4 million, with the project partners contributing \$1 million (25% match). The project partners will also contribute to the transaction with costs for an appraisal, survey and other due diligence as needed. Project partners would budget for the long-term management and maintenance costs of this purchase.

Description- Boulder County and City of Boulder Open Space Programs: Boulder County Parks and Open Space (POS) has demonstrated stewardship capabilities by purchasing and managing over 90,000 acres of open space and consistently demonstrates the ability to complete projects in a timely manner. We have a staff of over 80 individuals who are dedicated to managing conservation and conservation-oriented projects. Management activities are conducted by Boulder County Parks and Open Space staff in consultation with other agencies, such as the Division of Wildlife, Colorado Natural Heritage Program, Natural Resource Conservation Service, etc. Our professionally trained staff includes individuals trained in ecology, wildlife biology, and other scientific disciplines. Our staff also includes natural resource specialists, weed specialists and maintenance crews experienced in stewardship of open space lands.

The City of Boulder Open Space and Mountain Parks (OSMP) owns and manages over 45,000 acres of city open space land in and around the city. OSMP has a nationally recognized 40-year history of acquiring and preserving natural lands. The City has a strong natural lands management program similar to POS and is strongly committed to preserving the natural resources in the State of Colorado.

Screening Criteria: To the best of the Offeror's actual knowledge:

- This project is in compliance with applicable Federal, State and local laws;
- This project will not pose a threat to the health and safety of the public;
- This project complies with the technical requirements of the solicitation from The Rocky Flats Natural Resource Damage Fund;
- This project is consistent with applicable land and resource management plans.

# Rocky Flats National Wildlife Refuge

**Stewardship Trust Parcel  
105 acres**

**Area leased by Jeffco  
Open Space and  
managed by USF&WS  
approximately 60 acres**

**Boulder Open Space**

**State Land Board Property  
Section 16**

**Xeric Tallgrass  
prairie area**

**Project Name:** Rocky Flats National Wildlife Refuge-  
Ecological Restoration on Adjacent Open Space Lands

**Project Description:** Ecological restoration of Prebles Habitat and Native Grasses on surrounding open space adjacent to the Rocky Flats National Wildlife Refuge.

**Project Offeror:** Boulder County, with partner- City of Boulder


**Point of Contact:** Ben Pearlman  
Boulder County  
P.O Box 471  
Boulder, Colorado, 80306  
(p) 303-441-3500  
(f) 303-441-4525  
[bpearlman@bouldercounty.org](mailto:bpearlman@bouldercounty.org)

**Alternate Point of Contact:** Ron Stewart  
Boulder County  
5201 St. Vrain Road  
Longmont, Colorado 80503  
(p) 303-678-6278  
(f) 303-678-6179  
[restewart@bouldercounty.org](mailto:restewart@bouldercounty.org)

**Total Project Costs:** \$100,000

**Amount of NRD Funding Requested:** \$75,000

**Matching Funds and Sources** \$25,000-Boulder County and City of Boulder, Committed

**Signature of Authorized Representative**   
Chair, Boulder County Board of Commissioners

## **Project Description- Ecological Restoration**

Overview: Boulder County and the City of Boulder are proposing to restore degraded areas of Rock Creek and portions of the contiguous prairie ecosystems owned by Boulder County Parks and Open Space (POS) and City of Boulder Open Space and Mountain Parks (OSMP). The Rock Creek restoration efforts will focus on the restoring Preble's Meadow Jumping Mouse (PMJM) Habitat along degraded sections of the creek. In addition, the project partners will raise and plant desirable native vegetation along portions of Rock Creek that currently have sparse vegetative cover for PMJM. The project partners will be approaching other agencies to join in this restoration effort and include the Colorado Division of Wildlife, Jefferson County Nature Association, Wildlands Restoration Volunteers, the US Fish and Wildlife Service, and Jefferson County Open Space and Urban Drainage and Flood Control District.

Restoring the prairie ecosystem near the Rocky Flats National Wildlife Refuge will focus on the Xeric Tallgrass Community, a rare plant community, found on Rocky Flats and surrounding properties. The project partners will form an interagency group to collect and raise native plant species that are locally native and unavailable commercially for purchase. This Native Plant Propagation Program would be modeled after The Uncompahgre Plateau Project on the Western Slope ([http://www.upproject.org/cpnativeplant\\_program/native%20plant\\_main.htm](http://www.upproject.org/cpnativeplant_program/native%20plant_main.htm)).

POS is currently partnering with the National Fish and Wildlife Foundation and the USDA Natural Resources Conservation Service Plant Material Center in Los Lunas, New Mexico to raise seed from locally collected xeric big bluestem (*Andropogon gerardii*), a local ecotype of big bluestem grass that is adapted to the low precipitation of the Colorado Front Range. Xeric big bluestem is one of the dominant species in the Xeric Tallgrass Grassland Community that is recognized in the Rocky Flats National Wildlife Refuge Comprehensive Conservation Plan as a rare plant community. POS received a grant this year for just under \$50,000 from the National Fish and Wildlife Foundation to use for raising native plant materials throughout Boulder County, including xeric big bluestem. Native plant propagation would include raising native species for Preble's Meadow Jumping Mouse habitat restoration. Prairie restoration would include integrated weed management, as noxious weeds are a major threat to prairies and wildlife habitat loss. This project would benefit a variety of wildlife species.

How Project will Compensate for Natural Resource Injuries: This project will improve natural resources and biological resources, including wildlife living in wetland, riparian, and prairie habitats. Improving adjacent land is an equivalent of improving natural resources injured at the site, directly proximate to RFNWR. Restoring adjacent habitat will continue to protect the federally listed threatened Prebles meadow jumping mouse, the rare forktipped threeawn, rare xeric tallgrass prairie, riparian vegetation, and numerous other native species including elk and deer habitat.

Project Timeline and Risk: If grant funding is awarded, the project partners will begin planning the project with staff ecologists, biologists with consultation from local agencies such as the Division of Wildlife. We are estimating two years to complete this project. The risk of this project not occurring is low, based on other similar projects that POS and OSMP have completed. The project partners will keep the Trustee Council apprised of project progress through quarterly updates, and more frequent communication if requested.

Natural Resource Benefits: Restoring adjacent habitat will allow area wildlife to move up and down Rock Creek to access more habitat. This project will improve habitat for the Preble's meadow jumping

mouse. Preble's was listed as a federally threatened species in 1998 under the Endangered Species Act (ESA). On December 18, 2003, the U.S. Fish and Wildlife Service (USFWS) determined that the mouse will remain listed as threatened under the ESA after evaluating three petitions to delist the species. The agency will conduct a five-year review of the mouse's status in the near future as required by the ESA. Preble's occurs in habitat adjacent to streams and waterways along the Front Range of Colorado. Improving this habitat corridor will connect habitat areas and allow establishment of populations in the project area. This will improve the regional population ecology for this species by allowing better movement of the species between existing isolated populations and aid in the overall recovery of this species and eventual delisting from the federal T&E species list.

Colorado's grasslands are among the most threaten native ecosystems in the world. The US Geological Service (USGS) notes that grasslands are among the most biologically productive of all communities within the United States, but they are also one of the most threatened habitats. Losses are due to agriculture and grazing, urbanization, and mineral extraction. Grassland birds have shown more consistent, widespread, and steeper declines than any other group of North American birds, according to the USGS. The overall goals for grassland restoration are to establish a permanent, diverse, native plant community that will function similarly to a native ecosystem and provide the values associated with a native grassland.

Long Term Planning, Maintenance and Monitoring: POS and OSMP will provide for long term planning, maintenance and monitoring of this project. Boulder County and the City of Boulder have annual funding to maintain and monitor this property.

Budget and Match: Total project costs have been estimated at \$100,000, with the project partners contributing \$25,000 (25% match). The project partners will also solicit other agencies and grant funders such as the National Fish and Wildlife Foundation to contribute to this project.

Description- Boulder County and City of Boulder Open Space Programs: Boulder County Parks and Open Space has demonstrated stewardship capabilities by managing over 90,000 acres of open space and consistently demonstrates the ability to complete projects in a timely manner. We have a staff of over 80 individuals who are dedicated to managing conservation and conservation-oriented projects. Management activities are conducted by Boulder County Parks and Open Space staff in consultation with other agencies, such as the Division of Wildlife, Colorado Natural Heritage Program, Natural Resource Conservation Service, etc. Our professionally trained staff includes individuals trained in ecology, wildlife biology, and other scientific disciplines. Our staff also includes natural resource specialists, weed specialists and maintenance crews experienced in stewardship of open space lands.

The City of Boulder Open Space and Mountain Parks (OSMP) owns and manages over 45,000 acres of city open space land in and around the city. OSMP has a nationally recognized 40-year history of acquiring and preserving natural lands. The City has a strong natural lands management program similar to POS and is strongly committed to preserving the natural resources in the State of Colorado.

Screening Criteria: To the best of the Offeror's actual knowledge:

- This project is in compliance with applicable Federal, State and local laws;
- This project will not pose a threat to the health and safety of the public;
- This project complies with the technical requirements of the solicitation from The Rocky Flats Natural Resource Damage Fund;
- This project is consistent with applicable land and resource management plans.



**Project Name:** City and County of Broomfield Open Space Land Acquisition: Section 16

**Project Description:** The City and County of Broomfield recommends a proposal that provides for the protection of Section 16 to preserve and restore the native xeric tallgrass prairie that buffers the southwest boundary at the Rocky Flats National Wildlife Refuge. Section 16 abuts the southwest corner of the Rocky Flats Refuge and is bound by State Highway 93 on the west.

**Project Offeror:** The City and County of Broomfield as a multi-jurisdictional project

**Point-of-Contact and Alternate Point-of-Contact:**

Kristan Pritz, Director of Open Space and Trails  
One Descombes Drive  
Broomfield, CO 80020  
Tel: 303-438-6335  
Fax: 303-464-5808  
Email: [kpritz@broomfield.org](mailto:kpritz@broomfield.org)

Shirley Garcia, Environmental Services Manager  
One DesCombes Drive  
Broomfield, CO 80020  
Tel: 303-438-6329  
Fax: 303-428-6234  
Email: [sgarcia@broomfield.org](mailto:sgarcia@broomfield.org)

**Total Project Cost:** \$4.5 million—exact amount to be determined

**Amount of NRD Funding Requested:** \$4.5 Million

**Matching fund sources, type, value, and status:** Each of the 9 communities on the Stewardship Council would need to decide if they support the project and what amount of match money would be acceptable. A Great Outdoors Colorado Grant could also be pursued.

**Signature of an authorized representative of the Offeror:**

A handwritten signature in black ink, appearing to be "KS" or similar initials.

**Kevin Standbridge, Assistant City and County Manager**



**THE CITY AND COUNTY OF BROOMFIELD**

One DesCombes Drive, Broomfield, Colorado 80020

To: Trustee Council for the Natural Resource Trustees at Rocky Flats

From: The City and County of Broomfield

RE: Land Preservation: Section 16

Date: September 5, 2008

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**Project Description**

The City and County of Broomfield recommends a proposal that provides for the protection of Section 16 to preserve and restore the native xeric tallgrass prairie that buffers the southwest boundary at the Rocky Flats National Wildlife Refuge. This project is envisioned as a multi-jurisdictional project that would involve other governmental jurisdictions if the project is deemed appropriate by their respective public representatives.

Section 16 abuts the southwest corner of the Rocky Flats National Wildlife Refuge and is bound by State Highway 93 on the west. This recommendation is consistent with the refuge purpose of restoring and preserving native ecosystems. The preservation of the site could be accomplished by a fee simple acquisition, conservation easement, or a buy-out of the existing leases and imposition of a long-term lease with the State Land Board to promote conservation purposes and the protection of natural resources on Section 16. This proposal will meet the 5.1 Screening Criteria assuming participation of other governments is possible.

The overall budget for the project is yet to be determined depending on the preservation method used to protect Section 16. Each of the nine governmental entities involved with the Stewardship Council (City of Arvada, Boulder County, City of Boulder, City and County of Broomfield, City of Golden, Jefferson County, City of Northglenn, City of Superior, and City of Westminster) would need to decide if they want to pursue this project together and if they would like to provide any match money. A Great Outdoors Colorado Grant could also be pursued as well as the involvement of other funding partners.



**Project Name:** Wildlife Mitigation Corridor (underpass or overpass) Connecting to the Rocky Flats National Wildlife Refuge

**Project Description:** The City and County of Broomfield recommends a grant proposal to fund a Wildlife Mitigation Corridor connecting to the Rocky Flats National Wildlife Refuge.

**Project Offeror:** The City and County of Broomfield as a multi-jurisdictional project

**Point-of-Contact and Alternate Point-of-Contact:**

Kristan Pritz, Director of Open Space and Trails  
One Descombes Drive  
Broomfield, CO 80020  
Tel: 303-438-6335  
Fax: 303-464-5808  
Email: [kpritz@broomfield.org](mailto:kpritz@broomfield.org)

Shirley Garcia, Environmental Services Manager  
One DesCombes Drive  
Broomfield, CO 80020  
Tel: 303-438-6329  
Fax: 303-428-6234  
Email: [sgarcia@broomfield.org](mailto:sgarcia@broomfield.org)

**Total Project Cost:** \$4.5 million-exact amount to be determined

**Amount of NRD Funding Requested:** \$4.5 Million

**Matching fund sources, type, value, and status:** Each of the 9 communities on the Stewardship Council would need to decide if they support the project and what amount of match money would be acceptable. A Great Outdoors Colorado Grant could also be pursued.

**Signature of an authorized representative of the Offeror:**

**Kevin Standbridge, Assistant City and County Manager**





**- THE CITY AND COUNTY OF BROOMFIELD**

**One DesCombes Drive, Broomfield, Colorado 80020**

**To: Trustee Council for the Natural Resource Trustees at Rocky Flats**

**From: The City and County of Broomfield**

**RE: Rocky Flats National Refuge --Wildlife Mitigation Corridor (underpass or overpass)**

**Date: September 5, 2008**

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The City and County of Broomfield recommends a grant proposal to fund a Wildlife Mitigation Corridor adjacent to the Rocky Flats National Wildlife Refuge. This project is envisioned as a multi-jurisdictional project that would involve other governmental jurisdictions if the project is deemed appropriate by their respective public representatives.

Ungulate populations migrate from the foothills down to the prairie to reside and/or calve within the Rocky Flats National Wildlife Refuge. To foster beneficial partnerships with the Fish and Wildlife Service and surrounding governments and to protect habitat and promote enhancement and preservation of habitat and wildlife species, we recommend funds be used for this project. The Wildlife Mitigation Corridor would benefit directly the many wildlife species that migrate through the Rocky Flats National Wildlife Refuge. We would like to work together with the surrounding communities to fund the match for this project and believe that a location for the crossing can be found that is mutually acceptable to the surrounding communities. A determination on whether the crossing should be an overpass or underpass will require further design analysis. This proposal would meet the 5.1 Selection Criteria.

It is possible that the project could require all of the \$4.5 million. Further design analysis is necessary. Each of the nine governmental entities involved with the Stewardship Council (City of Arvada, Boulder County, City of Boulder, City and County of Broomfield, City of Golden, Jefferson County, City of Northglenn, City of Superior, and City of Westminster) would need to decide if they want to pursue this project together and if they would like to provide any match money. A Great Outdoors Colorado Grant could also be pursued as well as the involvement of other funding partners. If the project is deemed appropriate by other governmental jurisdictions, Broomfield, subject to formal City Council approval, anticipates seeking funds to provide a portion of the 25% match as required for the grant along with participation in the match from other governments.



**Project Name:** City and County of Broomfield Open Space Land Acquisition: Great Western Parcel 1 and Great Western Parcel 2

**Project Description:**

The City and County of Broomfield would like to acquire two parcels of land for public open space that are located adjacent to the northeast corner of Rocky Flats and north of Great Western Reservoir. The Proposed Open Space is situated just south of State Highway 128 and east of Indiana Street. The total acquisition is 58 acres.

**Project Offeror:** The City and County of Broomfield

**Point-of-Contact and Alternate Point-of-Contact:**

Kristan Pritz, Director of Open Space and Trails  
One Descombes Drive  
Broomfield, CO 80020  
Tel: 303-438-6335  
Fax: 303-464-5808  
Email: [kpritz@broomfield.org](mailto:kpritz@broomfield.org)

Shirley Garcia, Environmental Services Manager  
One DesCombes Drive  
Broomfield, CO 80020  
Tel: 303-438-6329  
Fax: 303-428-6234  
Email: [sgarcia@broomfield.org](mailto:sgarcia@broomfield.org)

**Total Project Cost:**

**Parcel 1: \$1,306,800**  
**Parcel 2: \$1,219,680**

**Amount of NRD Funding Requested:**

**Parcel 1: \$980,100**  
**Parcel 2: \$914,760**

**Matching fund sources, type, value, and status:**

**Parcel 1:**

Broomfield, \$163,350, requires City Council Approval; Great Outdoors Colorado Grant: Open Space, \$163,350, Spring Submittal; Total \$326,700 or 25%

**Parcel 2:**

Broomfield, \$152,460, requires City Council Approval; Great Outdoors Colorado Grant: Open Space, \$152,460, Spring Submittal; Total \$304,920 or 25%

**Signature of an authorized representative of the Offeror:**

A handwritten signature in black ink, appearing to be "K Standbridge".

**Kevin Standbridge, Assistant City and County Manager**



**THE CITY AND COUNTY OF BROOMFIELD**

One DesCombes Drive, Broomfield, Colorado 80020

To: Trustee Council for the Natural Resource Trustees at Rocky Flats

From: The City and County of Broomfield

RE: Land Acquisition: Great Western Parcel 1 and Great Western Parcel 2

Date: September 5, 2008

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**Project Description**

The City and County of Broomfield would like to acquire two parcels of land for public open space ("Proposed Open Space") that are located adjacent to the northeast corner of Rocky Flats. The Proposed Open Space is situated just south of State Highway 128 and east of Indiana Street. The Proposed Open Space is also adjacent to Broomfield's Great Western Reservoir Open Space site that is approximately 745 acres in size. The Great Western Reservoir Open Space contains a 131-acre reservoir, over 150-acre prairie dog preservation area, and has an abundance of other wildlife such as hawks, coyotes, and foxes. Attachment 1 identifies the Proposed Open Space in relation to existing open space sites in the vicinity. Attachment 2 includes photos of the Proposed Open Space.

The Great Western Parcel 1 (Parcel 1) is 30 acres and the Great Western Parcel 2 (Parcel 2) is 28 acres for a total acquisition area of 58 acres. Both parcels have a vegetation mix of prairie grasses and yucca. Prairie dogs live on both sites and coyotes and other wildlife frequent these areas.

**5.1 Screening Criteria**

In respect to the 5.1 Screening Criteria, this proposal complies with all of the requirements.

- **Compliance with laws:** Yes
  
- **Public health and safety:** Yes
  
- **Compliance with technical requirements:** Broomfield intends to meet all submittal requirements for the grant.
  
- **Consistency with regional planning:** The Proposed Open Space is listed in Broomfield's Open Space, Parks, Recreation, and Trails Master Plan (OSPRT Plan) as a priority area for acquisition because of the close proximity to larger open space areas such as the Rocky Flats National Wildlife Refuge to the west and the Great Western Reservoir Open Space site and city of Westminster open space to the south. The acquisition is consistent with regional planning because of the intensive

and inclusive public process (community meetings, study sessions, surveys, and review by surrounding communities) that was completed to create the OSPRT Plan.

- **Consistency with the Rocky Flats Refuge Comprehensive Conservation Plan (CCP):** The proposal is consistent and enhances the goals of the Rocky Flats National Wildlife Refuge by preserving contiguous open space and developing partnerships to acquire the open space. The CCP states on page S5 that "partnerships would be sought from federal, state, and municipal agencies and private entities to help achieve Refuge goals and to conserve contiguous lands." This grant proposal represents the type of open space preservation partnership called for in the CCP and is emphasized in numerous sections of the CCP plan narrative.
- **Qualification as a natural resources restoration project:** This proposal is made under the category of a "replacement/acquisition project." The project replaces natural resources that were damaged on the Rocky Flats site itself as well as natural resources damaged at the Great Western Reservoir site. In response to the 1989 FBI Raid and allegations of illegal dumping of hazardous material from Rocky Flats into Broomfield's Great Western Reservoir, Broomfield took action to construct an emergency ditch to protect its drinking water from Rocky Flats contaminants flowing through Walnut Creek to Great Western Reservoir. The ditch served as a bypass structure to take Rocky Flats water flows around the south side of the Great Western Reservoir. The prairie grassland and Walnut Creek Drainage area surrounding the emergency ditch were damaged by the excavation to create the ditch. Native vegetation and wildlife habitat had to be removed to respond to the emergency situation to protect Broomfield citizens' public health and welfare.

The proposed acquisition benefits the Rocky Flats National Wildlife Refuge and Great Western Reservoir Open Space because Parcel 1 abuts the Rocky Flats National Wildlife Refuge and Parcel 2 is directly north of Great Western Reservoir Open Space thereby creating a much larger block of contiguous open space. This contiguous open space enhances wildlife corridors and views because it prevents fragmentation of the landscape into smaller pieces that are not as easily used by wildlife. Both parcels reflect a prairie landscape character that will compensate for the prairie ecosystem lost because of the emergency ditch construction at Great Western Reservoir.

- **Plan for matching funds/overall funding:** Broomfield, subject to formal City Council approval, anticipates seeking funds to provide the 25% match as required for the grant. For Parcel 1, the proposed funding is as follows: Great Outdoors Colorado Open Space Grant ("GOCO Grant") \$163,350; Broomfield \$163,350; NRD Funding \$980,100 for a total acquisition cost of \$1,306,800. For Parcel 2, the proposed funding is as follows: GOCO Grant \$152,460; Broomfield \$152,460; NRD Funding \$914,760 for a total project cost of \$1,219,680.



Project Name: Level (3) property acquisition

Project Description: Acquisition of 182 acres of undisturbed mixed prairie grassland

Project Offeror: Town of Superior

Point of Contact: Juanita Dominguez, Director of Parks, Recreation, & Open Space, 124 E. Coal Creek Dr., Superior, CO. 80027, 303-499-3675, 303-499-3677 fax, [juanitad@townofsuperior.com](mailto:juanitad@townofsuperior.com)

Alternate Point of Contact: Matt Magley, Assistant Town Manager, 124 E. Coal Creek Dr., Superior, CO. 80027, 303-499-3675, 303-499-3677 fax, [mattm@townofsuperior.com](mailto:mattm@townofsuperior.com)

Total Project Cost: \$6,000,000

Amount of NRD Funding Requested: \$1,500,000

Matching Fund: Town of Superior Open Space Fund  
\$4,500,000  
Funds available

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Matthew G. Magley

## SKETCH PLAN SUBMITTAL

The Town of Superior has a rich history dating back to 1896, taking its name for the “superior” quality of coal found in the area. When the Industrial Mine closed in 1945, Superior evolved into a quiet ranching and farming community at the base of the Rocky Mountains. More recently, economic conditions and new construction have caused the Town’s population to soar from 250 residents to over 12,000—one of the fastest growing communities in the nation during the 1990’s.

Growth in Superior has heightened the demand for protecting the Town’s remaining natural values. Superior’s open space program has been a grassroots effort by many of the Town’s citizens and elected officials to preserve open space and wildlife resources before opportunities are forever lost. The Level 3 property is the largest undeveloped parcel remaining in Superior, and a top priority for acquisition.

The Level 3 property consists of 182 acres of undisturbed mixed prairie grassland. The property contains a prominent, undeveloped ridgeline along its entire south boundary. This ridgeline is highly visible throughout Superior and along U.S. Highway 36 (Denver-Boulder Turnpike). The property offers striking mountain and prairie views of Colorado’s Front Range, Boulder’s Flatirons, Longs Peak and the Continental Divide, and the Denver cityscape.

The Level 3 property serves as an important buffer between urban development and a regional network of 50,000 acres of open space. These native habitats supports a broad range of wildlife and recreational activities. They include Boulder County, City of Boulder, and Superior Open Space directly to the west, the Rocky Flats National Wildlife Refuge diagonally to the southwest, and Broomfield and Westminster open space to the south. North and east of Level 3 are residential subdivisions, the Interlocken Business Center and the Flatirons Crossing retail complex.

The estimated value of the Level 3 property is \$6 million, presenting a particularly good window of opportunity to acquire the parcel. This is not the first attempt to purchase the Level 3 property for open space. In 2002, Boulder County was prepared to purchase the property for \$6 million, but could not secure the needed funds. Today’s market presents the best opportunity to acquire this important property for open space. In addition to the Rocky Flats Natural Resource Damage funds the Town would be providing a local match from the Town’s Open Space funds.

The Level 3 property is a keystone in Superior’s emerging open space program. It is a high priority for Superior, Boulder County and others. Acquisition by Superior will forever preserve the 182 acres of undisturbed mixed prairie grassland, outstanding views on the elevated south end of the Level 3 property and enhance opportunities to appreciate wildlife and outdoor recreation in an urbanized area. The proximity of the Level 3 property to other protected open space and the Rocky Flats National Wildlife Refuge helps sustain wildlife populations at the interface of mountains and prairies on Colorado’s Front Range. Acquisition of this parcel will be an important expansion to the system of parks and open space in the Town of Superior, and can serve as a link in the regional network of recreational trails.

*City of Westminster*  
**Rocky Flats**  
**Natural Resource Damage Funds**  
**Sketch Plan**  
*August 29, 2008*

**Project Name:** City of Westminster Open Space Acquisitions

**Project Description:** Acquisition of open space properties to buffer Rocky Flats and provide a wildlife corridor.

**Project Offeror:** City of Westminster Open Space Program

**Point Of Contact:** Heather Cronenberg - Open Space Coordinator  
4800 West 92nd Avenue  
Westminster, CO 80031  
Phone: 303-658-2142  
Fax: 303-806-3922  
hcronenberg@cityofwestminster.us

**Alternate Point of Contact:** John Carpenter - Director of Community Development  
4800 West 92nd Avenue  
Westminster, CO 80031  
Phone: 303-658-2121  
Fax: 303-806-3922  
jcarpent@cityofwestminster.us

**Total Project Costs:** \$2,000,000.00

**Amount of NRD Funds Requesting:** \$500,000.00

**Matching Fund Sources:** City of Westminster Open Space Funds: \$850,000.00  
Possible Grants from Jefferson County: \$450,000.00  
and Great Outdoors Colorado: \$200,000.00

*Heather Cronenberg* *8/29/08*  
Heather Cronenberg, Open Space Coordinator



## **City of Westminster**

### **Natural Resource Damage Funds**

#### **Sketch Plan**

#### **Open Space Acquisitions**

The City of Westminster requests consideration of use of Natural Resource Damage Funds for acquisition of parcels east of the Rocky Flats Wildlife Refuge (the "Refuge") to serve as a buffer and a wildlife corridor. The City of Westminster has over 1,000 acres of open space to the east of the Refuge within the Westminster Hills Open Space area and another 2,000 acres of land around Standley Lake. Acquisition of these parcels will fill in gaps within the City's existing open space system where development could occur causing loss of wildlife habitat. Acquisition of these parcels will also help to create a continuous wildlife corridor from the Refuge to the Westminster Hills Open Space area and Standley Lake Regional Park. Priority properties to acquire by fee title are shown on the attached map and described as Parcels 1 and 2.

The acquisition of property within Parcels 1 and 2 will protect prairie habitat that is similar to the habitat that was injured on site. Parcel 1 consists of approximately 30 acres and is considered a critical inholding within the Westminster Hills Open Space area. It is currently used by the Catholic Church but is under development pressure. Development would negatively impact the entire Westminster Hills Open Space area, as well as the nearby bald eagle nest and its essential foraging area. The City and the Trust for Public Land are currently negotiating the purchase of Parcel 1. It is anticipated that the purchase could take place in 2009. Parcel 2 consists of approximately 65 acres and contains historic Woman Creek which flows east from the Refuge, and is critical for protecting this wildlife corridor. There are eleven parcels with six owners within this area. Contact with a number of the landowners within Parcel 2 has been made and City staff is working to negotiate acquisitions within this site.

An active bald eagle nest is located east of the wildlife refuge on the northwest corner of Standley Lake. This nest site has been active for over 10 years. A large prairie dog colony occurs within the Westminster Hills Open Space area to the north and within Parcel 1. This species is listed as a Colorado species of special concern because of habitat loss. The bald eagles hunt for food in the prairie dog colony to the north of their nest and on the wildlife refuge. Acquisition of parcel 1 will help to protect the prairie dog habitat and critical bald eagle food source. Both parcels 1 and 2 are within the ½ mile eagle nest buffer that is recommended by the Colorado Division of Wildlife for restricting construction. An active red-tailed hawk's nest has also been observed within the Stanley Lake Regional Park. These hawks most likely hunt for prey within the Westminster Hills Open Space area to the north as well.

Woman Creek flows from the Refuge east to Woman Creek Reservoir. The Reservoir was built to capture flows from Woman Creek off the Refuge so that the water could be tested prior to its release up to Walnut Creek. Preble's meadow jumping mouse is listed as a federally threatened species and has been identified within the boundaries of the Refuge along Woman Creek. According to a natural resources assessment that was recently completed on this area by ERO Resources, the portion of Woman Creek that historically ran through Parcel 2 and into Standley Lake may be still be suitable habitat for this threatened species.



If these properties are acquired for open space, restoration and enhancement of native vegetation and native plant communities will be a priority for the City of Westminster. Both Parcel 1 and Parcel 2 properties support a mixture of native prairie and introduced grasses. Restoration can include eradicating and monitoring noxious weed species and restoring areas by seeding or planting native vegetation. Restoring these properties will ensure that the resources will be sustained over the long-term. Once the properties are restored, they will provide a similar service as the resources that were damaged on site.

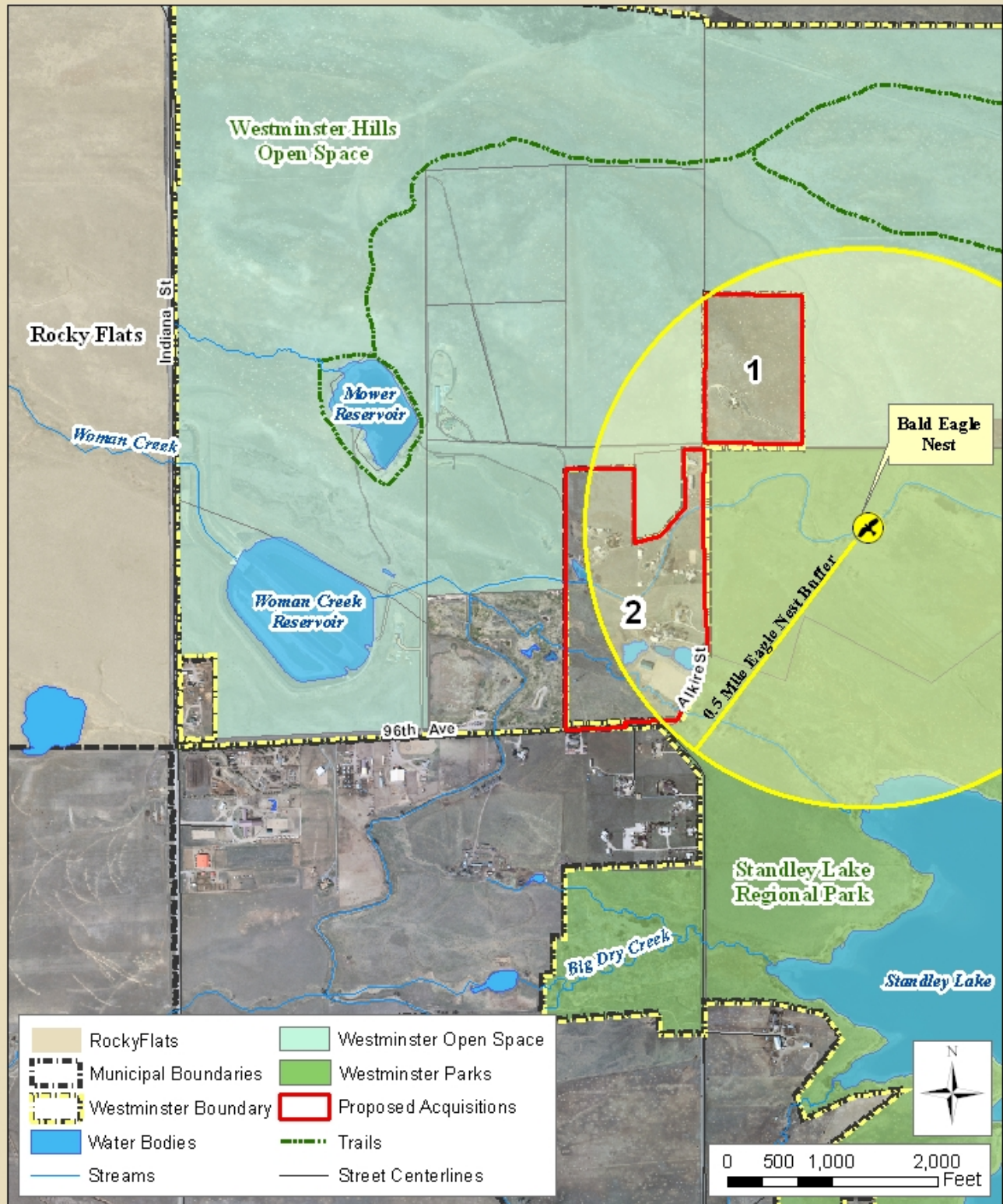
NRD funds for these acquisitions can be leveraged with local and grant funds as match. The City of Westminster will support these acquisitions with local funds from its Parks, Open Space, and Trails fund. However, the City does not have enough funds to purchase these properties without leveraging outside funding sources as there are many other priority properties to purchase for open space within the City's boundaries. The City would seek financial participation from Jefferson County Open Space for these acquisitions since these properties are located within unincorporated Jefferson County. The City will also seek Great Outdoors Colorado funds. These properties are all under the threat of development, which would negatively impact wildlife's ability to use this area as a corridor from the foothills, through Rocky Flats, and to Standley Lake.

Acquisition of these parcels is consistent with the objectives and goals of the Rocky Flats NWR Comprehensive Conservation Plan because it allows Westminster to partner with the USFWS to maintain wildlife corridors outside of the refuge. Acquisition of these parcels is also consistent with city and county regional planning. The City supports open space acquisition in this area and within unincorporated Jefferson County. In addition, these properties once acquired will assure there will be no "nearby" urban development close to the Refuge in this area. It is very important to conserve and preserve lands near the Refuge boundaries as well as lands adjacent to the Refuge. Such extension of open space lands allows mammals and especially bird species to move in broader range from the Refuge in search of food, it controls predation in many instances, as well as protecting the Refuge from invasive plant life species.

The City of Westminster was the second City in Colorado to create a municipal, sales tax funded open space program behind Boulder. Since the program started in 1985, the City has acquired over 2,700 acres of open space with another 2,000 acres of park land around Standley Lake.

The City also supports use of NRD funds for the acquisition and/or restoration of Section 16 and for wildlife crossings along Highway 93.

# Rocky Flats National Wildlife Refuge NRD Fund Proposed Acquisitions



SKETCH PLAN PROPOSAL  
to  
Trustee Council for Natural Resources at Rocky Flats

Project Name. FACILITATION OF SECTION 16  
PRESERVATION/ACQUISITION TO ENHANCE  
ROCKY FLATS NATIONAL WILDLIFE REFUGE

Description: A proposal to facilitate the preservation/acquisition of Section 16, which would enhance Rocky Flats National Wildlife Refuge by ensuring that large mammals such as elk have a corridor to access the Refuge and by inclusion of the unique tall grass prairie in Section 16 within the Refuge ecosystem.

Estimated Cost: \$59,674

Estimated Value of Contributions by Others: \$43,050  
It is assumed a location for an estimated 7 meetings will be donated by one of the participants and that staff time to attend these working meetings will be donated by at least 15 of the 24 potential participants so far identified.

Project Offerer: Enviro-Support, Inc.

Point of Contact: Dr. Jean Tate, 7485 Quartz, Arvada, CO 80007 (303 403 4748) [jeantate@enviro-support.com](mailto:jeantate@enviro-support.com)

Alternate Point of Contact: Dr. Paul Kilburn, 6695 Terry Court, Arvada, CO 80007 (303/940-1609) [pdkilburn@msn.com](mailto:pdkilburn@msn.com)

Date: 29 August 2008

Signature: 

## **PROJECT DESCRIPTION**

Enviro-Support, Inc. (Enviro-Support) proposes to support the acquisition of Section 16, which is adjacent to the southwest corner of Rocky Flats National Wildlife Refuge (RFNWR). So doing would enhance RFNWR by ensuring that large mammals such as elk have a corridor to access the Refuge and by including the unique tall grass prairie in Section 16.

RFNWR sits at the center of an extensive aggregate of open space managed by the City of Boulder, Boulder County, Jefferson County, City of Westminster, and City of Broomfield (see map). However, on its western border, RFNWR is separated from the City of Boulder Open Space by a narrow corridor of private land that is very likely to be developed as the southern border of the Refuge will be.

Acquisition of Section 16 would benefit wildlife and also benefit the regional diversity of plant communities as discussed below. Further, this section has been subjected to extensive multiple uses that are likely to increase in the future, as also discussed in more detail below.

For these reasons, we believe the acquisition of Section 16 and its inclusion within the Refuge boundary (or at a minimum its preservation as part of the Refuge ecosystem) is of paramount importance. Preservation/acquisition will be complex because of multiple interests in both the surface and minerals on this property.

Therefore, Enviro-Support proposes to facilitate preservation/acquisition of Section 16 by working with the multiple interests to develop a way for this section to be brought into the Refuge ecosystem and, if possible, included within the Refuge boundary. Considerations include the following:

- Section 16 is owned by the Colorado State Land Board
- W-470 has been promised the ability to acquire a corridor along the east side of RFNWR, but this acquisition will require recompense for the value of the land, which might provide opportunity for a multi-party land swap including Section 16
- Existing mineral leases cover Section 16 south of the Woman Creek valley and one oil well is currently active
- Grazing leases exist on much of the surface as do agreements to enable an electrical substation
- Down gradient open spaces would benefit from the preservation of Section 16 as undeveloped land
- There is an existing Stewardship Trust parcel along the northern edge of the section
- Stewardship Trust status is unlikely to provide permanent preservation based on experiences such as that of Jefferson County Open Space with Evergreen Mountain
- Since the State Land Board may not be able to sell mineral rights (based on the state constitution), a non-development lease and surface rights protection may be an option
- There is an existing agreement between LaFarge Mining (which holds the mineral rights) and Jefferson County Open Space that the west 100 acres of Section 16

will not be graveled for 20 years, but this may not be recognized by the State Land Board and hardly provides permanent preservation in any case

- Jefferson County has agreed not to permit mining in Section 16 until the results of a 5 year study of the xeric tall grass prairie have been released to the public and show the prairie not to be unique; LaFarge has held up the release of the study, which does indicate the prairie is unique
- The narrow Stewardship Trust corridor along Woman Creek could most readily be expanded north to the section line to make that part of the section a wildlife corridor since the north 20 acres of this strip are apparently not included in the LaFarge mineral lease

Thus, this proposal is to confirm the above information; collect more information concerning the constraints, concerns, benefits, and consequences of protecting Section 16; and work with all interested parties to develop a collaborative plan that permanently protects as much of Section 16 as possible in an undeveloped state.

This sketch plan and the final proposal will not address implementation of the plan and the ultimate cost of preserving the Section 16 ecosystem. It is believed there are currently too many complexities and unresolved issues to calculate a realistic cost of purchase. Rather, Enviro-Support proposes to facilitate the preservation/acquisition of Section 16 by developing a path forward in collaboration with all interested parties.

#### **NATURAL RESOURCE BENEFITS**

Acquisition of Section 16 at the southwest corner of the Refuge would ensure that the open space on the Refuge would connect with the open space to the west and allow animals with larger home ranges to use both parcels. This would particularly benefit elk (and to a lesser extent deer), which move off the Refuge and into higher elevations during the summer and fall, but move back onto the Refuge in the winter and spring. Elk also appear to calve on RFNWR, since elk cows with new calves have been observed on the Refuge in June of successive years. Without Section 16, elk use of the Refuge is very likely to be precluded in the future. Further, elk and deer, once on the Refuge, have access to the City of Westminster and City of Broomfield Open Spaces, as well as to Standley Lake Regional Park. To maximize the ecological diversity and value of all of these open space parcels, having connectivity among them is critical.

Acquisition of Section 16 would not only benefit wildlife, but would also benefit the regional diversity of plant communities. A type of xeric tallgrass prairie occupies a very few square miles of the western edge of the Great Plains where slightly elevated moisture, slightly cooler climate and soils that are rocky, highly permeable, and very old combine to provide ideal growing conditions for this unique assemblage of grassland species. This ancient ecosystem has highly developed soils and plant ecological characteristics. It occupies ground that dates to approximately 2 million years ago. The centerpiece of this unique grassland ecosystem is Section 16. More specifically, the relatively undisturbed western 100 acres running north and south along, and immediately east of, Highway 93 includes a large portion of the remaining examples of this ancient grassland ecosystem. This portion of Section 16 contains the most homogeneous and weed-invasion -resistant part of the ancient ecosystem, and is of paramount botanical value.

The xeric tallgrass prairie in the western 100 acres of Section 16 consists of a mixture of about 50 species of grasses and forbs. Grass species are clearly dominant, but forbs add a colorful aspect of white, yellow, blue and purple flowers through the year. The uniqueness of the grassland species is in the mix of grasses and forbs, some originating in the eastern prairie and some in the western mountains. Nowhere else in Colorado, nor indeed the country, does this special blend occur. The dominants from the eastern prairies are big bluestem, along with yellow Indiangrass and little bluestem. Dominants from the cooler, higher elevations further west include mountain muhly grass, Porter aster, and Fendler sandwort. The latter species typically occur only sparsely and very occasionally rather than as community dominants. The eastern prairie species are most extensively present in the wet warm prairies of the central U.S. Their occurrence here appears to be a holdover from past, perhaps long-past, times with much different growing conditions.

The ecosystem includes not only the prairie above ground, but the soil, fungi, plant roots, insects, invertebrates and mammals that reside under the surface and so enrich that soil. The resulting unique plant communities provide habitat for a complex and integrated ecosystem that includes insects, amphibians, reptiles, birds, and mammals. Species documented across the Rocky Flats site include a minimum of seven species of fish, six species of amphibians, eight species of reptiles, 144 species of birds, and 23 species of mammals. Of particular importance is the use of the Rocky Flats site as a whole by Rocky Mountain elk and mule deer, especially during the winter, black-tailed prairie dog colonies that support diverse raptors, and the presence of Preble's meadow jumping mouse, a species listed as threatened under the Endangered Species Act and primarily dependent on complex riparian communities dominated by shrubs and close to mesic grasslands. Most of these species can be expected to occur in the high quality habitat provided by undisturbed portions of Section 16. The State Land Board, which manages this state-owned land, has twice received Stewardship Trust applications for this section, but both times denied these requests because of the present and future uses scheduled for the section. More recently a Stewardship Trust for 130 acres was approved as possible future Preble's Mouse habitat in the northeast portion of Section 16. This area, which includes the Little Woman Creek Valley, is adjacent to documented occurrences of the mouse, and it is hoped that this rare mouse will spread into similar habitat in the section.

Nonetheless, this section has been subjected to extensive multiple uses. While the surface today is used mainly for cattle grazing, the central portion contains an abandoned clay pit. A water reservoir occupies several acres in the lower center of the section, while a Denver Water ditch, a Rocky Flats railroad track and a buried water pipeline run through the section from north to south. In the northwestern corner a four acre drill pad is actively pumping oil and is adjacent to an electrical substation. Furthermore, most of the section (except for the Little Woman Creek Valley on the north side of the section) has been leased for future minerals development. In spite of these multiple uses, most of the present surface land remains covered with native vegetation, albeit with several disturbed weed-infested areas. Given the current trend of present and likely future uses of this section, its ecological value, and the wildlife corridors that connect RFNWR to open space to the west and east are very likely to be lost forever, unless something is done to prevent this.

#### **LONG-TERM PLANNING, MAINTENANCE, AND MONITORING**

Implementation of this proposal will result in development of the most feasible, cost-effective plan for preservation/acquisition of Section 16 that can be agreed upon by all the involved parties. It is anticipated that development of this plan and coordination of all involved parties should be accomplished within two years. Implementation of the plan by

actual preservation/acquisition of Section 16 is outside the scope of this project, but is the next logical step. Once preserved/acquired, Section 16 would be managed in concert with the RFNWR ecosystem, and hopefully managed as an integral component of the Refuge.

### **BUDGET**

Information on the budget will be included when a draft proposal is submitted as an expanded version of this sketch plan.

### **MATCHING FUNDS**

A cost estimate of these contributions will be provided in our draft proposal.

### **DESCRIPTION OF JEFFERSON COUNTY NATURE ASSOCIATION AND PRIMARY INVESTIGATORS.**

Enviro-Support was begun in 1996 to provide quality, effective, responsive technical support to industry and government in their compliance with environmental laws and regulations. Enviro-Support serves as an extension of staff or provides complete deliverables based on multidisciplinary environmental data, especially ecology. More specifically, Enviro-Support's purpose is to provide planning, scoping, collection, analysis, synthesis, evaluation, risk characterization, impact assessment, mitigation development, and documentation relevant to those environmental data, as needed. The qualifications of Enviro-Support have a solid foundation in the experience of its President and Chief Consulting Scientist, Dr. Jean Tate.

Dr. Jean Tate has lived in northern Jefferson County for over 30 years, and worked on ecological risk assessments and baseline data collection at Rocky Flats Plant during the 1990s. She has more than 30 years of professional consulting experience in numerous states, including coordination of multi-agency technical committees; technical oversight of multidisciplinary, ecological, and cultural resource programs; project management; uses of environmental data and document preparation that are responsive to NEPA (environmental assessments, environmental impact statements, and supporting studies) and to CERCLA/SARA/RCRA (ecorisk assessments).

Dr. Paul Kilburn has managed and consulted on more than 50 environmental projects and assessments for governmental and industrial clients. This work has ranged from Illinois to Alaska, and much of the work has been concentrated in the central Rocky Mountain States, and has focused mainly on the permitting of mining projects, including coal, uranium and oil shale. He was instrumental in developing and maintaining the NJAG, a collaborative group of parties having interests in northern Jefferson County. This group met for a number of years and greatly enhanced communication among these parties. He has lived in northern Jefferson County for over 35 years and has been with JCNA since its inception, doing considerable volunteer work in the Rocky Flats area.

### **COMPLIANCE WITH SCREENING AND EVALUATION CRITERIA**

- Compliance with laws: This program would be completely voluntary for all cooperative organizations and would conform to any legal requirements.
- Public health and safety: There are no health and safety issues that would be associated with implementation of this proposal.

- Compliance with technical requirements: This sketch plan has been submitted by August 29, 2008. Our project would not interfere with any activities on RFNWR or the surrounding lands. Our proposal based on this sketch plan will be fully compliant with the technical requirements of the Request for Proposal.
- Consistency with regional planning and the RFNWR CCP: This program would not interfere with the CCP for RFNWR or with the management plans in place for surrounding holdings. In fact, Enviro-Support would coordinate carefully with Legacy Management, the USFWS, and others, the goal of our project being to enhance the overall and collective ecological diversity and value sought by these plans.
- Qualification as a natural resources restoration project: This project would develop the best possible plan to preserve/acquire Section 16 and thereby enhance the diversity of Rocky Flats plant communities and the habitat they provide, preserve a unique grassland, and provide a wildlife corridor connecting open space surrounding RFNWR through the Refuge.
- Plan for matching funds: Implementation of the plan developed for this project is expected to utilize lease modifications, land swaps, and agreements among land managers that would have considerable value. However, it may be difficult to quantify this value and determine the need for any additional cash payments until the end of this project.
- Benefits and proximity to injured natural resources: The facilitation of the preservation/acquisition of Section 16 would directly benefit the wildlife that use RFNWR by enhancing their ability to use the Refuge and the lands to the east of it, as well as enhance the diversity of plant communities and habitat associated with RFNWR.
- Project feasibility and technical expertise/experience of Enviro-Support: The preservation/acquisition of Section 16 is the only feasible way to ensure a wildlife corridor into RFNWR and eastward, as well as the best location where xeric tall grass prairie is known to occur in a relatively undisturbed state and can be protected. A thorough exploration of the possibilities for preserving or acquiring this section is strongly warranted and, given the complexity of the issues, there is a strong need for dedicated facilitation of this process. While there is no guarantee that the most cost-effective plan agreed upon will be affordable, it would be wrong and detrimental to both RFNWR and the surrounding lands to fail to explore this opportunity. This exploration is entirely feasible. Collectively, Dr. Tate and Dr. Kilburn have many years of experience with the biology of the Rocky Mountain West and in facilitating/ coordinating such collaboration of diverse interests with varying ecological goals.
- Project cost-effectiveness and relative cost/benefit: The goal of this project is to develop a feasible and cost-effective plan to preserve/acquire Section 16 and thereby enable preservation of the wildlife corridor and xeric tall grass prairie provided by this section. If this goal is achieved, it will by definition be cost effective, and will be of tremendous benefit to the diversity of plants and wildlife at RFNWR. The relative cost/benefit of plan implementation will depend on the agreements reached and the ultimate requirement for any additional cash payments.
- Project sustainability: The goal of this project is to develop a plan for preservation/acquisition of Section 16 in perpetuity so that it will be protected to the same degree as RFNWR and the open space areas that surround it. To the extent this project is successful, this goal will be sustained.





## **PROJECT DESCRIPTION**

JCNA proposes to enhance the restoration of the Rocky Flats Site(Site), including both the DOE Legacy area and the Rocky Flats National Wildlife Refuge (RFNWR), through a two-pronged ten year restoration project. Former operations and activities at the Site have modified or destroyed much of the native vegetation over the past decades. Both project components are associated with enhancing the quality and native diversity of plant communities and habitat and are well within our capabilities and experience; they are therefore submitted together as one project. In fact, over the past years, we have carried out some of the work for both project components. Below we provide descriptions of both components, each of which would take place continuously over the next ten years.

**Component 1—Weed Control Coordination.** JCNA proposes to coordinate the separate weed control programs now taking place by owners/managers of properties adjacent to the Site. Several species of noxious weeds have invaded disturbed areas surrounding the Site and provide ready seed sources for plants to invade the native grassland of both RFNWR, and the reestablished grassland of the Legacy lands. Most of the lands surrounding these areas are under the control of corporations/agencies with sufficient funds to provide their own weed control programs. Some include private lands including La Farge Corporation, Union Pacific RR, and Candelas; some are public lands (State Land Board, Denver Water, Colorado Department of Transportation). Two of the areas are presently leased and undergoing gravelling, a major land disturbance that regularly produces plants and seeds for weed invasion. While all owners/managers we have spoken to are willing to fund weed control efforts, and some have done so sporadically in the past, these programs are totally uncoordinated and, therefore, less effective. Further, they sometimes skip certain species and perform control work at the wrong time of the year. We propose to improve and coordinate these disparate programs by working directly with these owners/managers. We would discuss their weed control program, offer suggestions for the design of a better program, and provide ongoing impetus for them to perform their own weed control programs in a coordinated and timely fashion. By direct contact with the appropriate personnel and monitoring program success, we expect to help these organizations institute, schedule and maintain effective programs. We anticipate weed invasion to be much reduced on the Site in the coming years, and the enhanced programs to become an integrated part of operations by surrounding landowners.

**Component 2—Native Seed Supply.** Ongoing revegetation programs on the Site include only a few of the grass and forb species originally present in the xeric tallgrass prairie in the area. JCNA proposes a seed collection program using native grasses and forbs from local prairies that would provide seed for planting within established grasslands, as well as disturbed areas of the Site. For example, we understand that present management on Legacy lands includes use of herbicides that kill broad-leaved plants (presently Milestone). In such areas, forbs would not be planted until herbicide use was essentially finished.

Our voluntary seed picking program on lands adjacent to the Site has been conducted two to three times per year over the past five years. Usually only 8-10 volunteers participate at each collection event, and this strictly voluntary program has not provided enough seed for

planting purposes. As part of this proposal, we will expand our database of volunteers substantially, and expect to obtain much more seed. We will, in our draft proposal, propose funding for supplementary paid pickers if necessary.

### **NATURAL RESOURCE BENEFITS**

The benefits from Component 1, weed control, would create a weed control program that would enhance the productivity and quality of the native grassland of the Site, and assist in returning the Site to its former weed-free state.

The benefits from Component 2, native seed supply, would provide not only a much wider variety of species in the reconstituted grasslands, but would introduce local genetic material into existing plantings. Commercial seeds used to date are harvested from areas well removed from the Site, often from states surrounding Colorado. In addition, many of the species that are components of diverse native grasslands are not available commercially. As a result, there has been little or no inclusion of local genetic material from local species that are so well adapted to this Site. Utilization of native seeds obtained in our program would ensure that local and diverse genetic material is introduced into plantings on the Site.

### **LONG-TERM PLANNING, MAINTENANCE, AND MONITORING**

Both components of our proposed restoration enhancement project would run for 10 years. With regard to weed control, each spring contacts would be made with past owners/managers to review their weed control plans for the coming year, and in these discussions we would provide suggestions for improving the work for the next year. We would monitor the weed killing success during the growing season and offer constructive feedback.

Regarding seed supply, we would hold discussions with both the Legacy group and the RFNWR personnel before the growing season to determine their seed needs, and use this information in planning our seed picking program for the year. During each year, two to three seed picking efforts would be scheduled to allow seed collection as seeds mature.

### **BUDGET**

Information on the budget will be included when a draft proposal is submitted as an expanded version of this sketch plan.

### **MATCHING FUNDS**

Both project components would utilize major contributions from outside sources. The cost of weed control would be borne by surrounding owners/managers through their pesticide purchase and application or mechanical control. This will represent a significant cost contribution. Our efforts would be to assist in the timing, location, diversity, and overall effectiveness of these applications.

Voluntary seed collection would provide the major matching funds for this activity. Our voluntary efforts in the past have provided about a hundred man-hours annually. For this proposal we expect to double or triple that donation. The seed collection effort would utilize ripe seed from plants growing on both the Site and surrounding lands owned by willing landowners. We anticipate free access to productive grasslands in this area and that such

seeds would be provided free of charge to this seed collection effort. This will also represent a significant cost contribution.

A cost estimate of these contributions will be provided in our draft proposal.

### **DESCRIPTION OF JEFFERSON COUNTY NATURE ASSOCIATION AND PRIMARY INVESTIGATORS.**

JCNA was begun in 1986 by several concerned environmentalists to provide a force in the preservation and management of particular Jefferson County ecosystems. This small group has devoted its efforts to a wide variety of projects through the years, with emphasis on the northern part of the County.

JCNA has carried out a voluntary seed picking program on adjacent lands 2-3 times per year over the past five years. Our collections usually provide 5-10 pounds of native seed in two categories, grasses and forbs, given to the DOE and other local entities. These volunteer collections include 10-20 species in each category. Over the years we have accumulated a list of over a hundred potential seed pickers, but usually only 8-10 volunteers participate at each collection event. This strictly voluntary program has provided only a small part of the seed required. In this proposal, we would hire pickers as necessary to provide more seed if the voluntary program falls short.

Dr. Paul Kilburn has managed and consulted on more than 50 environmental projects and assessments for governmental and industrial clients. This work has ranged from Illinois to Alaska, and much of the work has been concentrated in the central Rocky Mountain States, and has focused mainly on the permitting of mining projects, including coal, uranium and oil shale. He has lived in northern Jefferson County for over 35 years and has been with JCNA since its inception, doing considerable volunteer work in the Rocky Flats area.

Dr. Jean Tate has lived in northern Jefferson County for over 30 years, and worked on ecological risk assessments and baseline data collection at Rocky Flats Plant during the 1990s. She has more than 30 years of professional consulting experience including technical oversight of multidisciplinary, ecological, and cultural resource programs; project management; uses of environmental data and document preparation that are responsive to NEPA (environmental assessments, environmental impact statements, and supporting studies) and to CERCLA/SARA/RCRA (ecorisk assessments).

### **COMPLIANCE WITH SCREENING AND EVALUATION CRITERIA**

- Compliance with laws: Both programs would be completely voluntary for all cooperative organizations and would conform to any legal requirements.
- Public health and safety: Any insecticide use would comply with public health safety requirements. Denver Water already uses the approved herbicide Tremic, which is EPA approved for use adjacent to public water supplies.
- Compliance with technical requirements: This sketch plan has been submitted by August 29, 2008. Our project would not interfere with any Site activities. Our proposal, based on this sketch plan will be fully compliant with the technical requirements of the Request for Proposal.

- Consistency with the regional planning and the RFNWR CCP: This program would not interfere with the CCP for the RFNWR or with the management plans in place for surrounding holdings. In fact, JCNA would coordinate carefully with both Legacy Management and the USFWS. The goal of our project is to enhance the Site habitat central to these plans.
- Qualification as a natural resources restoration project: These programs would enhance the existing plant communities on the Site and the habitat they provide.
- Plan for matching funds: Both project components would utilize major contributions from outside sources as described previously.
- Benefits and proximity to injured natural resources: This restoration enhancement project would occur directly on the Site and on the immediately surrounding lands. Our goal is increasing the cost-effectiveness of invasive species control, increasing the diversity of restored habitats through use of locally obtained native seed, and ultimately increasing the overall quality and diversity of communities and habitats on Site.
- Project feasibility and technical expertise/experience of JCNA: Diverse weed control methods have been used with varying success in this region; this project will collect and share information obtained from local weed killing efforts, and all other available expertise. Seed collection in the Site vicinity has been done under our direction for half a decade but its success has been limited by the number of volunteers. Expanding this program by funding it, will make it even more successful. Collectively, Dr. Kilburn and Dr. Tate have many years of experience with the biology of the Rocky Mountain West and in conducting and coordinating ecological field programs.
- Project cost-effectiveness and relative cost/benefit: The coordination of weed control efforts on the Site and surrounding lands will greatly enhance the effectiveness of weed control and will be cost effective and have a low cost/benefit ratio since it is assumed the actual weed control will be done by those who manage the lands. This has been shown in the past to be supported by land owners/managers. This will allow us to maximize the cost-effectiveness and minimize the cost/benefit ratio of weed control. Hand picking and planting of local native plant seeds is the only way to increase local genetic material into these grasslands. We propose to utilize volunteer labor, supplemented by paid seed pickers only if necessary, in order to provide cost effectiveness in the seed picking effort.
- Project sustainability: These two project components work together to enhance the restoration of the Site. A decade of coordinated sharing and feedback regarding various weed control efforts on and near the Site through this proposed project should result in a fine-tuned regional effort in which each cooperator benefits from their collective experience and from the coordinated efforts of nearby cooperators. At the end of this project, expenditures on weed control should have substantially diminished and diversity of plant communities will have increased.

# Spicer Mineral Acquisition



Project Description: Acquire mineral rights on approximately 314 acres that buffer the northwest boundary of the Rocky Flats National Wildlife Refuge.

## Budget

NRD Request	\$650,000
United States Department of Energy	\$650,000 (Allocated)
Mineral value donation	\$230,000 (In-kind)
Transaction costs	\$30,000 (TPL in-kind)
Total Project Cost	\$1,560,000

## Project Offeror:

The Trust for Public Land  
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*Hillary Merritt*

8/29/08

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Hillary Merritt, The Trust for Public Land

Date

### **Mineral Acquisition- Northwest Boundary of the Rocky Flats National Wildlife Refuge**

The Trust for Public Land (TPL) respectfully submits this proposal to the Trustee Council for Natural Resources at Rocky Flats for its support in using Natural Resource Damages (NRD) funds for the acquisition of mineral rights on approximately 314 acres buffering the northwest boundary of the Rocky Flats National Wildlife Refuge.

In 2006 and 2007, TPL purchased three of the four “essential” mineral estates underlying Rocky Flats and conveyed them to the U.S. Department of Energy (DOE) to help create the Rocky Flats National Wildlife Refuge. TPL has an option to purchase the remaining 314-acre mineral estate that buffers the northwest corner of the Wildlife Refuge (please see attached map). The Colorado Division of Minerals and Geology and Jefferson County have approved permit applications for sand and gravel mining on the site, but the northern portion of the property has not been mined. The surface rights of the subject property are owned by DOE and managed by the Office of Energy Efficiency and Renewable Energy through its National Renewable Energy Laboratory (NREL). NREL’s National Wind Technology Center (NWTC) is the nation's premier wind energy technology research facility, and its activities include wind turbine research and development, and technology applications and testing. Many of the NREL facilities, including several of the large testing wind turbines, are located on the northern portion of the subject property.

Acquisition of these minerals will prevent future sand and gravel mining on the NWTC site and provide an additional buffer to the Wildlife Refuge. The appraised value of the mineral estate is \$1.53 million, and the mineral rights owner has agreed to donate \$230,000 of the mineral value as a landowner match. DOE has designated \$650,000 for this acquisition and these funds must be obligated by September 30, 2008. \$650,000 in NRD monies is requested to finalize the acquisition, a proposed 68% leveraging opportunity. TPL views this as an excellent partnership between conservation and renewable energy, thereby protecting conservation values, and our nation’s investment in renewable energy resources.

### **Rocky Flats Refuge Comprehensive Conservation Plan**

The Comprehensive Conservation Plan (CCP) for the Rocky Flats National Wildlife Refuge was created to guide management of Refuge operations, habitat restoration and visitor services for the next 15 years. With regards to mineral rights, the CCP states, “The Service believes that the exercise of these existing privately owned mineral rights, particularly surface mining of gravel and other aggregate material, at Rocky Flats will have an adverse impact on the management of the Refuge.” As mentioned above, TPL conveyed a majority of these privately owned mineral rights to DOE prior to the transfer of administrative jurisdiction to the USFWS, however the mineral rights on approximately 314 acres along the northwest boundary of the Refuge, just north of the Rock Creek drainage, remain in private ownership. Though a 25-year moratorium was in place to prevent mining on the NWTC site, the moratorium was vacated in a 2002 Sierra Club lawsuit, so apart from a few studies required by Jefferson County, there is little to prevent the landowner from exercising its dominant mineral estate and mining the property. Mining along the Rock Creek drainage could have devastating effects on the wildlife and habitat on the adjacent Refuge.

### **Natural Resources**

The Rocky Flats Refuge contains “High Wildlife Diversity” as a result of habitat type, structure and interspersed, conservation management, and isolation from human disturbance.

By eliminating the threat of mining along the northwest boundary of the Refuge through the acquisition of the Spicer minerals, the NWTC property will function as an important buffer. In addition to its capacity as a buffer to the Refuge, the property also provides additional ecological values. Several declining species have been identified at or near the site including the Ferruginous Hawk, Loggerhead Shrike and Swift Fox. Notably, the Prebles Meadow Jumping Mouse, a species listed by both the U.S. Fish and Wildlife Service and the Colorado Division of Wildlife as threatened, has been identified within several hundred feet of the project area.

Through the acquisition of these minerals, the impacts of mining on the NWTC property will be averted; in addition to the corresponding direct impacts this activity would have on the adjacent Refuge and its habitat, vegetation and riparian ecosystems. The Refuge provides traditional habitat for a number of remarkable species including the Prebles, Black-tailed and White-tailed jackrabbit, mountain lion, coyote, snakes, turtle (and possibly painted turtle), and lizards. A broad array of migratory birds can also be expected to nest in upland grassland habitat if left undisturbed. Vegetation on the NWTC property consists largely of diverse grasslands (historically tallgrass prairie with big bluestem and other tallgrasses), shrubland, ponderosa pine woodlands, and several wetlands. The property also contains riparian ecosystems with “uncommon” hydrologic characteristics. This combination of isolated geographic, hydrologic, vegetative and wildlife characteristics combines to form an ecological community in virtually native condition.

#### **Natural Resource Damages Grant Request**

TPL requests a \$650,000 grant from the Trustee Council that will allow TPL to purchase the 314-acre Spicer mineral estate and convey these minerals to DOE. This acquisition will prevent future surface mining on the property that could have adverse impacts to the adjacent Refuge and ensure the continued ability to conduct wind energy technology research and development on the NWTC site.