

ROCKY FLATS STEWARDSHIP COUNCIL

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

(303) 412-1200
(303) 600-7773 (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
Arthur Widdowfield

Board of Directors Meeting – Agenda

Monday, November 8, 2010, 8:30 AM – 12:00 PM

**Rocky Mountain Metropolitan Airport, Terminal Building, Mount Evans Room
11755 Airport Way, Broomfield, Colorado**

- 8:30 AM Convene/Introductions/Agenda Review
- 8:35 AM Business Items
1. Consent Agenda
 - o Approval of meeting minutes and checks
 2. Executive Director's Report
- 8:50 AM Public Comment
- 9:00 AM Host DOE Quarterly Meeting (briefing memo attached)
- o DOE will brief the Stewardship Council on site activities for the second quarter of 2010 (April – June).
 - o DOE has posted the report on its website and will provide a summary of its activities to the Stewardship Council.
 - o Activities include surface water monitoring, groundwater monitoring, ecological monitoring, and site operations (inspections, maintenance, etc.).
- 10:00 AM Approve Fiscal Year 2011 Work Plan (briefing memo attached)
- o The Board reviewed the draft work plan at the September meeting.
 - o No changes were offered at that meeting.
- Action Item: Approve 2011 work plan**
- 10:15 AM Fiscal Year 2011 Budget Hearings (briefing memo attached)
- o The Board reviewed the draft budget at the September meeting. No changes were offered.
 - o Prior to finalizing the budget, the Board must hold budget hearings and allow time for public comment.
 - o Following the public hearing, the Board must approve the budget resolution.

Action Item: Hold hearings and approve 2011 budget

- 10:25 AM Update on Changes to RFLMA Points of Compliance and Dam Breach EA (briefing memo attached)
- Broomfield, Westminster and Northglenn have been meeting with DOE and CDPHE to try to resolve the impasse on DOE's proposals to move the existing surface water and groundwater points of compliance stationed along Indiana Street to the eastern edge of the COU, and to manage ponds A-4, B-5 and C-2 in a flow-through configuration and later breach them.
 - In mid-October, the comment period on the proposed changes to the monitoring points closed. Comments Broomfield, Westminster, Northglenn and the Woman Creek Reservoir Authority issued are attached.
- 10:45 AM Briefing on History of Rocky Flats Stewardship Council (briefing memo attached)
- With changes to the Board composition since the group's inception in 2006, we will take a step back and discuss the reasons for the Stewardship Council – our legislative roots, mission, and focus since 2006.
- 11:15 AM Public comment
- 11:25 AM Updates/Big Picture Review
1. Member Updates
 2. Review Big Picture

EXECUTIVE SESSION

Adjourn

Next Meetings: February 7, 2011 (remainder of 2011 schedule to be determined at February 7th meeting)

Business Items

- September 13, 2010, draft board meeting minutes
- List of Stewardship Council checks

DOE Quarterly Briefing

- Cover memo
- Quarterly report (minus appendices)

ROCKY FLATS STEWARDSHIP COUNCIL

Monday, September 13, 2010, 8:30 AM – 11:45 AM

**Rocky Mountain Metropolitan Airport, Terminal Building, Mount Evans Room
11755 Airport Way, Broomfield, Colorado**

Board members in attendance: Lisa Morzel (Director, City of Boulder), Carl Castillo (Alternate, City of Boulder), Meagan Davis (Alternate, Boulder County), Lori Cox (Director, Broomfield), David Allen (Alternate, Broomfield), Greg Stokes (Alternate, Broomfield), Bill Fisher (Director, Golden), Kate Newman (Alternate, Jefferson County), Shelley Stanley (Director, Northglenn), Chris Hanson (Alternate, Superior), Bob Briggs (Director, Westminster), Ron Hellbusch (Alternate, Westminster), Jeannette Hillery (Director, League of Women Voters), Shirley Garcia (Director, Rocky Flats Cold War Museum), Ann Lockhart (Alternate, Rocky Flats Cold War Museum), Sue Vaughan (Alternate, League of Women Voters), Roman Kohler (Director, Rocky Flats Homesteaders), Arthur Widdowfield (citizen).

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: Larry Patton (citizen), Hank Stovall (citizen), Vera Moritz (EPA), Carl Spreng (CDPHE), Marilyn Null (CDPHE), Rick Berendzen (USFWS), Scott Surovchak (DOE-LM), Rick DiSalvo (Stoller), Jeremiah McLaughlin (Stoller), George Squibb (Stoller), John Boylan (Stoller), Linda Kaiser (Stoller), Lynn Bowdidge (Stoller), Martha Derda (City of Broomfield), Cathy Shugarts (City of Westminster), Jennifer Bohn (RFSC accountant).

Convene/Agenda Review

Chair Lori Cox convened the meeting at 8:36 a.m. The first item was the consent agenda. Bob Briggs moved to approve the August Board meeting minutes. The motion was seconded Lisa Morzel. The motion to accept the minutes passed 11-0. Lisa Morzel moved to approve the checks. The motion was seconded Bob Briggs. The motion passed 11-0.

Executive Director's Report

David Abelson provided several updates to the Board. First, he updated the Board on his discussions with DOE regarding securing additional funding for the Stewardship Council. Although delayed by personnel changes at DOE-HQ, the Stewardship Council was awarded \$180,000 in mid-August. DOE also extended the Board's grant by one year, so that it now runs through February 28, 2012. David said that this date is key, because now the Board's funding, grant and IGA are all on the same timetable. He said DOE would like to use 2011 to make sure that the Stewardship Council is still fulfilling its congressionally-defined role. Beyond February 2012, any future funding will be contingent upon the Board continuing its role as the Rocky Flats Local Stakeholder Organization (LSO).

David also mentioned that Leroy Moore with the Rocky Mountain Peace and Justice Center has continued to protest the membership policies of Stewardship Council. Since the last meeting, Mr. Moore has written to federal agencies, including DOE's Office of General Counsel, advocating that this Board become a FACA organization. DOE wrote Mr. Moore telling him the Stewardship Council is not a FACA group. David also noted that Mr. Moore had an issue with a memo that Stewardship Council staff drafted regarding a recent offsite monitoring project. David said he would be meeting with Mr. Moore to talk about his concerns about the Stewardship Council. Lisa Morzel asked what rules exist regarding Board communication and public release of information. David said that because this group is a public entity, it is responsible for providing information upon request. David said staff will add a section to the Board's website that will be used to post various correspondence in order to ensure compliance, as well as to post information from other parties.

David moved on to an update on the planned changes to the Points of Compliance locations. He said that there had been a lot of dialogue going on, and added that, because of the nature of the process, Stewardship Council staff has been consciously not attending meetings that have been taking place between participating cities and DOE. This issue will be discussed in detail later in the meeting.

David Allen asked what part of the year the Stewardship Council reviews will occur in 2011. David Abelson said that they had not figured out a schedule yet, but will look at the process that was used in 2008. He added that, if the Board decides it wants to continue, each city will have to ratify the new IGA. There will also be discussions about a 'big picture' path forward, such as whether to continue working within same format. David Allen said that it would make sense to answer this question before working on the next work plan. David Abelson said this would depend on whether all governments decide to continue their participation in the Stewardship Council and whether there are any significant changes in the Board's mission. David Abelson asked Scott Surovchak (DOE) about whether DOE had developed a plan for how to conduct their evaluation of the Stewardship Council. Scott said this had not been decided. David added that he has not been hearing that any big changes will be needed. For example, the legislation is not changing, and DOE has not made any complaints about the Board's operations. Finally, he requested that if any government is thinking about not continuing, or believes that there is a need for any kind of major changes, they communicate this as early as possible. Lisa Morzel suggested that each member check in with their Council to get a sense for the interest in moving forward. David said that the Board should have a good idea about any changes by the November 2011 meeting, so that they would be reflected in the 2012 work plan.

Public Comment

There was none.

Board Review of Stewardship Council Activities for 2010 and Initial Review of 2011 Work Plan

The 2010 Stewardship Council work plan provides that the Board shall undertake a review of its work each year. 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 review is a first step in the Board approving the 2011 work plan. Board members received a draft 2011 work plan in their meeting packet, which is an update of the 2010 plan. Formal approval of the 2011 work plan will take place at the November 8th meeting.

David Abelson started the discussion by explaining the basic idea of the review is to reflect on the work done in 2010. He said that typically, this has been the shortest discussion annually. Bill Fisher noted that the outreach section of the work plan seems to stay at the same level each year. David Abelson answered by pointing out how individual members have handled outreach within their own organizations or constituencies. For example, Sue Vaughan with the League of Women Voters periodically asks staff for information to share with her group. He said that Board members are available when opportunities present themselves to share information in the community, and that staff is available to help provide information and presentations. David added that he does some of this on a national level. Sue Vaughan pointed out that the 'talking points' on the website are especially helpful in providing perspective on various issues or to 'put out fires'. Lisa Morzel explained how when the City of Boulder was concerned about prescribed burns, they called special study sessions. Also, she said she brings various Rocky Flats updates to her city, which are televised, a couple times a year. She said it is important to keep reminding the community about the importance of Rocky Flats. Lori Cox asked whether Stewardship Council staff receive requests from community groups or organizations. David said they do not receive many requests. Shirley Garcia said that the Rocky Flats Cold War Museum does various presentations throughout year, and that they receive a good number of requests. David Abelson summarized that the Board's outreach activities are a collective effort among various members and their own organizations. He said outreach does happen, but is not necessarily coordinated. Bill Fisher added that he also provides various Rocky Flats updates to the Golden City Council. He also said that this kind of ad hoc system might not be enough to keep awareness high enough in the community over the long-term, and was wondering if the Board had discussed this in the past. Jeannette Hillery was curious about whether anyone was getting requests from schools in the area. Shirley Garcia said that the Museum had presented to various local schools. David Abelson responded to Bill's question by saying that he thinks that the best ways to educate people about Rocky Flats are signage at the Refuge and the planned Museum. He added that both are not quite functional yet because of funding issues, but that is where the largest number of people will be able to be reached.

Lori Cox noted for the group that a paragraph had been added on Page 3 that addressed the continuing evaluation of DOE's proposed changes to dam breaching and points of compliance. David Allen suggested that this paragraph would fit better under #1 in that section. David Abelson said he agreed, however, since this issue has garnered more energy and dialogue since any issue since closure, he felt the Board would be remiss not to flag it as a separate bullet point, as it may leave people wondering if the Board was addressing this specific item. Lisa Morzel asked if there were any other activities that anyone could anticipate coming up that are not on the radar screen at the moment. David Abelson said he had been in touch with agencies to see what was coming up. In fact, this is why the item regarding the Refuge CCP was being removed from the 2011 plan. He said there could possibly be a larger activity related to the Solar Ponds Treatment System. This would fall under item #6, but could be pulled out and flagged as a separate issue. Lisa also asked if staff would be able to create a big picture covering a more

extended amount of time. David said they could definitely do this to flag big ticket items on the horizon. David Allen said that although activities related to the landfill have been slow lately because of dry conditions, this should be on the Board's radar screen because this will change if it starts getting very wet again.

David Abelson pointed out that the Board had included funding for an additional website in last year's budget. The plan was to create a website that was not associated with any particular organization in order to offer 'just the facts' on Rocky Flats issues. He pointed out that, given the issues that are currently being raised related to FACA, such an undertaking could get complicated. If the Board is obligated to post information from non-members on the website, it might result in things being posted that are not technically sound. If the new website is being promoted as having just the facts, it may create confusion. For this reason, the new website is being removed from the work plan and budget. Carl Castillo asked about the reason behind this new website idea. David Abelson said that there had been discussion about having a website serve as a central locale for basic information about Rocky Flats that was separate from any existing organizations' or agencies' websites that are specific to their own operations (minutes, meeting notices, membership, etc). There had also been discussion that management of this website could be passed to the Cold War Museum in the future. David referenced a memo that the Board received from the Office of General Counsel that directed the Stewardship Council to post information from non-members on its website upon request, which was what led him to question the effectiveness of creating this new site. Meagan Davis said that she sees the type of information referred to in the General Counsel memo as 'public comment' that could be separated from any factual content. Shirley Garcia pointed out the need to include a clear caveat that any information posted by outside entities does not reflect the Board's positions. She said it was also important to provide basic fact sheets for each post-closure area. Lisa Morzel asked who would write the fact sheets. David Abelson said that there is a lot of information available, and much of the work would be in re-packaging existing material to get the website started. He said the next level, involving the preparation of new fact sheets, would happen over time. He added that he had not thought about the option of posting 'public comment' on the existing Stewardship Council website, and leaving the 'facts-only' website alone. Carl Castillo asked why there would be a separate website. David said it was to create distance from organizational information. Lisa Morzel asked how much was budgeted. David said it had been \$4,500. She said she would like to get started on the website, and get it going incrementally. David clarified that the funding was primarily for webmaster tasks, and that creating the information would be part of the staff's responsibilities. Sue Vaughan said that the website could be almost like a virtual tour of the site. David Abelson said that a key factor would be figuring out a balance in terms of the level of the information, in order to appeal to the general public level of questions. He said most people in the community are more likely to ask questions such as whether it is safe to buy a house in a neighboring subdivision. He said they also will need to get ahead of the inevitable questions that will arise as the parkway is being built. David Allen said that he liked the idea of having basic fact sheets for each area that would include links to additional information and the original documents. Jeannette Hillery noted the importance of identifying the intended audience prior to creating the information. David Allen said that since most people simply ask if it is safe, going into too much detail about specific areas might be more than they need.

FY 11 Budget – Initial Review

Formal budget hearings will take place at the November 8th meeting. As part of this initial review, David Abelson began by noting that the budget is very straightforward. As background for new members, he said that because the Stewardship Council is a public organization, it is required to hold public hearings across two meetings in order to make any changes to the budget. The Board typically over-budgets within each category of expenses. These categories are used as general markers, whereas the Board itself makes decisions on specific expenditures. David reported that expenditures over the past few years have been flat. He added that if the Board makes any changes today, the revised budget will be presented at the next meeting. He said that the actual and projected expenses will also be updated at next meeting as data becomes available. David also pointed out that the categories used in the budget were designed to match with DOE's grant budget categories. There were no questions or changes.

Host DOE Quarterly Meeting

DOE was on hand to brief the Stewardship Council on site activities for the first quarter of 2010 (January - March 2010). The full report is available on DOE's website. Activities include surface water monitoring, groundwater monitoring, ecological monitoring, and site operations (inspections, maintenance, etc.). In order to transition into the next discussion, the surface water presentation was scheduled as the last topic.

Groundwater Monitoring and Operations -- John Boylan

John began by noting that it was a light monitoring quarter. All RCRA wells were monitored (six at PLF, four at OLF). The results were reviewed in accordance with the RFLMA Attachment 2 decision flowcharts and were generally consistent with past results. Results will be evaluated in the 2010 annual report.

At the Solar Ponds Treatment System, the site continues to collect samples at least weekly. Sample locations were chosen to support evaluation of Phase II, III, and the entire system. Split samples were collected periodically for contract lab analysis. At the Phase II cell, uranium removal decreased when flow rates increased to manage spring 2010 moisture. Uranium removal essentially ceased in July 2010. Media was replaced in August 2010 and the treatment effectiveness was restored. As part of the Phase III pilot studies, testing was completed at both Cell A (inert media) and Cell B (organic media). Inert media was selected for Phase IV alternative development.

LANL high-resolution uranium sampling was conducted at the SPPTS in order to determine the amounts of natural vs. anthropogenic uranium. At the sump installed as part of SPPTS Phase I (ITSS), both east and west drains feeding the sump were sampled. The West drain was found to be 50-51% anthropogenic uranium, while the east drain came in at 99% natural uranium. At the SPP discharge gallery during pre-closure, the uranium was predominantly natural. Post-closure, before Phase I, this area was predominantly anthropogenic. The result this spring was predominantly natural. This shows that Phase I is capturing, and the SPPTS is treating, more anthropogenic uranium.

Ongoing activities include conceptualizing and costing Phase IV alternatives (full-scale nitrate treatment) and operating Phase III to support nitrate treatment. The site also installed auxiliary flow distribution piping in the original Cell 1 to address biofouled piping and adding associated plumbing.

At the Mound and East trenches sites, effluent includes constituents above RFLMA values. Treatment effectiveness corresponds to residence time (how long the water is in contact with treatment media), media condition, and specific contaminants. Spring moisture presented high flow rates (less treatment). The Mound Treatment System is due for media replacement (coming fall 2010). It is now treating high concentrations of breakdown products (which take longer residence time to treat). Consultation was initiated and continues with CDPHE and additional sampling was conducted in June, July and August at RFLMA locations and additional locations between effluent and surface water performance locations. More information will be presented in second quarter and annual reports.

Site Operations -- Jeremiah McLaughlin

Monthly inspections at the OLF were completed on January 28, February 25, and March 30, and a vegetation inspection was completed on February 16. Seep 4 had some surface expression, but did not show any surface flow due to the rock drain that was installed in 2009. Seep 8 flowed at a rate of 2 to 5 gallons per minute (gpm) throughout the first quarter. The rock drain located at the base of the West Perimeter Channel was flowing at a rate of 0.5 gpm during the January inspection; flow increased to 2 to 4 gpm during the February and March inspections. Seep 7 showed a surface flow of approximately 0.5 gpm during the January inspection; flow increased to 2 to 4 gpm during the February and March inspections. The increased seep flow rates in February and March were due to the melting of recent snow events.

Settlement monuments were surveyed on March 26 and data are within the expected range per the Original Landfill Monitoring and Maintenance Plan (which is 1.34-2.86 feet depending on the location). Inclometers were measured on January 26, February 24, and March 30, 2010. March readings indicated deflection for inclinometers between Berm 1 and Berm 3. Surface cracking in vicinity of Berm 1 appears consistent with inclinometer indications, and also consistent with the findings of the 2008 geotechnical investigation. A small hairline crack that ran through the top and south face of Berm 1 was noted on March 30; the crack was filled and compacted with Rocky Flats alluvium the same day. The end of Berm 7 was observed as having slumped into the Eastern Perimeter Channel during the March 30 inspection. The area was too wet to perform any immediate repairs, but repairs were completed in June.

At the Present Landfill, the quarterly inspection was completed on February 25. No areas of concern were observed. The vegetation inspection was completed on February 17.

Ron Hellbusch asked about an elevated plutonium result in Pond C2. Rick said that the contact record for this issue was on website. He added that since that April sample, the carboy has not filled up enough to take another sample, due to dry conditions. The site did sample Pond C2, and found very low levels of plutonium. Since it is impacted by the 903 lip area, fate and transport models predicted some movement. Therefore, vegetation is important. The site is

watching this, and has enhanced long-term vegetation and erosion control. David Allen asked if they will be re-seeding these areas in the future and Rick said they were.

Rick was asked if there will be a remedy for the area impacted by the lubricated organic layer. Rick said that the problem does not justify the cost for a slurry wall or caissons, and that the hope is that it will stabilize over time. Shelley Stanley asked if all of the inclinometers were working. Rick said inclinometers 2, 3 and 4 have each moved a couple of inches. This is an area of historic landslides, and lots of fill was brought in during closure. In moist conditions, it is prone to slide. The geotechnical investigation showed no risk of mass failure. This information can be found in the 2009 Annual Site Report. The current monitoring and maintenance plan calls for watching the surface. If cracking, slumping, or differential settling is found, the area is filled and smoothed out. Sometimes they will bring in some soil for contouring to minimize water percolating down through the cover. Lisa Morzel asked if the site is planning to re-install the inclinometers. Rick said that is not the current plan. Lisa asked how they can differentiate between movement of the landslide and the landfill. Rick said that the top inclinometer has not moved at all, so that is how they calculate the differential. Also, since they added channels for drainage, things have improved. For the time being, maintenance and observation are sufficient. However, this may change in the future, depending on cost effectiveness. Lisa asked how thick the cover on landfill was. Rick said vegetation was stripped off, and then a foot of clean soil was brought in to do design contours, and another two feet was added on top of that.

Annual Site (COU) Inspection -- Rick DiSalvo

The annual inspection of the Central Operating Unit (COU) took place on March 17, 2010. This project includes:

- Inspect and monitor for evidence of significant erosion
 - Conduct visual observation for precursors of significant erosion
 - Evaluate proximity of any significant erosion to subsurface features
- Inspect effectiveness of institutional controls (ICs)
 - Determine effectiveness by any evidence of violation of ICs and determine whether required signs are in place
 - Verify that Environmental Covenant is in Administrative Record and on file with Jefferson County (verified March 19, 2010)
- Inspect for evidence of any adverse biological conditions

To perform this inspection, the COU was divided into five areas - Former 300 and 400 Areas; Former 700 and 991 Areas; Former 800 Area; Former 903 Pad and East Trenches Area; and Former Ash Pits Area. Landfills, treatment systems, and water monitoring stations are inspected during the year on a routine basis and are therefore not included in this walk-through. The teams walked down the surface of each area to observe conditions. No significant erosion was noted – only minor holes and surface debris. Any holes found were filled in, and debris and trash was collected or flagged for pick up. No adverse biological conditions were noted. No evidence of IC violations were found, and all signs were in place. Lisa Morzel asked if they found any traces of people inside the fence. Rick said they did not. In 2009, they found some shotgun shells by the landfill.

Surface Water Monitoring -- George Squibb

There were no terminal pond discharges during the quarter. Water was transferred from A-3 to A-4 intermittently throughout the quarter (total of approximately 12.6 MG). Pond levels during the quarter averaged 32.8 percent of capacity. As of August, these levels were even lower. There was 1.58 inches of total precipitation during the quarter, which is 124% of the 1993–2009 average. Flow rates ranged from 58 (GS03) - 216% (GS01) of average.

At the Original Landfill (OLF), surface water quality results triggered monthly sampling for selenium; selenium was not detected in subsequent samples. At the Present Landfill (PLF), surface water quality results were all below standards for the quarter.

George reviewed several charts showing sampling results (including plutonium, americium, uranium and nitrates) for Points of Compliance and Points of Evaluation. Water quality at all points was below applicable standards during the quarter.

David Allen asked George to show when Pond C2 discharges took place on the slide showing 1997-2010 GS01 plutonium data. Shelly Stanley asked if plutonium and americium were associated with sediment and turbidity. George said this was not an issue any more. George said that, in looking at the data overall, any detection results are almost equal to the uncertainty range. David Allen said he was looking for sampling data associated with discharges. He said he would like to see both upstream and downstream data in presentations. George said that the site looks thoroughly at all of the data because they do not want something to crop up that they should have seen coming. For example, with the recent .16 reportable value, they could have waited for next sample. However, since they realized it would have been high anyway, they reported proactively to the regulators.

Plutonium and Americium Loading – George Squibb

George said that post-closure concentrations remain within historic variability and have decreased significantly. Loading has also decreased significantly. This results in an insignificant contribution to sediment concentrations. Looking at load is not a RFLMA requirement. Based on reduction in loads, this is an insignificant contribution to sediment concentrations. Sediments have not been characterized since 2005, but he said they know from data that it will not have changed much. Lori Cox asked if there was a way to predict loads in future. George said he estimates they will either stay the same or go down. He added that, as vegetation becomes thicker and more established, loads should decrease. Lori asked about variables that can affect water quality. George said these include hail storms and heavier rains. He said that by looking at total suspended solids (TSS), it will provide an indication of how much material is moving based on various events.

George discussed that concentrations have stayed about the same since pre-closure. To illustrate this point, he presented a chart showing large decreases in load during that time period. The load is less because there is a lot less water. Shirley asked about a mid-point sample. George said that since composite samples are based on period of time, this would refer to middle of that time period.

George next talked about the dam breach conceptual design. The dam breach project plans call for making a notch in the dam rather than removing the entire dam structure. They will take the material removed in making the notch and add it to the existing pond pool area to make it more flat, and add wetlands and vegetated areas. Lori Cox asked what the plans are to test the water once sediments are disturbed. George said they will still be monitoring downstream at POCs, and will also be limiting the movement of soil as they do in all actions onsite. He said that no water leaves the COU without being monitored several times. Shelley asked if they would be able to operate in a flow-through condition without breaching the dams. George said that is exactly what they are proposing. She also asked if the site has received approval from CDPHE given the plan to excavate below three feet as part of this project. Rick said they have. David Allen asked how many sample were taken as part of the 2005 sediment characterization. Rick said probably about 12. David asked if any if these were on the dam structure. Rick said he thought a couple of them were. David asked what the action levels were for the removal of sediments in the upstream B-series ponds. Rick said from the surface down to 3 feet, the action levels were 50 pCi/g. Below 3 feet, the action levels depend on number of things. If an action was triggered, there was a sliding scale up to 1000 pCi/g for the subsurface. This applied at only a few places, such as the 903 pad, buried process lines, and the B1-B3 ponds. Shirley Garcia asked about the definition of a storm event. George said it is generally when there is direct runoff. She asked that if the solar ponds are not a major source of uranium, whether the treatment could be missing another source plume. George said that so much of it is naturally occurring. She also wondered about nitrates. George said they are looking into this. Shelley Stanley asked how many of the previously breached dams had sediments removed. George said that the B-series (1-3) did, and four more (including A-series) did not. David Allen said that sampling results, including looking at timing and sequence of events, should come before the next dams are breached. Lori Cox asked when these sampling regimens started. George said most were implemented this past year, although some were in place previously. Shirley Garcia asked if the site does any modeling to see what would happen with loss of vegetation (i.e. fire). George said they do not, although the Site Ecology staff does some of this.

Continue Roundtable Discussion on Changes to RFLMA Points of Compliance and Dam Breach EA

This conversation was designed to build on the Board's conversation from its August 16th meeting. The goal for the meeting was to develop an organizational position. As discussed in prior meetings, DOE is proposing to move the existing surface water and groundwater points of compliance stationed along Indiana Street to the eastern edge of the COU. Because DOE will manage ponds A-4, B-5 and C-2 in a flow-through configuration and later breach them, DOE is also proposing to continue to collect water quality data along Woman and Walnut creeks at the federal boundary along Indiana Street. The conversation was also designed to include the DOE dam breach proposal, as changing the points of compliance, eliminating the batch and release protocols, and breaching the dams are linked activities.

Chair Lori Cox asked first for an update from the downstream communities before the Board discussion. David Allen reported that Broomfield had been meeting with CDPHE, EPA and DOE. There have been several meetings and phone conversations since the last Stewardship Council meeting, with more on the schedule in upcoming days. David said Broomfield still had

not received formal responses to letters they sent to CDPHE and DOE, although it is their understanding that responses are being worked on. Carl Spreng said that he had completed a draft response about a month ago, and that it was just held up in review. He offered to share the draft letter. David Allen said that his community is positive about how things have been going. He said Broomfield may or may not submit another request to extend the comment period, depending on how next couple of meetings go. He said he does not anticipate requesting any formal position from the Stewardship Council. Ron Hellbusch added that Westminster had also been in some of the meetings, had submitted letters, and stated their case and concerns clearly. He said they were encouraged by the agencies' participation in reviving something equivalent to the Water Working Group, and that everyone just needs to continue working together. Lori Cox took a moment to update those in attendance that CDPHE has agreed to form a technical group for dialogue and collaboration. Sue Vaughan asked about the history behind the Water Working Group. Shirley Garcia explained that it had been a subgroup looking at developing the Integrated Monitoring Plan, which was focused on post-closure monitoring for the whole site. David Abelson asked who would be sending out notices for this group and if Rik Getty would be included on the list. Lori Cox said it would be CDPHE. Carl Spreng said he had been charged with scheduling an ad hoc meeting with interested parties, which was to take place the next day. He said they will discuss issues that have been raised over the past year, and seek to resolve as many as possible. He said they will also discuss moving forward, possibly looking other topics. David Allen said that the Broomfield City Manager is requesting a map that depicts the location of remaining contamination. He said the meeting will also be used to come to a clear understanding of what issues need resolution.

Lori Cox noted that the meeting was already past its scheduled end time. The Board indicated that it was fine for discussion to continue at the next meeting.

Public comment

There was none.

Updates/Big Picture Review

November 8, 2010 (second Monday)

Potential Business Items

- Budget Hearings for 2011 RFSC budget

Potential Briefing Items

- Host LM quarterly public meeting
- Approve 2011 RFSC Work Plan
- Review history of RFSC
- Continue discussing interpretive signage for RF (note: will probably postpone)

David Abelson noted that DOE will continue to include some of the broader issues as part of their quarterly report, as they did today. Staff will budget more time for this. They will also look to schedule a discussion about the Original Landfill at a future meeting as well.

February 7, 2011

Potential Business Items

- Elect 2011 Officers
- Adopt resolution regarding 2011 meeting dates

Potential Briefing Items

- Host LM quarterly public meeting
- Approve Washington, D.C. talking points
- Continue discussing interpretive signage for Rocky Flats

The meeting was adjourned at 12:11 p.m.

Respectfully submitted by Erin Rogers.

3:22 PM

10/19/10

Rocky Flats Stewardship Council
Check Detail
September 3 through October 19, 2010

Type	Num	Date	Name	Account	Paid Amount	Original Amount
Bill Pm...	1445	9/12/2010	Crescent Strategies, LLC	CASH-Wells Fargo-Operating		-7,173.24
Bill	8/31/...	8/31/2010		Personnel - Contract	-6,850.00	6,850.00
				Telecommunications	-123.40	123.40
				TRAVEL-Local	-63.50	63.50
				Postage	-15.99	15.99
				Printing	-100.44	100.44
				Misc Expense-Local Government	-19.91	19.91
TOTAL					-7,173.24	7,173.24
Bill Pm...	1446	9/12/2010	Jennifer A. Bohn	CASH-Wells Fargo-Operating		-374.00
Bill	10-74	8/31/2010		Accounting Fees	-374.00	374.00
TOTAL					-374.00	374.00
Bill Pm...	1447	9/12/2010	Seter & Vander Wall, P.C.	CASH-Wells Fargo-Operating		-988.00
Bill	58957	8/31/2010		Attorney Fees	-988.00	988.00
TOTAL					-988.00	988.00
Bill Pm...	1448	9/12/2010	The Rogers Group, LLC	CASH-Wells Fargo-Operating		-975.00
Bill	8/25/...	8/25/2010		Personnel - Contract	-475.00	475.00
				Personnel - Contract	-500.00	500.00
TOTAL					-975.00	975.00
Check	1449	9/12/2010	Qwest	CASH-Wells Fargo-Operating		-27.67
				Telecommunications	-27.67	27.67
TOTAL					-27.67	27.67
Bill Pm...	1450	9/30/2010	Blue Sky Bistro	CASH-Wells Fargo-Operating		-195.85
Bill	356	9/1/2010		Misc Expense-Local Government	-195.85	195.85
TOTAL					-195.85	195.85
Check	1451	10/1/2010	Qwest	CASH-Wells Fargo-Operating		-28.50
				Telecommunications	-28.50	28.50
TOTAL					-28.50	28.50
Bill Pm...	1452	10/12/2010	Crescent Strategies, LLC	CASH-Wells Fargo-Operating		-7,299.05
Bill	9/30/...	9/30/2010		Personnel - Contract	-6,850.00	6,850.00
				Telecommunications	-129.40	129.40
				TRAVEL-Local	-44.00	44.00
				Postage	-15.99	15.99
				Printing	-221.76	221.76
				Supplies	-37.90	37.90
TOTAL					-7,299.05	7,299.05
Bill Pm...	1453	10/12/2010	Jennifer A. Bohn	CASH-Wells Fargo-Operating		-357.00
Bill	10-79	9/30/2010		Accounting Fees	-357.00	357.00
TOTAL					-357.00	357.00
Bill Pm...	1454	10/12/2010	Seter & Vander Wall, P.C.	CASH-Wells Fargo-Operating		-935.00

3:22 PM

10/19/10

Rocky Flats Stewardship Council
Check Detail
September 3 through October 19, 2010

<u>Type</u>	<u>Num</u>	<u>Date</u>	<u>Name</u>	<u>Account</u>	<u>Paid Amount</u>	<u>Original Amount</u>
Bill	59163	9/30/2010		Attorney Fees	-935.00	935.00
TOTAL					-935.00	935.00
Bill Pm...	1455	10/12/2010	The Rogers Group, LLC	CASH-Wells Fargo-Operating		-550.00
Bill	10/10...	9/30/2010		Personnel - Contract	-550.00	550.00
TOTAL					-550.00	550.00

ROCKY FLATS STEWARDSHIP COUNCIL

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

(303) 412-1200
(303) 600-7773 (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
Arthur Widdowfield

MEMORANDUM

TO: Stewardship Council Board
FROM: Rik Getty
SUBJECT: DOE Quarterly Briefing
DATE: October 27, 2010

We have scheduled one hour for DOE to discuss the second quarter of 2010 (April - June). The report can be found at: http://www.lm.doe.gov/Rocky_Flats/Documents.aspx

There is no executive summary in the report. We have attached the report minus the appendices (the entire report is 296 pages). More extensive information on landfill inspections, water quality results, and extensive repairs to the Original Landfill (OLF) can be found in Appendices A, B, and C of the report. In addition, as noted in Appendix C, a new soil sampling program was instituted at the OLF for further soil characterization.

DOE will brief on the following topics:

- surface water monitoring;
- groundwater monitoring;
- ecological monitoring; and,
- site operations (inspections, pond operations, security, general maintenance, etc.).

Following are excerpts of surveillance and maintenance activities. Please contact me if you have any questions.

Present Landfill Inspection

Based on the PLF vegetation monitoring conducted in 2009 and reported in the 2009 annual Report, quarterly PLF vegetation monitoring is no longer required since the PLF vegetation cover has met the success criteria to exit from quarterly monitoring according to requirements in the PLF Monitoring & Maintenance Plan. Although quarterly vegetation monitoring is no longer required for the PLF cover, the PLF vegetation will still be monitored as part of the ongoing general Site vegetation monitoring. The final quarterly PLF vegetation monitoring was conducted on February 17, 2010.

The routine PLF inspection for the second quarter of CY 2010 was performed on May 27, 2010. No vegetation evaluation was completed due to the success criteria being met as explained in the previous paragraph. No significant problems were observed during these inspections. Copies of the landfill inspection forms are presented in Appendix A.

Original Landfill Inspection

Routine OLF inspections during the second quarter of CY 2010 were performed on April 29, May 27, and June 30, 2010. The landfill cover vegetation was evaluated on July 8, 2010. The completed inspection forms are presented in Appendix A.

Special OLF sampling

Contact Record 2010-01 documents consultation regarding performing targeted soil sampling at the OLF to evaluate residual contamination levels in relation to CDPHE's August 2008 Policy, *End of Post-Closure Care* (CDPHE 2008). Contact Record 2010-01 is included in Appendix C and is also posted on the Rocky Flats website at: www.lm.doe.gov/Rocky_Flats/ContactRecords.aspx.

CDPHE's *End of Post-Closure Care* (2008) policy discusses criteria to be evaluated to determine when post-closure care of hazardous waste landfills is no longer necessary, based on a demonstration that the closed unit does not significantly threaten human health or the environment. The CDPHE criteria include whether a closed unit may meet "clean closure" standards, or whether a performance-based evaluation shows that the closed unit does not pose a threat for which post-closure care is needed. The "clean closure" standards are based on CDPHE-specified residential- and unrestricted-use soil-screening levels.

DOE believes that the OLF sampling effort can provide data to characterize a reduction in contaminant levels over time. The data can help establish a baseline for current conditions and make it easier to surmise when certain OLF post-closure maintenance requirements might be ended. Under the CDPHE policy, ending post-closure care would not necessarily mean that postclosure controls for the OLF would end. However, certain monitoring and maintenance requirements may be reduced, given that the Rocky Flats Site will remain subject to land use restrictions under an existing Environmental Covenant.

On June 9, 2010, CDPHE approved the OLF Sampling and Analysis Plan (SAP). The SAP describes planned soil sampling at the OLF using a Geoprobe unit for characterization of residual contamination. This will provide preliminary data for evaluation of OLF soils' residual contamination levels for comparison to the CDPHE policy regarding post-closure care termination criteria.

The results of the evaluation will include recommendations on whether to pursue termination of specific post-closure care requirements and will propose additional characterization, if any, to perform assessments in support of the termination of requirements.

Groundwater Treatment Systems

Mound site Plume Treatment System (MSPTS)

Routine maintenance activities continued at the MSPTS through the second quarter of CY 2010. These activities included raking the media each week, checking and flushing filters, and inspecting influent and effluent flow conditions.

In addition, the flow configuration was adjusted in June to parallel up-flow. This change was made to improve system operation during the higher flows of spring; the increased influent needed to be pushed through the media more quickly than the partially clogged media would allow under a down-flow configuration.

Sampling and analysis of the RFLMA locations supporting the MSPTS was planned for the second quarter of CY 2010, and the effects of this increased flow are discussed in Section 3.1.10.1.

Planning was begun on replacing the treatment media at the MSPTS.

East Trenches Plume Treatment System (ETPTS)

Routine maintenance activities continued at the ETPTS through the second quarter of CY 2010. These activities included checking influent and effluent flow conditions and water levels in the cells. Sampling and analysis of the RFLMA locations supporting the MSPTS was planned for the second quarter of CY 2010 and the effects of this increased flow are discussed in Section 3.1.10.2.

Solar Ponds Plume Treatment System (SPPTS)

Routine maintenance activities continued at the SPPTS through the second quarter of CY 2010. These activities included weekly inspections of the solar/battery systems that power the pumps, the operation of the pumps, and influent and effluent flow conditions.

The Phases II and III upgrades that were completed in the second quarter of CY 2009 continued to be a focal point for optimization efforts. The higher flows of spring led to more rapidly accumulating groundwater within the intercept trench. Sampling and analysis of the RFLMA locations supporting the SPPTS was planned for the second quarter of CY 2010, and the effects of this increased flow are discussed in Section 3.1.10.3.

Optimization efforts in Phase III continued and primarily focused on further adjustments to carbon and phosphorus dosing rates and influent flow rates. Possible reasons for the reduced treatment effectiveness of the Phase II cell continued to be considered and evaluated. A team of geochemists developed a recommendation for multiple treatment cells, run in parallel, and varying slightly from one another so as to enable a final determination of the cause for, and resolution of, this decreased effectiveness. This and other alternatives were under consideration as the second quarter of CY 2010 ended.

Erosion Control and Re-vegetation

Maintenance of the Site erosion control features required continued effort throughout the first quarter of 2010, especially following high-wind or precipitation events. Erosion wattles and matting loosened and displaced by high winds or rain were repaired. Erosion controls were

installed and maintained for the various projects that were ongoing during the second quarter. Several areas were inter-seeded with additional native species to increase vegetation cover.

Water Monitoring Highlights

Terminal ponds A-4 and B-5 were discharged during the second quarter. All pre-discharge sampling met applicable water quality standards.

During the second quarter of CY 2010, the water monitoring network successfully met the targeted monitoring objectives as required by RFLMA and in conformance with RFSOG implementation guidance. The RFLMA network consisted of 11 automated gauging stations, 10 surface water grab-sampling locations, 8 treatment system locations, 99 wells, and 8 precipitation gages. During the quarter, 76 flow-paced composite samples, 17 surface water grab samples, 21 treatment system samples, and 90 groundwater samples were collected according to RFLMA protocols.

All water-quality data at the RFLMA POCs remained well below the applicable standards through the second quarter of CY 2010.

Elevated levels of Pu-239,240 were measured at POE SW027 during the quarter. These data are presented and discussed further in Section 3.1.3.2. All other analyte concentrations at SW027 remained below reporting levels during the second quarter.

Ecological monitoring

No evidence of adverse biological conditions (e.g., unexpected mortality or morbidity) was observed during monitoring and maintenance activities in the second quarter of CY 2010.

Rocky Flats Site

**Quarterly Report of
Site Surveillance and
Maintenance Activities
Second Quarter
Calendar Year 2010**

October 2010



U.S. DEPARTMENT OF
ENERGY

Legacy
Management

Contents

Abbreviations.....	v
1.0 Introduction	1
2.0 Site Operations and Maintenance.....	2
2.1 Colorado WQCC Proceedings Related to Rocky Flats.....	2
2.2 Landfills.....	3
2.2.1 Present Landfill.....	3
2.2.1.1 Inspection Results	3
2.2.1.2 Settlement Monuments	3
2.2.2 Original Landfill	3
2.2.2.1 Inspection Results	3
2.2.2.2 Settlement Monuments	4
2.2.2.3 Inclinometers.....	4
2.2.2.4 Slumps.....	7
2.2.2.5 Seeps	8
2.2.2.6 OLF Soil Sampling Project.....	8
2.3 Groundwater Treatment Systems.....	11
2.3.1 Mound Site Plume Treatment System	11
2.3.2 East Trenches Plume Treatment System.....	12
2.3.3 Solar Ponds Plume Treatment System.....	12
2.3.4 PLF Treatment System	12
2.4 Erosion Control and Revegetation.....	12
3.0 Environmental Monitoring.....	13
3.1 Water Monitoring.....	13
3.1.1 Water Monitoring Highlights.....	13
3.1.2 POC Monitoring.....	14
3.1.2.1 Location GS01	14
3.1.2.2 Location GS03	16
3.1.2.3 Location GS08.....	18
3.1.2.4 Location GS11	20
3.1.2.5 Location GS31	21
3.1.3 POE Monitoring.....	22
3.1.3.1 Location GS10	22
3.1.3.2 Location SW027	24
3.1.3.3 Location SW093	26
3.1.4 AOC Wells and Surface Water Location SW018.....	27
3.1.5 Boundary Wells	27
3.1.6 Sentinel Wells	27
3.1.7 Evaluation Wells.....	27
3.1.8 PLF Monitoring	28
3.1.9 OLF Monitoring.....	28
3.1.10 Groundwater Treatment System Monitoring.....	28
3.1.10.1 Mound Site Plume Treatment System	28
3.1.10.2 East Trenches Plume Treatment System.....	28
3.1.10.3 Solar Ponds Plume Treatment System.....	29
3.1.10.4 PLF Treatment System	29
3.1.11 Pre-Discharge Monitoring	29
3.1.12 Non-RFLMA Monitoring	29

3.1.12.1	Grab Sampling for Uranium and NO ₃ +NO ₂ in North and South Walnut Creeks.....	30
3.1.12.2	Continuous Flow-Paced Composite Sampling for Uranium in North and South Walnut Creeks	31
3.1.12.3	Synoptic Storm-Event Sampling in North and South Walnut Creeks	32
4.0	Adverse Biological Conditions	34
5.0	References	34

Figures

Figure 1.	Original Landfill Observed Surface Cracking Location and Inclinometer Locations.....	5
Figure 2.	Volume-Weighted 30-Day Average Plutonium and Americium Activities at GS01: Calendar Year Ending Second Quarter CY 2010.....	14
Figure 3.	Volume-Weighted 30-Day Average Total Uranium Concentrations at GS01: Calendar Year Ending Second Quarter CY 2010.....	15
Figure 4.	Volume-Weighted 30-Day Average Plutonium and Americium Activities at GS03: Calendar Year Ending Second Quarter CY 2010.....	16
Figure 5.	Volume-Weighted 30-Day Average Total Uranium Concentrations at GS03: Calendar Year Ending Second Quarter CY 2010.....	17
Figure 6.	Volume-Weighted 85th Percentile of 30-Day Average Nitrate+Nitrite Concentrations at GS03: Calendar Year Ending Second Quarter CY 2010.....	17
Figure 7.	Volume-Weighted 12-Month Rolling Average Plutonium and Americium Activities at GS08: Calendar Year Ending Second Quarter CY 2010.....	18
Figure 8.	Volume-Weighted 12-Month Rolling Average Total Uranium Concentrations at GS08: Calendar Year Ending Second Quarter CY 2010.....	19
Figure 9.	Volume-Weighted 12-Month Rolling Average Nitrate + Nitrite as Nitrogen Concentrations at GS08: Calendar Year Ending Second Quarter CY 2010.....	19
Figure 10.	Volume-Weighted 12-Month Rolling Average Plutonium and Americium Activities at GS11: Calendar Year Ending Second Quarter CY 2010.....	20
Figure 11.	Volume-Weighted 12-Month Rolling Average Total Uranium Concentrations at GS11: Calendar Year Ending Second Quarter CY 2010.....	20
Figure 12.	Volume-Weighted 12-Month Rolling Average Nitrate + Nitrite as Nitrogen Concentrations at GS11: Calendar Year Ending Second Quarter CY 2010.....	21
Figure 13.	Volume-Weighted 12-Month Rolling Average Plutonium and Americium Activities at GS31: Calendar Year Ending Second Quarter CY 2010.....	21
Figure 14.	Volume-Weighted 12-Month Rolling Average Total Uranium Activities at GS31: Calendar Year Ending Second Quarter CY 2010.....	22
Figure 15.	Volume-Weighted Average Plutonium and Americium Compliance Values at GS10: Calendar Year Ending Second Quarter CY 2010.....	23
Figure 16.	Volume-Weighted Average Total Uranium Compliance Values at GS10: Calendar Year Ending Second Quarter CY 2010.....	23
Figure 17.	Volume-Weighted Average Plutonium and Americium Compliance Values at SW027: Calendar Year Ending Second Quarter CY 2010.....	24
Figure 18.	Volume-Weighted Average Total Uranium Compliance Values at SW027: Calendar Year Ending Second Quarter CY 2010.....	25

Figure 19. Volume-Weighted Average Plutonium and Americium Compliance Values at SW093: Calendar Year Ending Second Quarter CY 2010	26
Figure 20. Volume-Weighted Average Total Uranium Compliance Values at SW093: Calendar Year Ending Second Quarter CY 2010	27
Figure 21. Grab Sampling Locations in North and South Walnut Creeks	30
Figure 22. Continuous Flow-Paced Composite Sampling Locations in North and South Walnut Creeks.....	32
Figure 23. Synoptic Storm-Event Sampling Locations in North and South Walnut Creeks	33

Tables

Table 1. CY2010 Composite Sampling Results for SW027	25
Table 2. Summary Statistics for NO ₃ +NO ₂ and Uranium Grab Sampling	31
Table 3. Summary Statistics for Uranium Continuous Flow-Paced Composite Sampling	32
Table 4. Summary of CY2010 Synoptic Storm-Event Sampling	34

Appendixes

Appendix A	Landfill Inspection Forms and Survey Data
Appendix B	Analytical Results for Water Samples—Second Quarter CY 2010
Appendix C	OLF Repair and Investigation

Abbreviations

AOC	area of concern
CAD/ROD	Corrective Action Decision/Record of Decision
CDPHE	Colorado Department of Public Health and Environment
COU	Central Operable Unit
CY	calendar year
DOE	U.S. Department of Energy
EPA	U.S. Environmental Protection Agency
ETPTS	East Trenches Plume Treatment System
gpm	gallons per minute
GWIS	Groundwater Intercept System
IHSS	Individual Hazardous Substance Site
IM/IRA	Interim Measure/Interim Remedial Action
LM	Office of Legacy Management
µg/L	micrograms per liter
MCL	maximum contaminant level
mg/L	milligrams per liter
M&M	monitoring and maintenance
MSPTS	Mound Site Plume Treatment System
OLF	Original Landfill
PCB	polychlorinated biphenyl
pCi/L	picocuries per liter
PLF	Present Landfill
PLFTS	Present Landfill Treatment System
POC	point of compliance
POE	point of evaluation
PRG	preliminary remediation goal
RCRA	Resource Conservation and Recovery Act
RFLMA	<i>Rocky Flats Legacy Management Agreement</i>
RFSOG	<i>Rocky Flats Site Operations Guide</i>
SAP	Sampling and Analysis Plan
SID	South Interceptor Ditch
Site	Rocky Flats Site

SPPTS	Solar Ponds Plume Treatment System
SVOC	semivolatile organic compound
VOC	volatile organic compound
WQCC	Water Quality Control Commission
WRW	wildlife refuge worker

1.0 Introduction

The U.S. Department of Energy (DOE) Office of Legacy Management (LM) is responsible for implementing the final response action selected in the *Corrective Action Decision/Record of Decision for Rocky Flats Plant (USDOE) Peripheral Operable Unit and Central Operable Unit (CAD/ROD)* (DOE 2006) issued on September 29, 2006, for the Rocky Flats Site (the Site). DOE, the U.S. Environmental Protection Agency (EPA), and the Colorado Department of Public Health and Environment (CDPHE) have chosen to implement the monitoring and maintenance requirements of the CAD/ROD as described in the *Rocky Flats Legacy Management Agreement (RFLMA)* (DOE 2007a). Attachment 2 of RFLMA defines the Central Operable Unit (COU) remedy surveillance and maintenance requirements, the frequency for each required activity, and the monitoring and maintenance locations. The requirements include environmental monitoring; maintenance of the erosion controls, access controls (signs), landfill covers, and groundwater treatment systems; and operation of the groundwater treatment systems. RFLMA also requires that the institutional controls, in the form of use restrictions as established in the CAD/ROD, be maintained.

This report is required in accordance with Section 7.0 of RFLMA Attachment 2. The purpose of this report is to inform the regulatory agencies and stakeholders of the remedy-related surveillance, monitoring, and maintenance activities being conducted at the Site. LM provides periodic communications through several means, such as this report, web-based tools, and public meetings.

LM prepared the *Rocky Flats Site Operations Guide (RFSOG)* (DOE 2009a) to serve as the primary internal document to guide work to satisfy the requirements of RFLMA and implement best management practices at the Site.

Several other Site-specific documents provide additional detail regarding the requirements described in RFLMA Attachment 2, including all aspects of surveillance, monitoring, and maintenance activities, as well as data evaluation protocols.

Monitoring data and summaries of surveillance and maintenance activities for past quarters are available in the quarterly reports. Extensive discussion and evaluation of surveillance, monitoring, and maintenance activities are presented each calendar year in the annual report of Site surveillance and maintenance activities.

This report addresses remedy-related surveillance, monitoring, and operations and maintenance activities conducted at the Site during the second quarter of calendar year (CY) 2010 (April 1 through June 30) and includes:

- Maintenance and inspection of the Original Landfill (OLF) and Present Landfill (PLF),
- Maintenance and inspection of the four groundwater treatment systems,
- Erosion control and revegetation activities, and
- Routine (in accordance with RFLMA and the RFSOG) water monitoring.

2.0 Site Operations and Maintenance

2.1 Colorado WQCC Proceedings Related to Rocky Flats

The Colorado Water Quality Control Commission (WQCC) considered adoption of revisions to the “Basic Standards and Methodologies for Surface Water,” Regulation 31 (Title 5 *Code of Colorado Regulations* 1002-31) (Regulation 31), pursuant to its triennial review process for Regulation 31. The rulemaking hearing was held on June 7 and 8, 2010.

The Colorado Water Quality Control Division proposed that the WQCC revise the Regulation 31 table value criterion for uranium for the water supply use from the current single value based on a maximum contaminant level (MCL), which is 30 micrograms per liter ($\mu\text{g/L}$) to a hyphenated human-health-based standard/MCL standard of 16.8–30 $\mu\text{g/L}$. The revision was proposed to achieve consistency with Commission Policy 96-2, Human Health-Based Water Quality Criteria and Standards.

In 2009, the WQCC revised the site-specific standards for Big Dry Creek segments 4a, 4b, and 5 for uranium in the “Classifications and Numeric Standards for South Platte River Basin, Laramie River Basin, Republican River Basin, Smoky Hill River Basin,” Regulation 38 (Title 5 *Code of Colorado Regulations* 1002-38) (Regulation 38). The current site-specific Regulation 38 uranium standard is 16.8 $\mu\text{g/L}$. RFLMA Attachment 2, Legacy Management Requirements, Table 1, Surface Water Standards, was subsequently modified to incorporate the 16.8 $\mu\text{g/L}$ standard. The proceedings to revise the site-specific uranium standard and the subsequent RFLMA modification are discussed in the 2009 Annual Report (DOE 2010a).

Based on the Regulation 31 triennial review proceedings, the WQCC revised the Regulation 31 table value for uranium to the hyphenated value of 16.8–30 $\mu\text{g/L}$, effective January 1, 2011. The following footnote in Regulation 31, Section 31.16, Tables, applies to the hyphenated standard:

Table III footnote (13) Whenever a range of standards is listed and referenced to this footnote, the first number in the range is a strictly health-based value, based on the Commission’s established methodology for human health-based standards. The second number in the range is a maximum contaminant level, established under the federal Safe Drinking Water Act that has been determined to be an acceptable level of this chemical in public water supplies, taking treatability and laboratory detection limits into account. Control requirements, such as discharge permit effluent limitations, shall be established using the first number in the range as the ambient water quality target, provided that no effluent limitation shall require an “end-of-pipe” discharge level more restrictive than the second number in the range. Water bodies will be considered in attainment of this standard, and not included on the Section 303(d) List, so long as the existing ambient quality does not exceed the second number in the range. ...

Table III footnote (17) When applying the table value standards for uranium to individual segments, the Commission shall consider the need to maintain radioactive materials at the lowest practical level as required by Section 31.11(2) of the Basic Standards regulation.

Table III footnote (17) is consistent with Regulation 38, section 38.5 (3)(b), “Uranium level in surface waters shall be maintained at the lowest practicable level.”

RFLMA surface water standards are not currently impacted as a result of the Regulation 31 adoption of the hyphenated standard for uranium.

2.2 Landfills

2.2.1 Present Landfill

The PLF is inspected quarterly in accordance with the requirements of the PLF Monitoring and Maintenance (M&M) Plan (DOE 2008a) and RFLMA (DOE 2007a). Vegetation monitoring has been conducted on the PLF per the requirements in RFLMA Attachment 2, Table 3. The exit strategy for vegetation monitoring as outlined in Table 3 states that when the PLF M&M Plan grassland success criteria have been met, vegetation monitoring is no longer required. Based on the vegetation monitoring conducted in 2009 and reported in the 2009 Annual Report (DOE 2010a), these criteria have been met. Therefore, the specific PLF vegetation monitoring as outlined in RFLMA will no longer be conducted, but rather the PLF vegetation will now be monitored as part of the ongoing general Site vegetation monitoring.

2.2.1.1 Inspection Results

The routine PLF inspection for the second quarter of CY 2010 was performed on May 27, 2010. No vegetation evaluation was completed due to the success criteria being met. No significant problems were observed during these inspections. Copies of the landfill inspection forms are presented in Appendix A.

2.2.1.2 Settlement Monuments

The annual settlement monument surveys were performed in December 2009. The next round of surveys will be completed in December 2010. Additional information on the settlement monuments is included in the *Rocky Flats Site Quarterly Report of Site Surveillance and Maintenance Activities, First Quarter Calendar Year 2008* (DOE 2008b).

2.2.2 Original Landfill

The OLF is inspected monthly, in accordance with the requirements in the OLF M&M Plan (DOE 2009c) and RFLMA. It was anticipated that after the first year, the inspection frequency might be reduced to quarterly for an additional 4 years. However, because of observed localized slumping and seep areas, and investigation and repairs to the OLF cover that were being planned at the time, no change to the monthly inspection frequency was recommended in the second 5-year review of the Site (DOE 2007b).

2.2.2.1 Inspection Results

Routine OLF inspections during the second quarter of CY 2010 were performed on April 29, May 27, and June 30, 2010. The landfill cover vegetation was evaluated on July 8, 2010. The completed inspection forms are presented in Appendix A.

2.2.2.2 Settlement Monuments

The OLF settlement monuments were surveyed on June 25, 2010. Preliminary survey data indicate that settling at each monument does not exceed the limits published in the OLF M&M Plan (DOE 2009c). The survey results are presented in Appendix A.

2.2.2.3 Inclinometers

As discussed in the quarterly report for the second quarter of CY 2009 (DOE 2009b), seven inclinometers were installed in boreholes at the OLF in 2008 as part of the geotechnical investigation (Figure 1).

Movement of the inclinometers has been monitored approximately monthly since installation. Inclinometers deflect based on lateral movement of the ground in which they are located and can deflect enough to cause the inclinometer tubes to break. Once an inclinometer tube breaks, the inclinometer will no longer be monitored. Inclinometer monitoring data provide information on localized soil movement and serve to focus periodic inspections of the soil cover surface for signs of potential instability, such as cracking, vertical displacement, and slumping. A deflection of more than 1 inch is used as a trigger for evaluation of the data by a qualified geotechnical engineer. The engineer determines the significance of the deflection in relation to recommendations for maintenance or repairs to address potential instability in accordance with the OLF M&M Plan (DOE 2009c).

Inclinometer measurements were taken on May 5, May 26, and June 28, 2010. Measurements at inclinometers 2, 3, and 4 were also taken on April 19 to determine if substantial movement may have occurred after the March 31, 2010, readings indicated localized movement between berms 1 and 3 after high precipitation in March, as reported in the quarterly report for the first quarter of CY 2010 (DOE 2010b). However, all inclinometers were not measured until May 5, 2010, due to snow on the OLF surface at the end of April.

Very little deflection of the inclinometers was noted on the April 19 measurement; however, Inclinometer 2 showed approximately 3 inches of movement on the May 5 measurement. This is consistent with the observed cracking on Berm 1. Inclinometer 3 showed little movement during this period.

Inclinometer 4 could not be measured below 13 feet in depth on May 5 and later. The previous measurements were to a depth of 29 feet. This indicates that the tube has broken at 13 feet. Inclinometer 4 measured approximately 1 inch of movement after May 5, 2010.

Inclinometers 5, 6, and 7 measured approximately 0.25 to 0.5 inch of deflection, and Inclinometer 1 showed little deflection. March results indicated localized movement associated with the area of the three inclinometers on the west side of the OLF, between diversion berms 1 and 3 (inclinometers 82208I, 82308I, and 82408I), with approximately 0.25 to 0.5 inch of deflection. The surface cracking in the vicinity of Berm 1 appears consistent with the observed inclinometer deflection. Repairs to the surface cracking are being implemented in accordance with the OLF M&M Plan to minimize the infiltration of water.



Figure 1. Original Landfill Observed Surface Cracking Location and Inclinometer Locations

In accordance with the OLF M&M Plan, a qualified geotechnical engineer has been consulted. The deflection noticed in this quarter, which had high precipitation, appears consistent with the findings of the geotechnical investigation that an organic layer lies near the bedrock surface that is a weak zone for the overlying soil, especially if it becomes lubricated by subsurface moisture. Seeps 4 and 7 also showed significant moisture and had surface expressions during this period. As described in Contact Record 2008-07, in 2008, the West Perimeter Channel was regraded, and a channel drain was added to improve the stability of the western side of the OLF cover.

A plan for further geotechnical evaluation of whether the seeps are contributing to significant instability is planned, and results will be provided in subsequent quarterly reports.

2.2.2.4 Slumps

As discussed in the quarterly report for the first quarter of CY 2010 (DOE 2010b), areas where the landfill cover is pushed up or rolling are noticeable on the western end of the OLF between berms 2 and 3. A discussion on the results of the inclinometer monitoring provided below contains additional information regarding slope stability monitoring.

Berm 1

An inspection of the OLF was completed on April 26, 2010, following a precipitation event of approximately 3 inches over the previous weekend. It was noted during this inspection that Berm 1 had cracked significantly. The observed crack, which followed the same contour as previously reported cracks, was approximately 100 feet long and extended from the south face of the berm on the east through to the trough of the berm on the north side. The crack was 6 to 8 inches deep at the deepest point and had 2 to 4 inches of vertical displacement. Rocky Flats Alluvium was immediately added to the top and north side of the berm to help seal the berm's trough and channel water received in further precipitation events. The Rocky Flats Alluvium was compacted, and erosion matting was applied to help stabilize the berm and trough. The crack on the south side of the berm was sealed as much as possible with hand tools to help prevent water infiltration and limit further movement.

Larger-scale repairs to the area were completed on June 7, 2010, as part of the OLF Repair Project. During this project, cracks were regraded with heavy equipment, and Rocky Flats Alluvium was added where needed. The crack in the top of Berm 1 was filled, and extra material was added to the top of the berm to raise it to the required freeboard height outlined in the OLF M&M Plan. Upon completion of the regrading activities, the disturbed areas were reseeded, and matting was applied to help prevent erosion from occurring.

As discussed in the 2009 Annual Report (DOE 2010a), this cracking is consistent with evidence of localized movement observed at several of the inclinometers installed south of Berm 1 as part of the 2008 geotechnical investigation. Section 2.2.2.3 contains additional information regarding slope stability monitoring. Figure 1 shows the general location of the crack and locations of the inclinometers.

Berm 7

The slump at the end of Berm 7, which was observed on March 30, 2010, and documented in the quarterly report for first quarter of CY 2010 (DOE 2010b), was inspected by the S.M. Stoller

Corporation engineering department on April 20. A design drawing outlining proposed modifications to the Berm 7 construction was submitted on May 3, 2010. The field modification to the original design of the end of the berm was verbally approved by CDPHE on May 18 after a field visit to view the area in question. The modified design included removal of the soil mass that extended into the east channel, backfilling the area with soil and crushed rock, and grading to establish contours matching the surrounding elevations. Repairs to the east end of Berm 7 were completed on June 3, 2010, during the OLF Repair Project. A topographic survey of the OLF surface is planned for the end of 2010 or beginning of 2011, and the survey information will be used to revise the current as-built drawing of the OLF. A RFLMA Contact Record will be issued after the topographic survey to address the modification of the OLF M&M Plan to incorporate the revised design and as-built conditions.

2.2.2.5 Seeps

Seeps at the OLF were evaluated during the monthly inspections as well as during unscheduled visits. The Seep 1 area showed moisture on the surface only temporarily after precipitation events. This area was dry throughout most of the quarter. Seeps 2 and 3 were saturated throughout the second quarter of CY 2010. The seep 4 and 5 area was saturated and had some surface expression during the second quarter but was draining into the Berm 3 drain as designed. The Seep 6 area was saturated in several locations and sustained wetland vegetation throughout the quarter. Seep 7 showed a surface flow of approximately 2 to 5 gallons per minute (gpm) during the second quarter. Water from Seep 7 was draining along the trough of Berm 7 and also along the top of the buttress. Erosion controls were installed to prevent flow from Seep 7 from causing erosion problems. Seep 8 showed areas of active groundwater seepage at a rate of approximately 5 gpm throughout the second quarter. The rock drain at the base of the West Perimeter Channel, which channels water from the West Perimeter Channel seep, flowed at a rate of 2 to 3 gpm. Other smaller seeps showed areas of wetness only temporarily after precipitation events. None produced new surface flow. The heavier seep flows were observed during the April and May inspections when the Site was receiving larger precipitation events.

The continuous flow from Seep 7 saturated the area adjacent to inclinometers 5 and 6, north and south of the east end of Berm 3. To evaluate whether the seep water may pose worker hazards, samples of the water were collected at two locations on April 10, 2010. One location was approximately 20 feet east of Inclinometer 5, and the second location was approximately 12 feet west of Inclinometer 6. The samples were analyzed for volatile organic compounds (VOCs), semivolatile organic compounds (SVOCs), metals, and uranium. Only a handful of analytes were detected above the detection limits, and all detected analytes were well below RFLMA surface water standards. Results are presented in Appendix B.

2.2.2.6 OLF Soil Sampling Project

Contact Record 2010-01 documents consultation regarding performing targeted soil sampling at the OLF to evaluate residual contamination levels in relation to CDPHE's August 2008 Policy, *End of Post-Closure Care* (CDPHE 2008). Contact Record 2010-01 is included in Appendix C and is also posted on the Rocky Flats website at http://www.lm.doe.gov/Rocky_Flats/ContactRecords.aspx.

Closure of the OLF was completed in accordance with the March 10, 2005, *Final Interim Measure/Interim Remedial Action for the Original Landfill* (OLF IM/IRA) (DOE 2005). The OLF IM/IRA addressed the OLF, former Individual Hazardous Substance Site (IHSS) 115, and former IHSS 196, the Filter Backwash Pond, which was located approximately in the center of the western half of the OLF. The closure involved removal of uranium “hot spots,” soil grading, groundwater collection and drainage features, and construction of a 2-foot-thick clean soil cover with diversion and drainage features designed to promote hillside stability and control surface-water runoff and runoff.

DOE proposed to develop an OLF Sampling and Analysis Plan (SAP) based on a review of the pre-closure OLF residual soil contamination data in the OLF IM/IRA. The pre-closure residual soil contamination data are between 15 and 19 years old. Natural attenuation and the impacts of regrading the surface of the OLF for closure are believed to have reduced the residual contamination levels. Also, removing small areas of radionuclide-contaminated surface soil at the OLF (called “hot spots”), just before the soil cover was installed, reduced radionuclide contamination levels.

CDPHE’s *End of Post-Closure Care* (2008) policy discusses criteria to be evaluated to determine when post-closure care of hazardous waste landfills is no longer necessary, based on a demonstration that the closed unit does not significantly threaten human health or the environment. The CDPHE criteria include whether a closed unit may meet “clean closure” standards, or whether a performance-based evaluation shows that the closed unit does not pose a threat for which post-closure care is needed. The “clean closure” standards are based on CDPHE-specified residential- and unrestricted-use soil-screening levels.

DOE believes that the sampling effort can provide data to characterize a reduction in contaminant levels over time. The data can help establish a baseline for current conditions and make it easier to surmise when certain OLF post-closure maintenance requirements might be ended. Under the CDPHE policy, ending post-closure care would not necessarily mean that post-closure controls for the OLF would end. However, certain monitoring and maintenance requirements may be reduced, given that the Rocky Flats Site will remain subject to land use restrictions under an existing Environmental Covenant.

On June 9, 2010, CDPHE approved the OLF SAP (DOE 2010c). The SAP describes planned soil sampling at the OLF using a Geoprobe unit for characterization of residual contamination. This will provide preliminary data for evaluation of OLF soils’ residual contamination levels for comparison to the CDPHE policy regarding post-closure care termination criteria.

The results of the evaluation will include recommendations on whether to pursue termination of specific post-closure care requirements and will propose additional characterization, if any, to perform assessments in support of the termination of requirements.

Because the OLF is covered with at least 2 feet of clean native soils, the clean cover soil was removed by the Geoprobe and set aside. The Geoprobe was then used to collect soil cores of the subsurface soils, which were sampled for laboratory analysis.

Five-foot-long cores were collected in sleeves using the Geoprobe direct-push method. Samples were collected in the 5-foot core sleeve to the extent practical, and it was recognized that some

core sleeves may not be full of sample when removed from the borehole. Cores were carefully and promptly removed from the sleeve and sampled for laboratory analysis. An effort was made at each sampling location to sample from the initial depth (described above) to 25 feet below that depth.

Samples were collected and analyzed (depending on the amount of recovery) for

- VOCs;
- SVOCs;
- Pesticides and polychlorinated biphenyls (PCBs); and
- Metals and radiochemical analytes.

Twelve locations were selected for sampling. A map of the OLF SAP selected sampling locations is included in Appendix C.

For the OLF IM/IRA targeted locations, three locations were selected from the OLF IM/IRA surface soil data set, and three were selected from the OLF IM/IRA subsurface soil data set.

Six additional locations were selected to provide additional subsurface data from the east and west side of the OLF. As discussed in the 2008 and 2009 Annual Reports (DOE 2009d and 2010a), the west side of the OLF has experienced localized movement resulting in surface cracking and slumping, and additional subsurface data can help evaluate the level of risks from exposure to subsurface soils that might become exposed if the movement became significant. The sampling locations on the east side serve to provide more spatially representative coverage.

The rationale for the selected OLF IM/IRA targeted sampling locations (see figure in Appendix C) is presented below.

The OLF IM/IRA residual soil contamination data were compared to the CDPHE policy screening levels and to the surface soil wildlife refuge worker (WRW) preliminary remediation goals (PRGs) developed for evaluation of remedial alternatives prior to selection of the final remedy in the CAD/ROD. The results from the selected locations will be useful in comparison of elevated levels in the OLF IM/IRA data to current levels to evaluate the potential magnitude of natural attenuation over time, if any.

SS510593—This surface soil location produced samples having the maximum concentrations of 2-methylnaphthalene, PCB Aroclor-1254, benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, chrysene, dieldrin, dibenz(a,h)anthracene, and indeno(1,2,3-cd)pyrene. This location had benzo(a)pyrene and dibenz(a,h)anthracene concentrations greater than ten times the WRW PRG.

SS510693—This surface soil location is directly south of SS510593 and produced samples with a relatively high concentration of PCB Aroclor-1254.

SS508893—Samples from this surface soil location had the second highest concentrations of benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, and

dibenz(a,h)anthracene. This location had benzo(a)pyrene concentration greater than ten times the WRW PRG.

58693—This subsurface location is in the area of the former IHSS 196, Filter Backwash Pond, located within the OLF footprint. It produced samples with the maximum concentrations of PCB Aroclor-1254, arsenic, benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, chrysene, dieldrin, dibenz(a,h)anthracene, indeno(1,2,3-cd)pyrene, and iron. It is located approximately 500 feet west of SS510693 (described above). This location is also in the vicinity of a seep known as Seep 7, which has a surface expression at intervals after heavy precipitation events. This location had benzo(a)pyrene and dibenz(a,h)anthracene concentrations greater than ten times the WRW PRG.

50592—This subsurface location is on the northern edge of the waste footprint and produced samples with levels of PCBs Aroclor-1254 and -1260 slightly above the WRW PRG and the maximum concentration of manganese.

59493—This subsurface location also had elevated levels of Aroclor-1254, arsenic, benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, dibenz(a,h)anthracene, indeno(1,2,3-cd)pyrene, and copper. This location had benzo(a)pyrene concentrations greater than ten times the WRW PRG.

The sampling project began on June 29, 2010, and ended during the third quarter of CY 2010 on July 8, 2010. Sampling data, laboratory analysis results, data evaluation, and summary reporting will be completed in the third and fourth quarters of 2010 and will be discussed in those quarterly reports.

2.3 Groundwater Treatment Systems

Four groundwater treatment systems are operated and maintained in accordance with requirements defined in RFLMA and the RFSOG. Three of these systems (the Mound Site Plume Treatment System [MSPTS], East Trenches Plume Treatment System [ETPTS], and Solar Ponds Plume Treatment System [SPPTS]) include a groundwater intercept trench (collection trench), which is similar to a French drain with an impermeable membrane on the downgradient side. Groundwater entering the trench is routed through a drain pipe into one or more treatment cells, where it is treated and then discharged. The fourth system, the PLF Treatment System (PLFTS), treats water from the northern and southern components of the Groundwater Intercept System (GWIS) and flow from the PLF seep.

2.3.1 Mound Site Plume Treatment System

Routine maintenance activities continued at the MSPTS through the second quarter of CY 2010. These activities included raking the media each week, checking and flushing filters, and inspecting influent and effluent flow conditions.

In addition, the flow configuration was adjusted in June to parallel upflow. This change was made to improve system operation during the higher flows of spring; the increased influent needed to be pushed through the media more quickly than the partially clogged media would allow under a downflow configuration. Sampling and analysis of the RFLMA locations

supporting the MSPTS was planned for the second quarter of CY 2010, and the effects of this increased flow are discussed in Section 3.1.10.1.

Planning was begun on replacing the treatment media at the MSPTS.

2.3.2 East Trenches Plume Treatment System

Routine maintenance activities continued at the ETPTS through the second quarter of CY 2010. These activities included checking influent and effluent flow conditions and water levels in the cells. Sampling and analysis of the RFLMA locations supporting the MSPTS was planned for the second quarter of CY 2010, and the effects of this increased flow are discussed in Section 3.1.10.2.

2.3.3 Solar Ponds Plume Treatment System

Routine maintenance activities continued at the SPPTS through the second quarter of CY 2010. These activities included weekly inspections of the solar/battery systems that power the pumps, the operation of the pumps, and influent and effluent flow conditions.

The Phases II and III upgrades that were completed in the second quarter of CY 2009 continued to be a focal point for optimization efforts. The higher flows of spring led to more rapidly accumulating groundwater within the intercept trench. To compensate, the main influent pump installed within the collection well (SPIN) within the intercept trench was adjusted to a higher flow rate. The pump in the Phase I collection sump (ITSS) was similarly adjusted, for the same reason. Sampling and analysis of the RFLMA locations supporting the SPPTS was planned for the second quarter of CY 2010, and the effects of this increased flow are discussed in Section 3.1.10.3.

Optimization efforts in Phase III continued and primarily focused on further adjustments to carbon and phosphorus dosing rates and influent flow rates.

Possible reasons for the reduced treatment effectiveness of the Phase II cell continued to be considered and evaluated. A team of geochemists developed a recommendation for multiple treatment cells, run in parallel, and varying slightly from one another so as to enable a final determination of the cause for, and resolution of, this decreased effectiveness. This and other alternatives were under consideration as the second quarter of CY 2010 ended.

2.3.4 PLF Treatment System

Routine maintenance activities continued at the PLFTS through the second quarter of CY 2010. These activities generally consisted of inspecting the system for any issues or potential problems.

2.4 Erosion Control and Revegetation

Maintenance of the Site erosion control features required continued effort throughout the second quarter of CY 2010, especially following high-wind or precipitation events. Erosion wattles and matting loosened and displaced by high winds or rain were repaired. Erosion controls were installed and maintained for the various projects that were ongoing during the second quarter

of CY 2010. Several areas were interseeded with additional native species to increase vegetation cover.

3.0 Environmental Monitoring

This section summarizes the environmental monitoring conducted in accordance with RFLMA.

3.1 Water Monitoring

This quarterly report presents data collected during the second quarter of CY 2010. This section includes:

- A discussion of analytical results for the point-of-compliance (POC), point-of-evaluation (POE), PLF, and OLF monitoring objectives; and
- A summary of area-of-concern (AOC) well, boundary well, evaluation well, and sentinel well monitoring; treatment system monitoring; and Resource Conservation and Recovery Act (RCRA) groundwater monitoring and surface water support monitoring at the Site.

Monitoring locations, sampling criteria, and evaluation protocols for all water monitoring objectives in the following sections are detailed in RFLMA Attachment 2, and the RFSOG. Appendix B provides analytical water quality data for the second quarter of CY 2010. More detailed interpretation and discussion will be provided in the annual report for CY 2010.

3.1.1 Water Monitoring Highlights

During the second quarter of CY 2010, the water monitoring network successfully met the targeted monitoring objectives as required by RFLMA and in conformance with RFSOG implementation guidance. The RFLMA network consisted of 11 automated gaging stations, 10 surface water grab-sampling locations, 8 treatment system locations, 99 wells, and 8 precipitation gages. During the quarter, 76 flow-paced composite samples, 17 surface water grab samples, 21 treatment system samples, and 90 groundwater samples were collected according to RFLMA protocols.¹

All water-quality data at the RFLMA POCs remained well below the applicable standards through the second quarter of CY 2010.

Elevated levels of Pu-239,240 were measured at POE SW027 during the quarter. These data are presented and discussed further in Section 3.1.3.2. All other analyte concentrations at SW027 remained below reporting levels as of the end of the second quarter of CY 2010.

All POE analyte concentrations at GS10 and SW093 remained below reporting levels as of the end of the second quarter of CY 2010. Erosion and runoff controls, as well as extensive revegetation efforts, have been effective in measurably reducing both sediment transport and constituent concentrations. As of the end of the second quarter of CY 2010, these locations continued to show plutonium-239, plutonium-240, and americium-241 activities well below the

¹ Composite samples consist of multiple aliquots (“grabs”) of identical volume. Each grab is delivered by the automatic sampler to the composite container at each predetermined flow volume or time interval. During the second quarter of CY 2010, the 76 flow-paced composites comprised 4,491 individual grabs.

RFLMA standards. With the removal of impervious areas (resulting in decreased runoff), the stabilization of soils within the drainages, and the progression of revegetation, water quality is expected to continue to be acceptable.

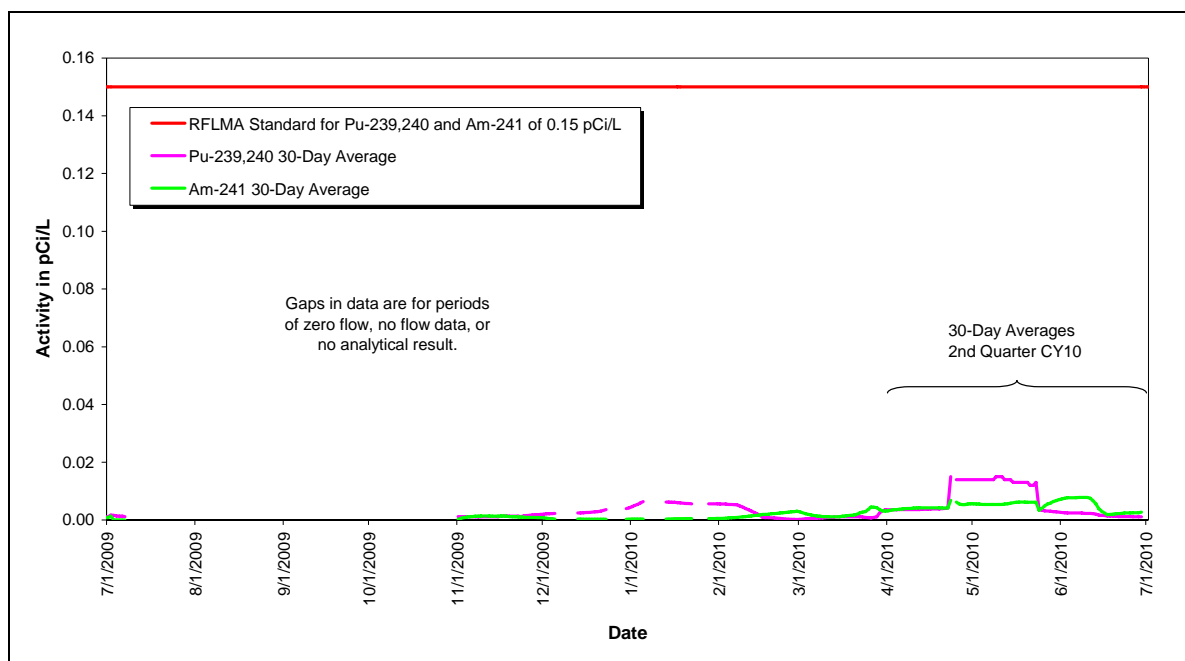
Groundwater monitoring results will be evaluated as part of the 2010 Annual Report.

3.1.2 POC Monitoring

The following sections include summary tables and plots showing the applicable 30-day and 12-month rolling averages for the POC analytes.

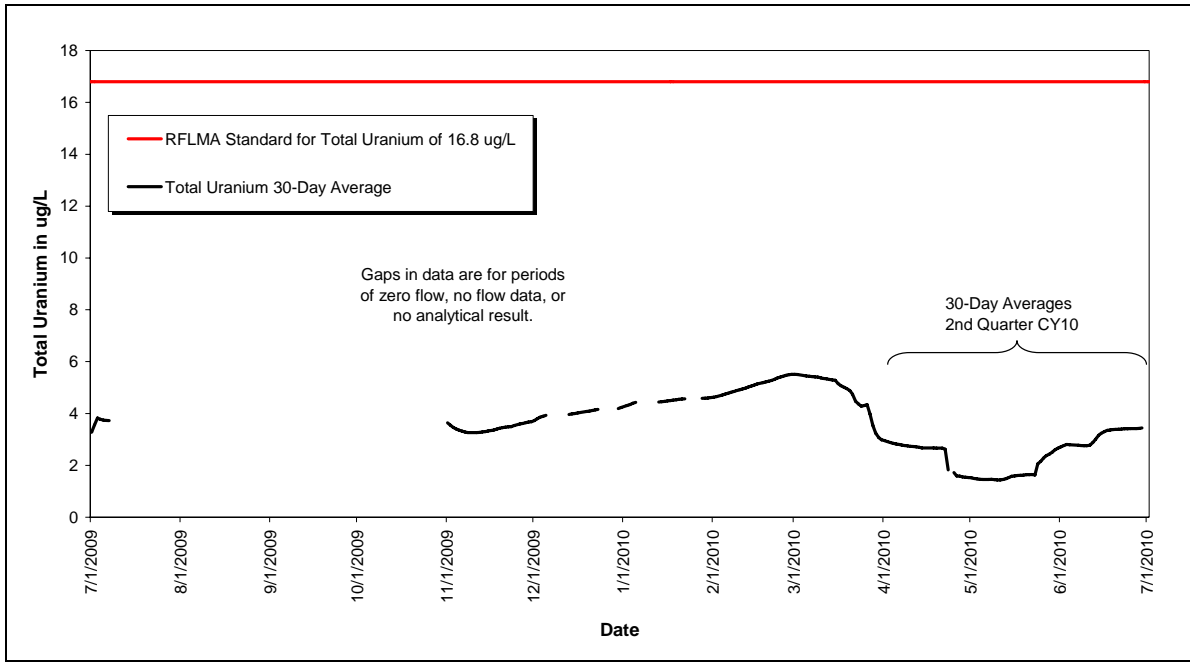
3.1.2.1 Location GS01

Monitoring location GS01 is on Woman Creek at Indiana Street. Figure 2 and Figure 3 show no occurrences of reportable 30-day averages for the quarter.



pCi/L = picocuries per liter

Figure 2. Volume-Weighted 30-Day Average Plutonium and Americium Activities at GS01: Calendar Year Ending Second Quarter CY 2010

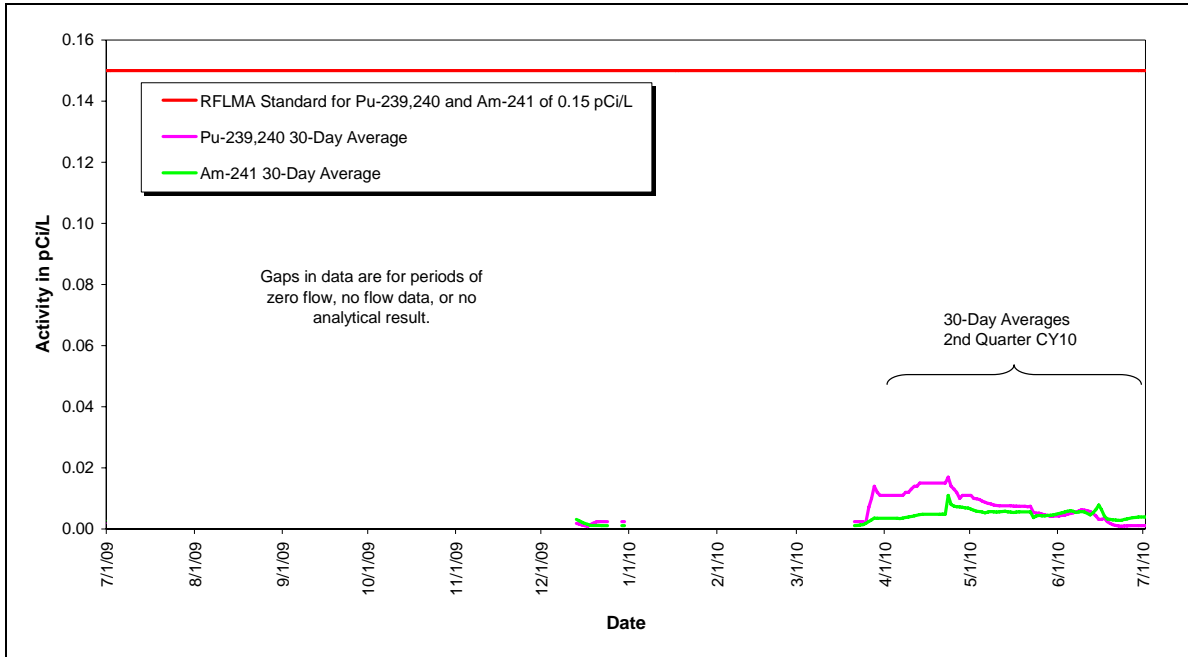


µg/L = micrograms per liter

Figure 3. Volume-Weighted 30-Day Average Total Uranium Concentrations at GS01: Calendar Year Ending Second Quarter CY 2010

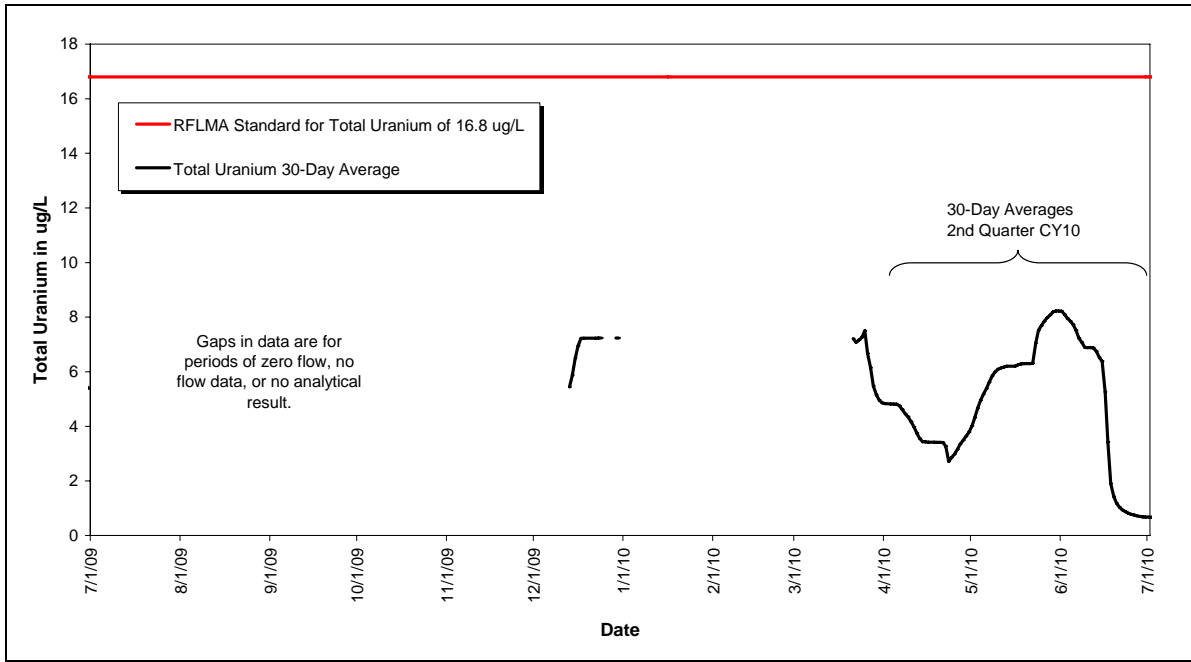
3.1.2.2 Location GS03

Monitoring location GS03 is on Walnut Creek at Indiana Street. Figure 4 and Figure 5 show no occurrences of reportable 30-day averages for the quarter. Figure 6 presents the volume-weighted 85th percentile of 30-day average nitrate + nitrite concentrations.



pCi/L = picocuries per liter

Figure 4. Volume-Weighted 30-Day Average Plutonium and Americium Activities at GS03: Calendar Year Ending Second Quarter CY 2010



µg/L = micrograms per liter

Figure 5. Volume-Weighted 30-Day Average Total Uranium Concentrations at GS03: Calendar Year Ending Second Quarter CY 2010

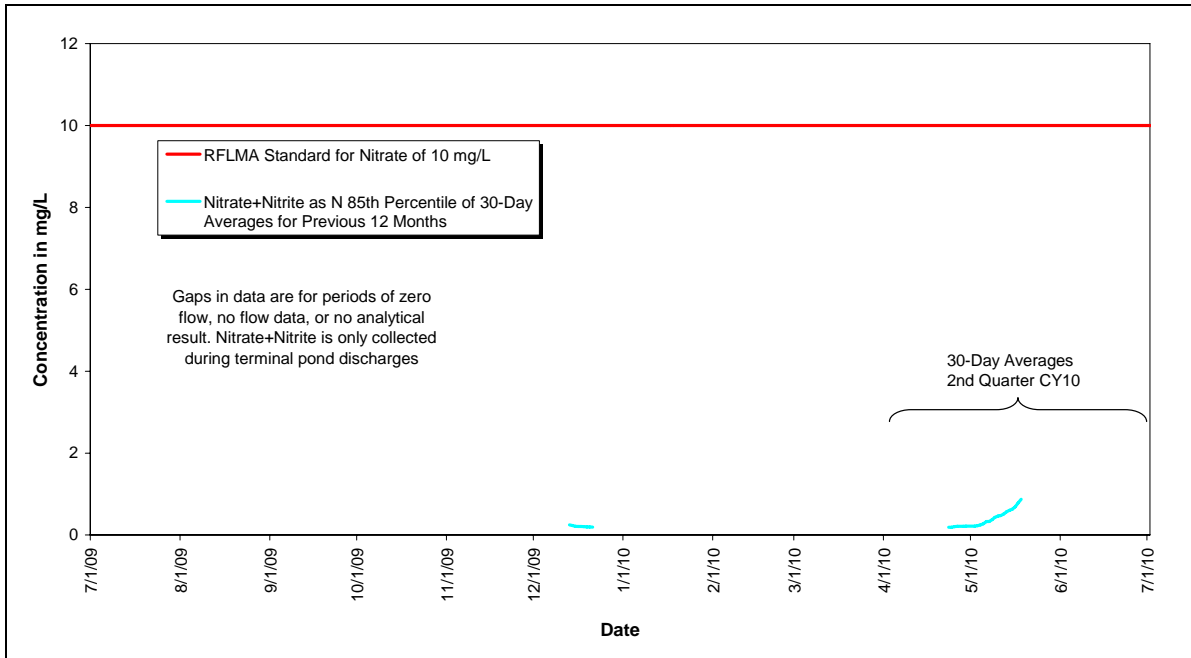
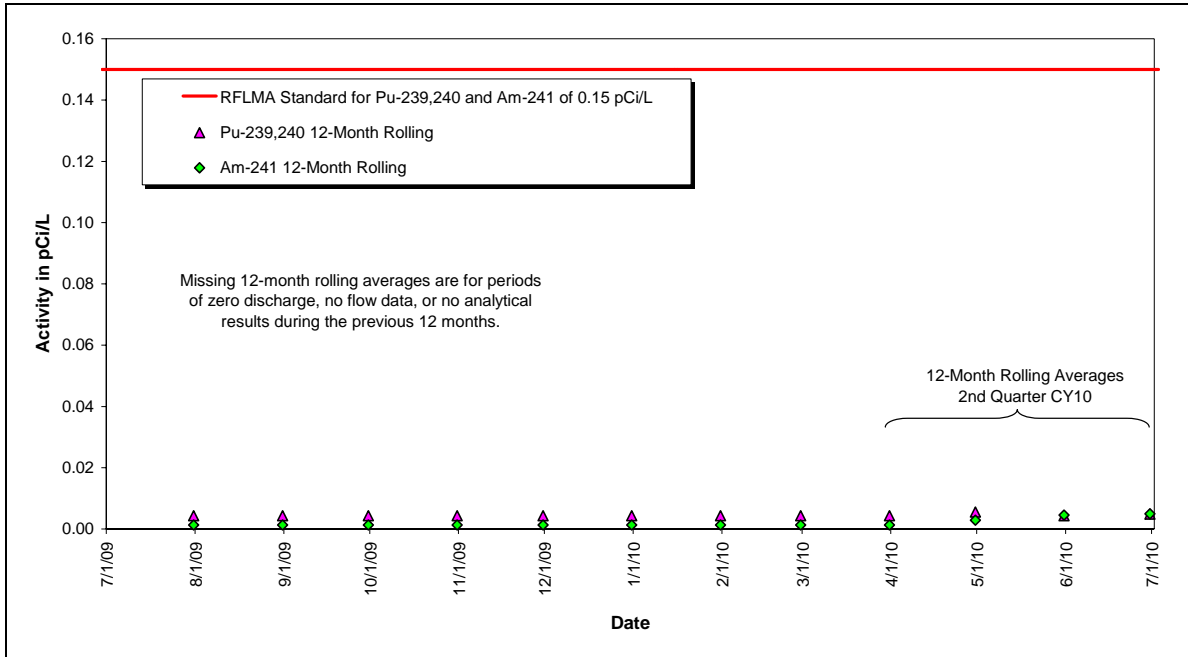


Figure 6. Volume-Weighted 85th Percentile of 30-Day Average Nitrate+Nitrite Concentrations at GS03: Calendar Year Ending Second Quarter CY 2010

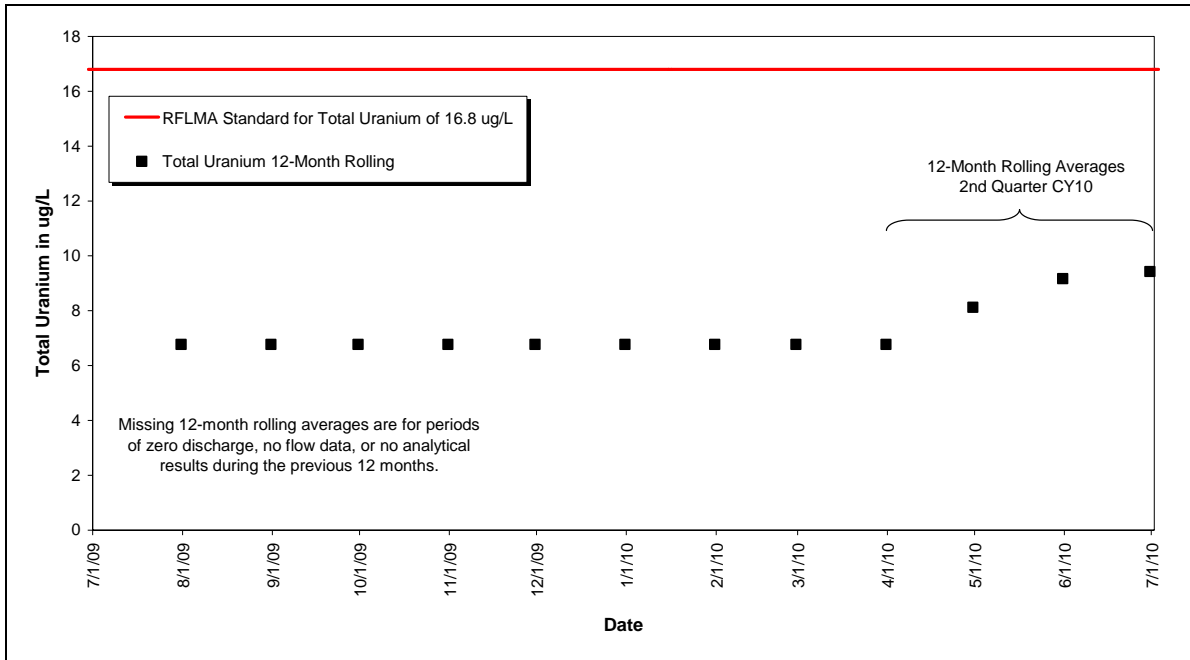
3.1.2.3 Location GS08

Monitoring location GS08 is on South Walnut Creek at the outlet of Pond B-5. Figure 7, Figure 8, and Figure 9 show no occurrences of reportable 12-month rolling averages for the quarter.



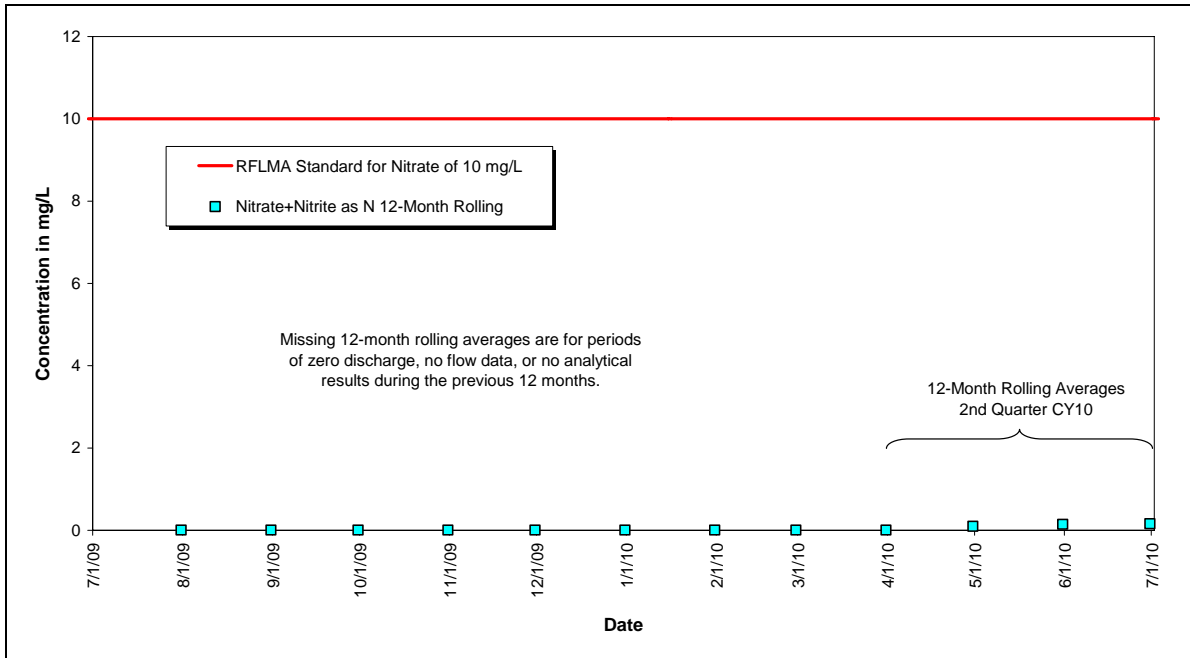
pCi/L = picocuries per liter

Figure 7. Volume-Weighted 12-Month Rolling Average Plutonium and Americium Activities at GS08: Calendar Year Ending Second Quarter CY 2010



µg/L = micrograms per liter

Figure 8. Volume-Weighted 12-Month Rolling Average Total Uranium Concentrations at GS08: Calendar Year Ending Second Quarter CY 2010

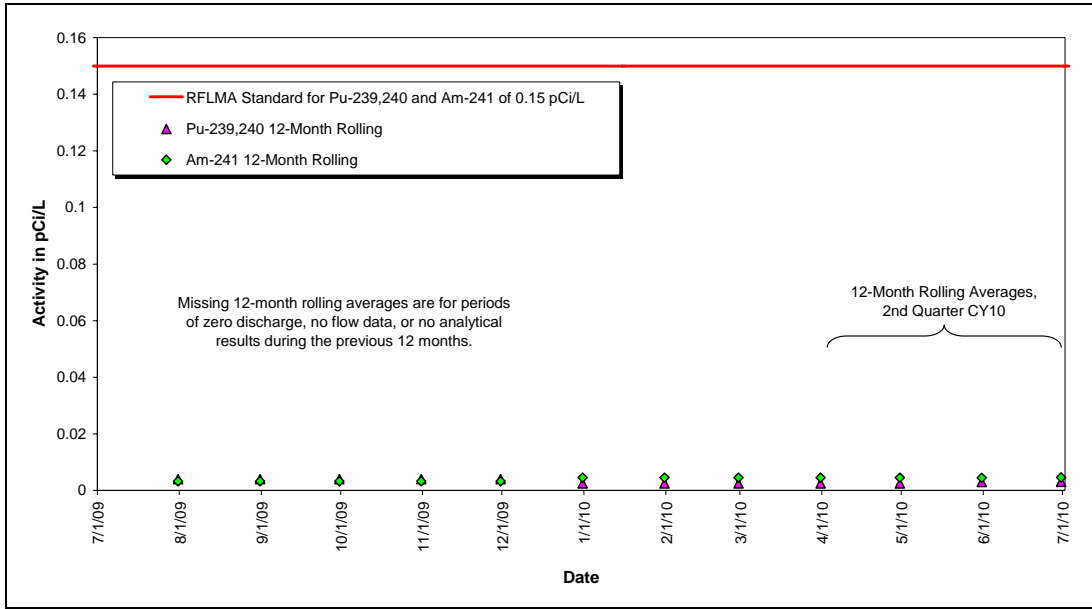


Note: Nitrate + nitrite as nitrogen 12-month averages are conservatively compared to the nitrate standard only.
mg/L = milligrams per liter

Figure 9. Volume-Weighted 12-Month Rolling Average Nitrate + Nitrite as Nitrogen Concentrations at GS08: Calendar Year Ending Second Quarter CY 2010

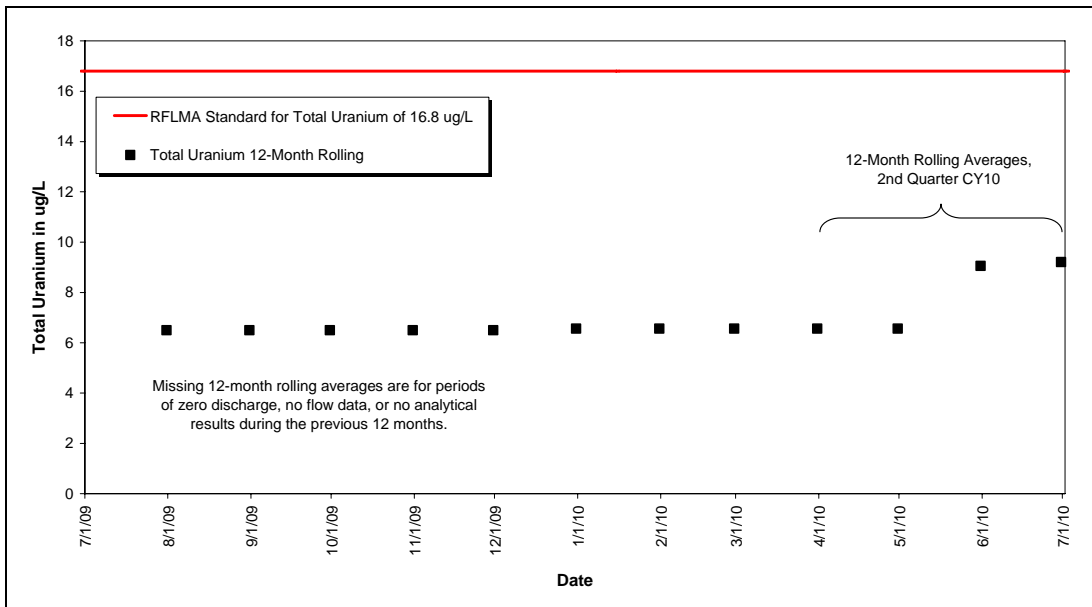
3.1.2.4 Location GS11

Monitoring location GS11 is on North Walnut Creek at the outlet of Pond A-4. Figure 10, Figure 11, and Figure 12 show no occurrences of reportable 12-month rolling averages for the quarter.



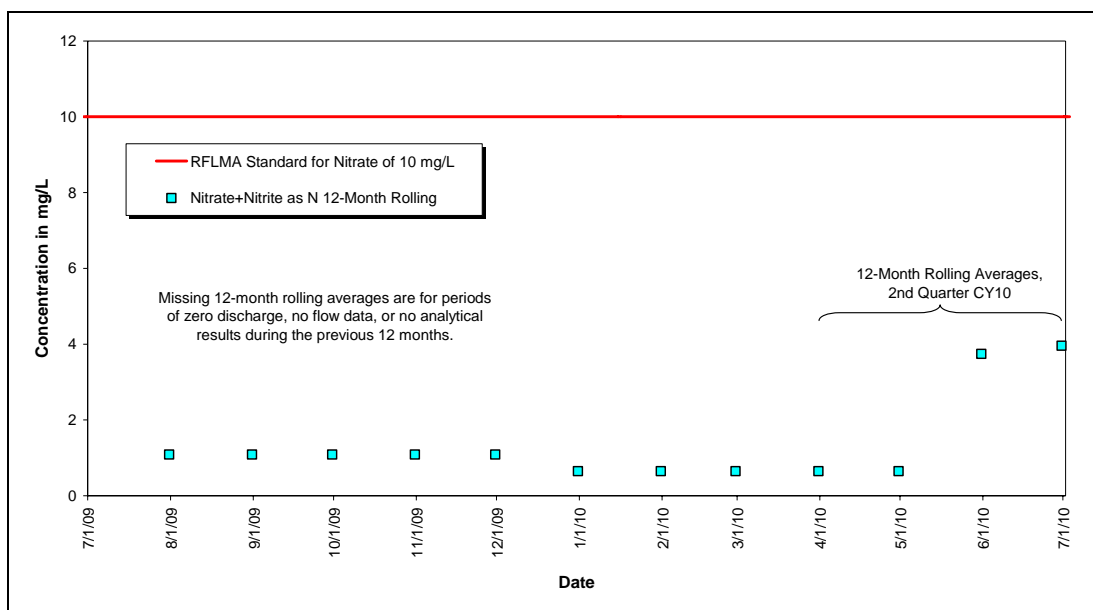
pCi/L = picocuries per liter

Figure 10. Volume-Weighted 12-Month Rolling Average Plutonium and Americium Activities at GS11: Calendar Year Ending Second Quarter CY 2010



µg/L = micrograms per liter

Figure 11. Volume-Weighted 12-Month Rolling Average Total Uranium Concentrations at GS11: Calendar Year Ending Second Quarter CY 2010

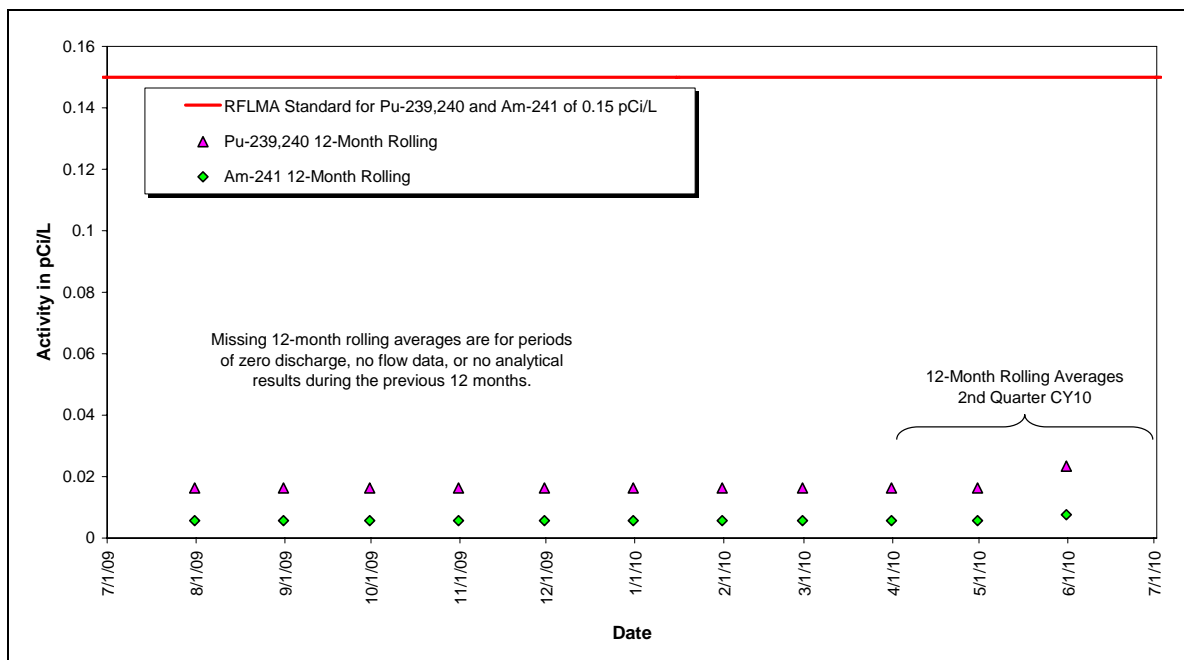


Note: Nitrate + nitrite as nitrogen 12-month averages are conservatively compared to the nitrate standard only.
 mg/L = milligrams per liter

Figure 12. Volume-Weighted 12-Month Rolling Average Nitrate + Nitrite as Nitrogen Concentrations at GS11: Calendar Year Ending Second Quarter CY 2010

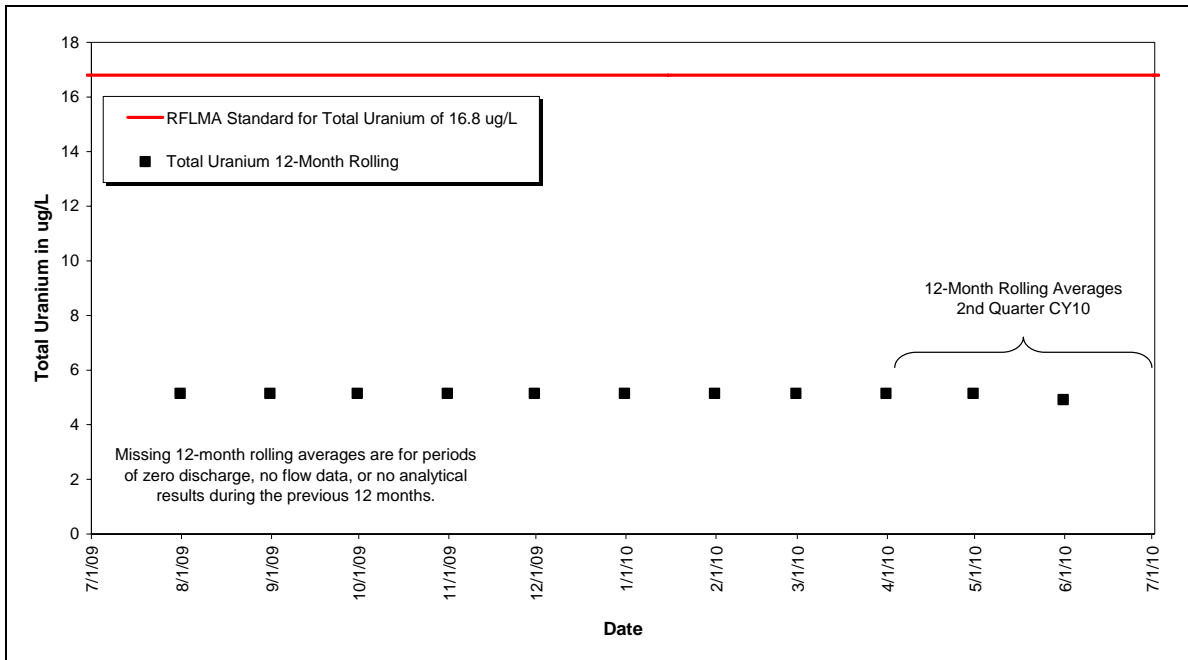
3.1.2.5 Location GS31

Monitoring location GS31 is on Woman Creek at the outlet of Pond C-2. Figure 13 and Figure 14 show no occurrences of reportable 12-month rolling averages for the quarter.



pCi/L = picocuries per liter

Figure 13. Volume-Weighted 12-Month Rolling Average Plutonium and Americium Activities at GS31: Calendar Year Ending Second Quarter CY 2010



µg/L = micrograms per liter

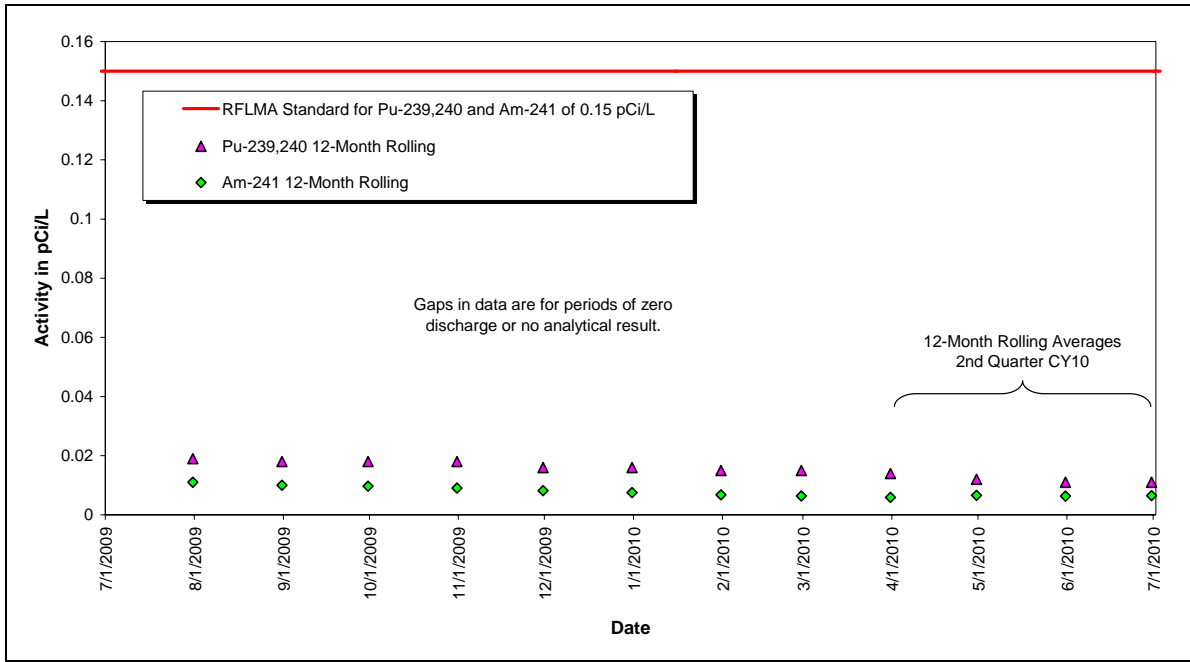
Figure 14. Volume-Weighted 12-Month Rolling Average Total Uranium Activities at GS31: Calendar Year Ending Second Quarter CY 2010

3.1.3 POE Monitoring

The following sections include summary tables and plots showing the applicable 30-day and 12-month rolling averages for the POE analytes.

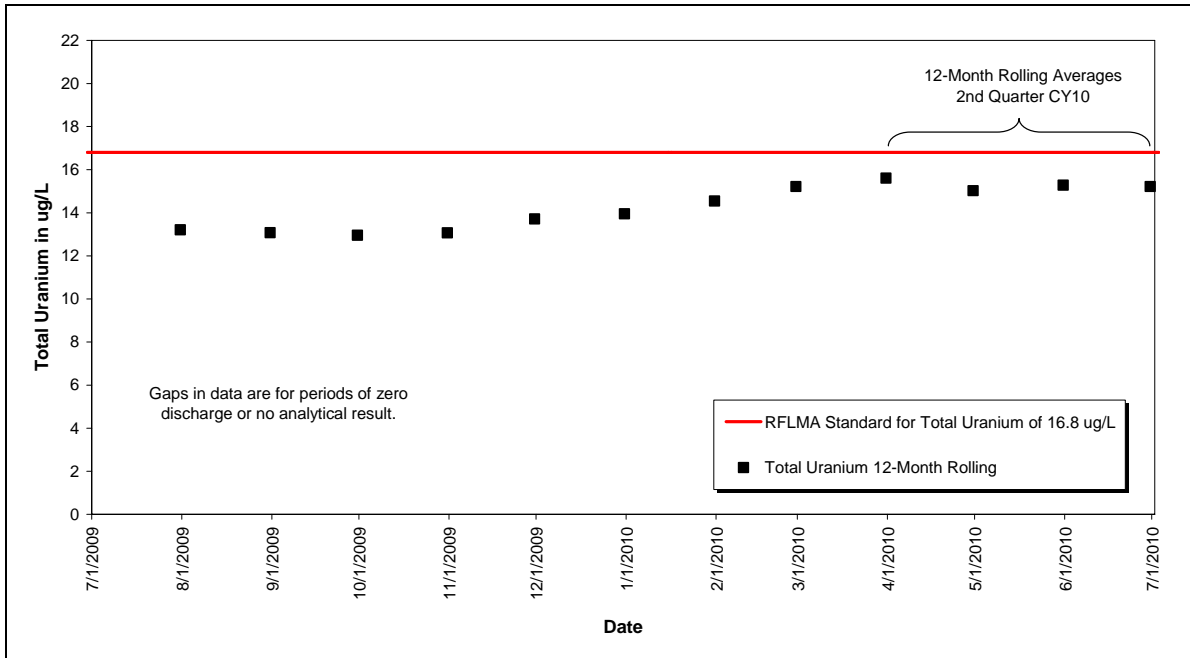
3.1.3.1 Location GS10

Monitoring location GS10 is on South Walnut Creek just upstream of the B-Series ponds. Figure 15 and Figure 16 show no reportable plutonium, americium, or total uranium values during the quarter. In addition, none of the 85th-percentile 30-day average metals concentrations were reportable for the quarter.



pCi/L = picocuries per liter

Figure 15. Volume-Weighted Average Plutonium and Americium Compliance Values at GS10: Calendar Year Ending Second Quarter CY 2010



ug/L = micrograms per liter

Figure 16. Volume-Weighted Average Total Uranium Compliance Values at GS10: Calendar Year Ending Second Quarter CY 2010

3.1.3.2 Location SW027

Monitoring location SW027 is at the end of the South Interceptor Ditch (SID) at the inlet to Pond C-2. Figure 17 and Figure 18 show the 12-month rolling averages for plutonium, americium, and total uranium during the quarter.

The last continuous flow-paced composite sample collected at SW027 was retrieved from the field on April 27, 2010. The subsequent flow-paced composite sample started on April 27, 2010, does not yet include a quantity of water sufficient for analysis. The SID flows intermittently when there is enough runoff, which was the case during March and April 2010, but the SID has been dry since June 18, 2010. It is not known when additional sample volume will be collected at SW027 to complete the flow-paced composite sample started on April 27, 2010. The analytical results for this sample must be received in order to formally calculate the April 2010 month-end 12-month rolling average.

However, based on the results for continuous flow-paced samples collected through April 26, 2010, when the April 30, 2010, Pu compliance value is calculated (including the analytical result for the composite sample currently being collected), it is anticipated that the 12-month rolling average value will exceed the Table 1 standard for Pu (0.15 picocurie per liter [pCi/L]). Even if the continuous flow-paced sample currently being collected has no detectable Pu, the volume-weighted 12-month rolling average for the end of April 2010 would be approximately 0.16 pCi/L, which is slightly above the Table 1 standard (Figure 17). The composite sampling results for SW027 collected during CY 2010 are given in Table 1.

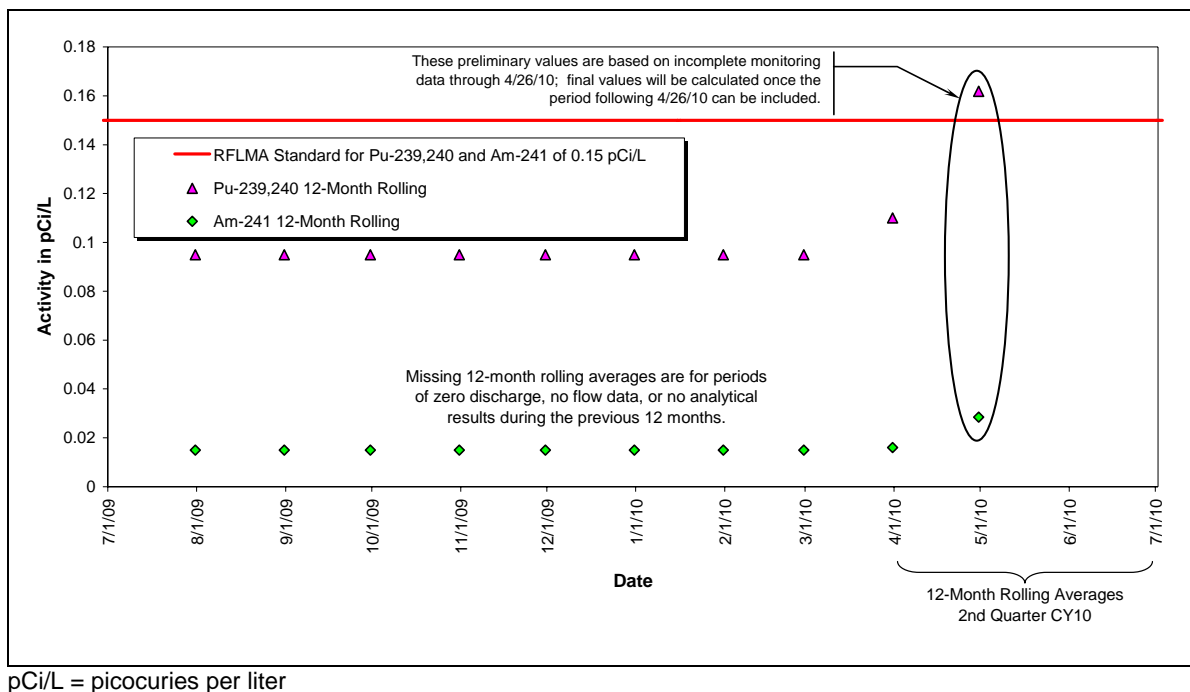
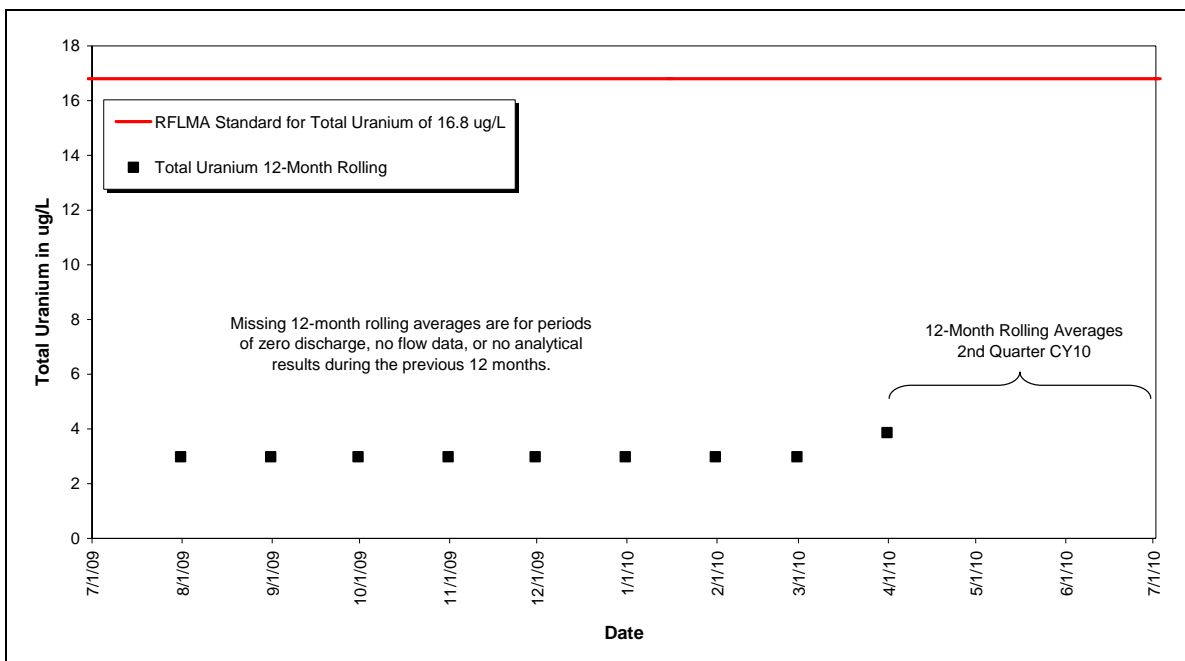


Figure 17. Volume-Weighted Average Plutonium and Americium Compliance Values at SW027: Calendar Year Ending Second Quarter CY 2010



µg/L = micrograms per liter

Figure 18. Volume-Weighted Average Total Uranium Compliance Values at SW027: Calendar Year Ending Second Quarter CY 2010

Table 1. CY2010 Composite Sampling Results for SW027

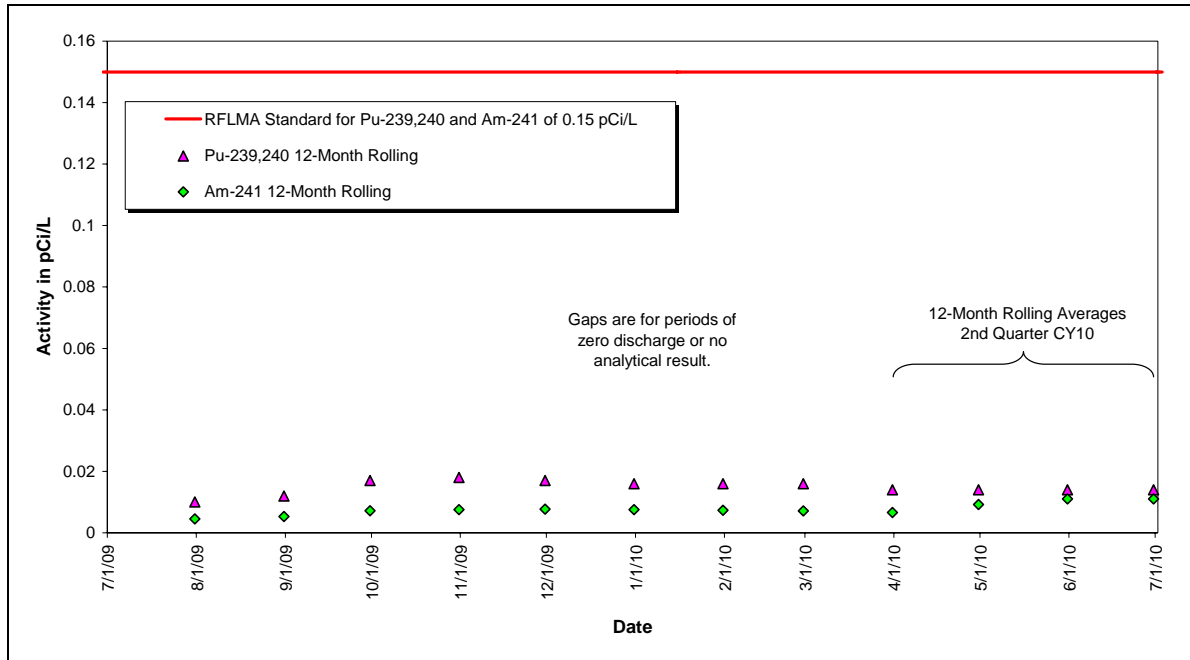
Date—Time start	Date—Time end	Pu Result
1/13/10—11:11	3/29/10—11:55	0.122
3/29/10—11:55	4/23/10—11:11	0.300
4/23/10—11:11	4/23/10—19:12	0.294
4/23/10—19:12	4/27/10—12:07	0.029
4/27/10—12:07	continuing	N/A

While the final 12-month rolling average values cannot be formally calculated until complete analytical results are available, DOE initiated pre-emptive consultation with CDPHE on June 2, 2010. RFLMA Contact Record 2010-06, “Monitoring Results at Surface Water Point of Evaluation (POE) SW027” provides a discussion of the monitoring results and recaps the outcome of the RFLMA Parties’ consultation regarding steps to be taken to evaluate the SW027 drainage area. Contact Record 2010-06 is available at the Rocky Flats website, http://www.lm.doe.gov/Rocky_Flats/ContactRecords.aspx.

Subsequent to Contact Record 2010-06, the *Report of Steps Taken Regarding Monitoring Results at Surface Water Point of Evaluation (POE) SW027* was completed on August 31, 2010. This report provides a data evaluation and an update on the steps taken in accordance with Contact Record 2010-06. Recommendations beyond the actions already taken and discussed in the Contact Record are also provided. This report is available at the Rocky Flats website, http://www.lm.doe.gov/Rocky_Flats/ContactRecords.aspx.

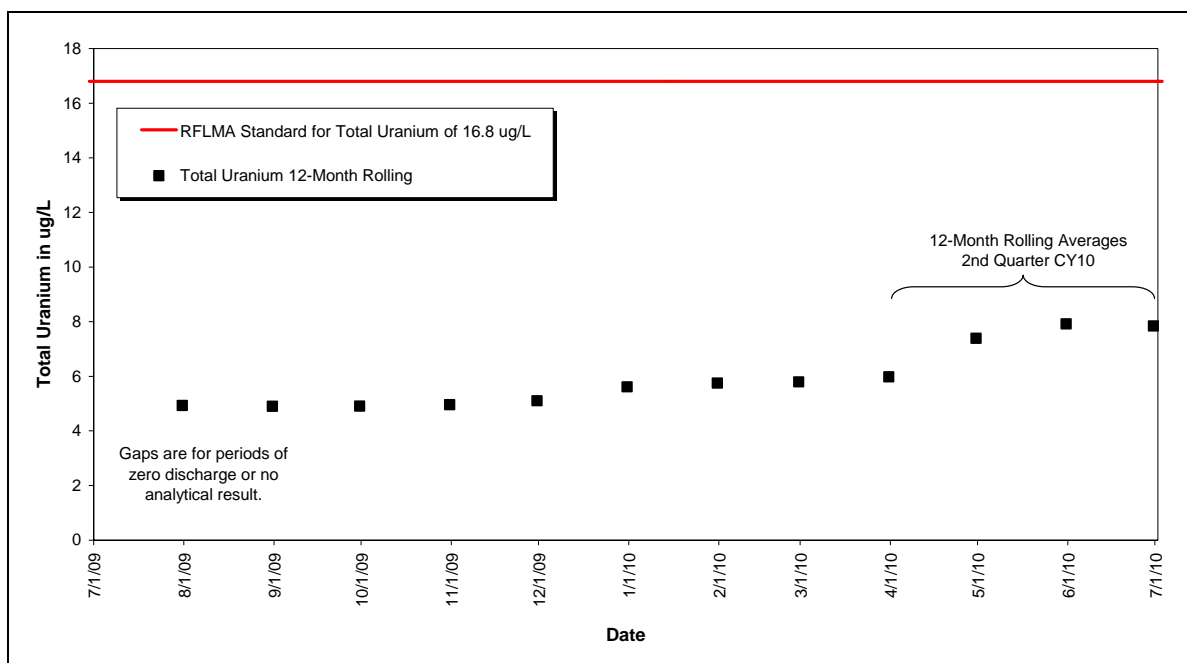
3.1.3.3 Location SW093

Monitoring location SW093 is on North Walnut Creek 1,300 feet upstream of the A-Series ponds. Figure 19 and Figure 20 show no reportable plutonium, americium, or total uranium values during the quarter. None of the 85th-percentile 30-day average metals concentrations were reportable for the quarter.



pCi/L = picocuries per liter

Figure 19. Volume-Weighted Average Plutonium and Americium Compliance Values at SW093: Calendar Year Ending Second Quarter CY 2010



µg/L = micrograms per liter

Figure 20. Volume-Weighted Average Total Uranium Compliance Values at SW093: Calendar Year Ending Second Quarter CY 2010

3.1.4 AOC Wells and Surface Water Location SW018

AOC wells and SW018 were scheduled for RFLMA monitoring in the second quarter of CY 2010. Results were generally consistent with past samples and will be discussed in the annual report for 2010.

3.1.5 Boundary Wells

Boundary wells were scheduled for RFLMA monitoring in the second quarter of CY 2010. Results were generally consistent with past samples and will be discussed in the annual report for 2010.

3.1.6 Sentinel Wells

Sentinel wells were scheduled for RFLMA monitoring in the second quarter of CY 2010. Results were generally consistent with past samples and will be discussed in the annual report for 2010. However, due to the increased moisture this spring relative to most springs, consistently dry well 90299 contained water and was successfully sampled.

3.1.7 Evaluation Wells

Evaluation wells were scheduled for RFLMA monitoring in the second quarter of CY 2010. Results were generally consistent with past samples and will be discussed in the annual report for 2010.

3.1.8 PLF Monitoring

All RCRA groundwater monitoring wells at the PLF were sampled during the second quarter of CY 2010. Analytical results (Appendix B) were generally consistent with past samples and will be discussed and statistically evaluated as part of the 2010 Annual Report. Section 3.1.10.4 discusses surface water monitoring at the PLF.

3.1.9 OLF Monitoring

All RCRA groundwater monitoring wells at the OLF were sampled during the second quarter of CY 2010. Analytical results (Appendix B) were generally consistent with past samples and will be discussed and statistically evaluated as part of the 2010 Annual Report.

During the second quarter of CY 2010, when routine surface water sampling was performed in Woman Creek downstream of the OLF (GS59), all available analytical results were less than the applicable surface water standards.

3.1.10 Groundwater Treatment System Monitoring

As described in Section 2.3, contaminated groundwater is intercepted and treated in four areas of the Site. The MSPTS, ETPTS, and SPPTS include a groundwater intercept trench. Groundwater entering the trench is routed through a drain pipe into one or more treatment cells, where it is treated and then discharged to surface water. The PLFTS treats water from the northern and southern components of the GWIS and flow from the PLF seep.

3.1.10.1 Mound Site Plume Treatment System

MSPTS monitoring locations were scheduled for RFLMA sampling in the second quarter of CY 2010. As reported in Section 2.3.1, the increased moisture in the spring of 2010 is expressed as increased flow rates at the system, which in turn causes a decrease in the residence time for water moving through the treatment system. A decrease in residence time can result in reduced levels of treatment. This was the case at the MSPTS, with several constituents in system effluent exceeding corresponding RFLMA standards. However, to some degree these conditions have been consistent since shortly after site closure.

CDPHE was consulted and follow-up samples were collected at RFLMA and non-RFLMA locations for the MSPTS to support an evaluation of conditions and performance. As noted above, the media in the MSPTS are scheduled for replacement in late 2010.

Contact Record 2010-07 contains additional discussion of analytical results at and evaluation of the MSPTS. The annual report for 2010 will include additional detail and discussion.

3.1.10.2 East Trenches Plume Treatment System

ETPTS monitoring locations were scheduled for RFLMA sampling in the second quarter of CY 2010. Several constituents in system effluent exceeded corresponding RFLMA standards. These conditions have been consistent since the ETPTS was installed.

CDPHE was consulted and follow-up samples were collected at RFLMA and non-RFLMA locations for the ETPTS to support an evaluation of conditions and performance.

Contact Record 2010-07 contains additional discussion of analytical results at and evaluation of the ETPTS. The annual report for 2010 will include additional detail and discussion.

3.1.10.3 Solar Ponds Plume Treatment System

SPPTS monitoring locations were scheduled for RFLMA sampling in the second quarter of CY 2010. Non-RFLMA samples were also collected on multiple occasions at several locations to support continuing evaluation and optimization of the Phase II and Phase III upgrades, as summarized in Section 2.3.3.

The heavy spring moisture received in the second quarter led to increasing accumulation of groundwater in the intercept trench and Phase I ITSS that supply influent to the system. To manage this additional groundwater, influent flow rates were increased. The correspondingly reduced system residence time and decreased treatment effectiveness. This was most noticeable in Phase II cell effluent concentrations of uranium, as reported in screening/optimization samples (i.e., analyzed by the in-house Environmental Sciences Laboratory in Grand Junction, Colorado, rather than an EPA-certified contract laboratory). Those concentrations of uranium had been on a slow, steady decrease, but the flow adjustments caused a reversal in this trend. These and other analytical data will be discussed more fully in the 2010 Annual Report.

Development of Phase IV concepts began in earnest in the second quarter of CY 2010, primarily using the results from Phase III, Cell A (inert media dosed with liquid carbon). This effort is continuing and will be reported in depth in the Annual Report for 2010.

3.1.10.4 PLF Treatment System

During the collection of the April 13, 2010, sample at the system influent (location PLFSEEPINF), the flow rate was 1.11 gpm. As of June 30, 2010, the Landfill Pond outlet remained in an open configuration.

During the second quarter of CY 2010, routine sampling of the treated effluent exiting the system (location PLFSYSEFF) showed that no analyte concentrations were greater than the applicable surface water standard.

3.1.11 Pre-Discharge Monitoring

Pre-discharge samples are collected prior to discharge at Ponds A-4, B-5, and C-2 on North Walnut Creek, South Walnut Creek, and Woman Creek, respectively.

Pre-discharge samples were collected at Ponds A-4 and B-5 during the second quarter of CY 2010. Data indicated that release of the retained water would result in acceptable water quality at the downstream POCs.

3.1.12 Non-RFLMA Monitoring

In addition to the RFLMA-required monitoring discussed in the previous sections, the Site is currently performing non-regulatory monitoring to further describe the fate and transport of

selected constituents at the Site. Data in this section are not limited to the current quarter but includes all available data.

3.1.12.1 Grab Sampling for Uranium and NO_3+NO_2 in North and South Walnut Creeks

This monitoring objective is primarily intended to evaluate spatial variability of nitrate+nitrite and uranium at select locations along North and South Walnut creeks (Figure 21). Samples are currently collected as grabs on a biweekly frequency. Sampling for this monitoring objective began on January 27, 2010. Summary statistics for the sampling to date are given in Table 2.

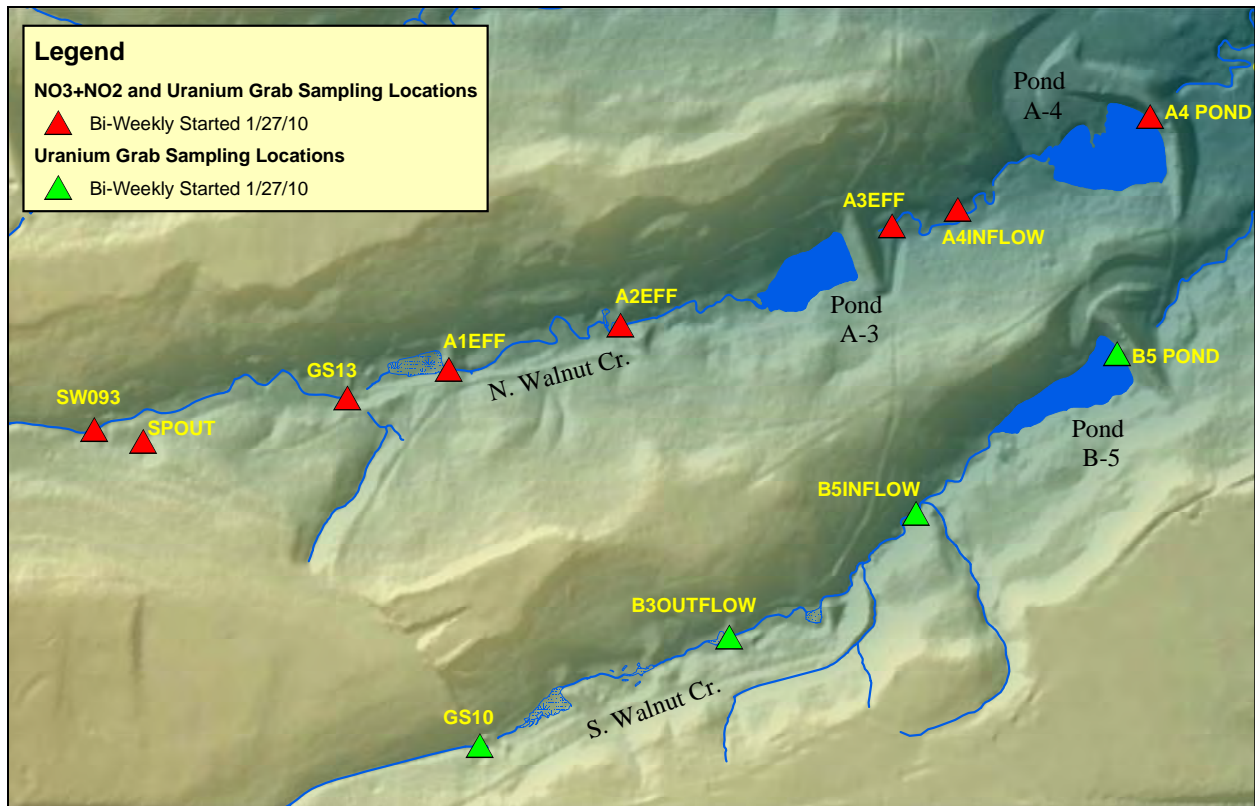


Figure 21. Grab Sampling Locations in North and South Walnut Creeks

Table 2. Summary Statistics for NO₃+NO₂ and Uranium Grab Sampling

North Walnut Creek			NO ₃ +NO ₂ as N (mg/L)		Uranium (ug/L)	
	Location Code	Location Description	Average	Sample Count	Average	Sample Count
Upstream	SW093	POE at downstream end of Functional Channel 3	11.6	14	8.5	15
↓	SPOUT*	Effluent from SPPTS	67.9	16	29.0	17
↓	GS13	SPPTS Performance Monitoring Loc; influent to Pond A-1	16.8	15	14.8	15
↓	A1EFF	Effluent from Pond A-1	15.3	15	12.2	16
↓	A2EFF	Effluent from Pond A-2	13.4	13	21.1	15
↓	A3EFF	Effluent from Pond A-3	6.1	13	19.9	14
↓	A4INFLOW^	Influent to Pond A-4	7.6	10	21.9	10
Downstream	A4 POND	Pond A-4 at center of dam face	2.14	16	10.9	16

South Walnut Creek			Uranium (ug/L)	
	Location Code	Location Description	Average	Sample Count
Upstream	GS10	POE at downstream end of Functional Channel 4	18.9	16
↓	B3OUTFLOW	Effluent from Pond B-3	17.2	16
↓	B5INFLOW	Influent to Pond B-5	14.4	16
Downstream	B5 POND	Pond B-5 at center of dam face	11.1	16

Notes: *SPOUT (SPPTS effluent) is not located in North Walnut Creek but is tributary to North Walnut between locations SW093 and GS13.
 ^A4INFLOW sampling was terminated on 6/30/10 since data indicate that this location is essentially redundant with A3EFF.
 Sample counts vary since some locations are periodically dry.
 Summary includes all data available as of 9/16/10; some recent results are not validated (preliminary and subject to revision).

3.1.12.2 Continuous Flow-Paced Composite Sampling for Uranium in North and South Walnut Creeks

This monitoring objective is primarily intended to evaluate long-term spatial variability of uranium at select locations along North and South Walnut Creeks (Figure 22). Samples are collected as continuous flow-paced composites during all flow conditions. Sampling for this monitoring objective began on March 10, 2010, in North Walnut Creek and on June 16, 2010, in South Walnut Creek. Summary statistics for the sampling to date are given in Table 3.

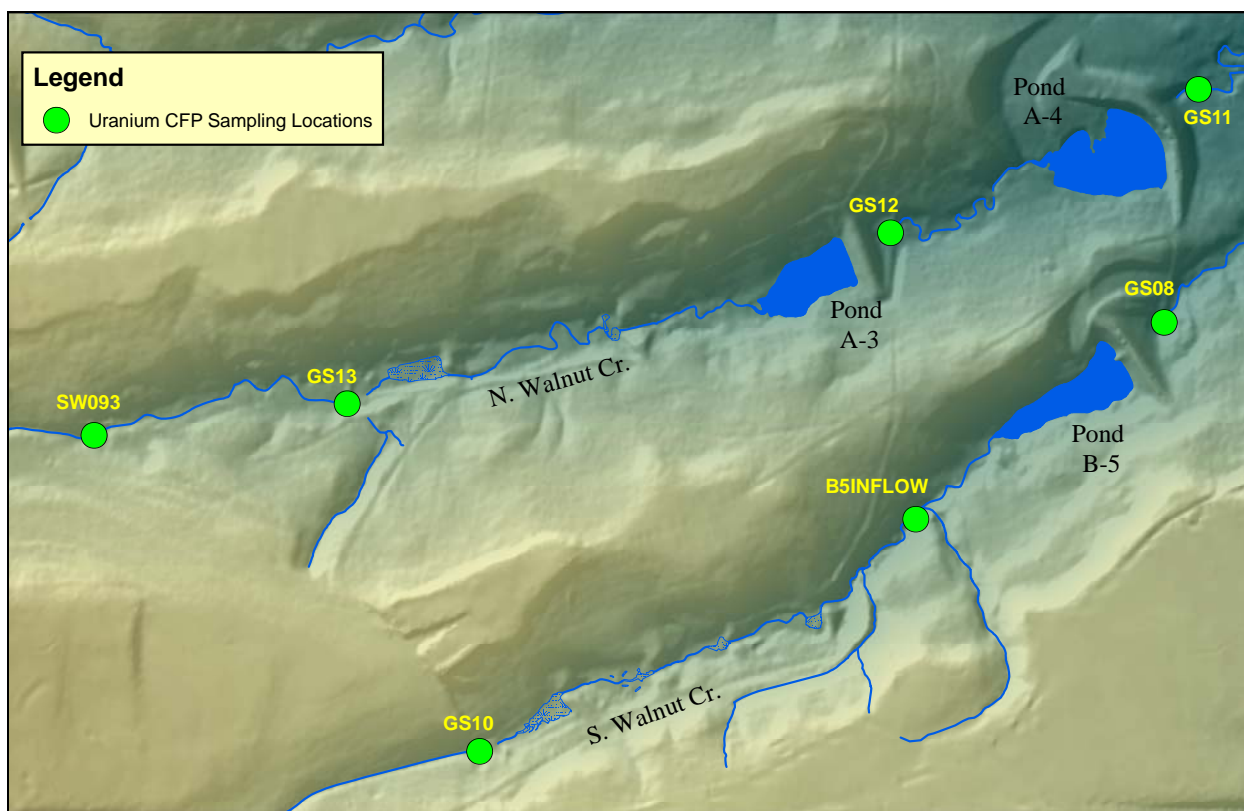


Figure 22. Continuous Flow-Paced Composite Sampling Locations in North and South Walnut Creeks

Table 3. Summary Statistics for Uranium Continuous Flow-Paced Composite Sampling

North Walnut Creek			Uranium (ug/L)	
	Location Code	Location Description	Volume-Weighted Average	Sample Count
Upstream ↓	SW093*	POE at downstream end of Functional Channel 3	7.1	13
	GS13*	SPPTS Performance Monitoring Loc; influent to Pond A-1	8.4	12
Downstream	GS12	Effluent from Pond A-3	11.5	15
	GS11*	Effluent from Pond A-4	9.8	9

Data start on 3/10/10

South Walnut Creek			Uranium (ug/L)	
	Location Code	Location Description	Volume-Weighted Average	Sample Count
Upstream ↓	GS10*	POE at downstream end of Functional Channel 4	Insufficient Data	0
	B5INFLOW	Influent to Pond B-5	Insufficient Data	1
Downstream	GS08*	Effluent from Pond B-5	Insufficient Data	0

Data start on 6/16/10

Notes: *Data for SW093, GS13, GS11, GS10, and GS08 are acquired through the routine RFLMA-required monitoring at these locations. Sample counts vary since composite sampling periods vary with water availability. Summary includes all data available as of 9/16/10; some recent results are not validated (preliminary and subject to revision).

3.1.12.3 Synoptic Storm-Event Sampling in North and South Walnut Creeks

This monitoring objective is primarily intended to evaluate spatial variability of plutonium, americium, uranium, and total suspended solids at select locations along North and South Walnut

Creeks (Figure 23). This sampling is specifically targeted at previously breached Dams A-1, A-2, B-1, B-2, and B-3. Samples are collected as time-paced composites that are collected using automated samplers that trigger during the rising limb of a runoff hydrograph as the event moves down a drainage. This type of sampling is opportunistic; a group of samples is only analyzed when the runoff event results in a significant increase in flowrate, and samples are collected at each location on the same portion of the hydrograph (rising limb). As such, samples are periodically discarded when these criteria are not met. Sampling for this monitoring objective began in April 2010. Summary statistics for the sampling to date are given in Table 4.

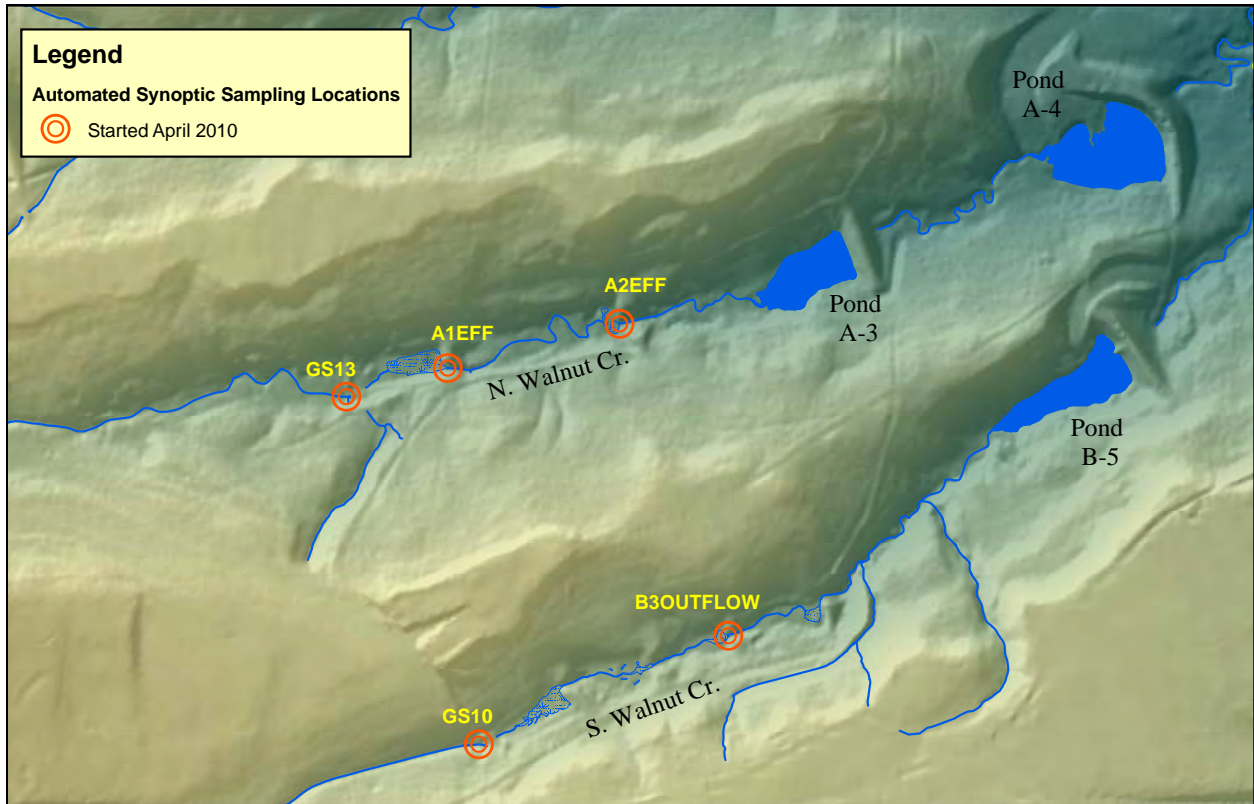


Figure 23. Synoptic Storm-Event Sampling Locations in North and South Walnut Creeks

Table 4. Summary of CY2010 Synoptic Storm-Event Sampling

North Walnut Creek

April 22, 2010 Event	Location Code	Location Description	Pu-239,240 (pCi/L)	Am-241 (pCi/L)	Uranium (ug/L)	TSS (mg/L)
Upstream	GS13	Influent to Pond A-1	0.006 ± 0.007	0.01 ± 0.007	10.50	62.0
↓	A1EFF	Effluent from Pond A-1 / Influent to Pond A-2	0.004 ± 0.006	0 ± 0.004	13.30	0.6
Downstream	A2EFF	Effluent from Pond A-2	0.007 ± 0.006	0 ± 0.012	14.10	0.6

July 4, 2010 Event	Location Code	Location Description	Pu-239,240 (pCi/L)	Am-241 (pCi/L)	Uranium (ug/L)	TSS (mg/L)
Upstream	GS13	Influent to Pond A-1	0.011 ± 0.01	0.006 ± 0.005	9.17	2.4
↓	A1EFF	Effluent from Pond A-1 / Influent to Pond A-2	0.007 ± 0.008	0.003 ± 0.005	6.24	2.5
Downstream	A2EFF	Effluent from Pond A-2	0.004 ± 0.006	0.002 ± 0.003	8.62	7.2

South Walnut Creek

April 22, 2010 Event	Location Code	Location Description	Pu-239,240 (pCi/L)	Am-241 (pCi/L)	Uranium (ug/L)	TSS (mg/L)
Upstream	GS10	Influent to Pond B-1	0.015 ± 0.008	0.01 ± 0.006	17.30	33.0
Downstream	B3OUTFLOW	Effluent from Pond B-3	0 ± 0.005	0.01 ± 0.013	18.20	0.6

4.0 Adverse Biological Conditions

No evidence of adverse biological conditions (e.g., unexpected mortality or morbidity) was observed during monitoring and maintenance activities in the second quarter of CY 2010.

5.0 References

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2011 Work Plan

- Cover memo
- Draft plan

2011 Budget

- Cover memo
- Draft budget
- Hearing resolution and notice

ROCKY FLATS STEWARDSHIP COUNCIL

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

(303) 412-1200
(303) 600-7773 (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
Arthur Widdowfield

MEMORANDUM

TO: Board
FROM: David Abelson
SUBJECT: Approval of 2011 Work Plan
DATE: October 26, 2010

I have scheduled 15 minutes for the Board to review and approve the attached draft 2011 work plan. The plan is the same one the Board reviewed at the September meeting as no changes were offered at that meeting. In preparation for the discussion, please review the minutes from the September meeting during which we discussed the initial plan.

As always, please let me know what questions, if any, you have.

Action Item: Approve 2011 Work Plan

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Arthur Widdowfield

2011 Work Plan

DRAFT #2, October 2010

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: 2011 Challenges and Opportunities

In 2011, the Stewardship Council will complete its 6th year of operations. During the year we will conduct the second triennial review. The triennial review provides the framework for the organization (1) to ensure all governments remain committed to the organization, and (2) to realign the organization as necessary. DOE also wants make sure that the Stewardship Council, as the Local Stakeholder Organization (LSO) for Rocky Flats, continues to serve its Congressionally-defined role. These two dialogues will be linked.

Some of the challenges and opportunities to address in 2011 will likely include:

- Conducting the aforementioned reviews
- Building relationships with the new members of the Colorado Congressional delegation (as needed).
- Developing and circulating accurate information about protectiveness of Rocky Flats cleanup.
- Maintaining public awareness and interest in the ongoing management needs at Rocky Flats.
- 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 2011.

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

Due to funding restrictions, USFWS has delayed implementation of the CCP, including delaying the timeline for opening the Refuge for public access. As USFWS implements steps to open the

Refuge, the Stewardship Council will work with USFWS and DOE to ensure the current access restrictions to DOE-retained lands remain effective and to address issues as needed.

Work Plan Elements

The Work Plan is divided into the following five sections:

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

2011 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. Transmit to appropriate officers and employees of the DOE questions and concerns of governments, persons and entities regarding Rocky Flats.
8. Continue evaluating DOE's proposal to breach terminal ponds A-4, B-5, and C-2, and to move the points of compliance from Indiana Street to the eastern edge of the Central Operating Unit (COU).
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. Support the Rocky Flats Cold War Museum efforts to establish a museum and on mechanisms for educating successive generations about the history of Rocky Flats, particularly about residual contamination and continued need for long-term stewardship.

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.
12. Track the development of Jefferson County Parkway as it relates to Rocky Flats.

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.

2011 Activities:

1. Track issues related to the implementation of the Energy Employee Occupational Illness Program Compensation Act (EEOIPCA). Respond as needed.
2. Communicate worker concerns to the Administration and to members of the Colorado Congressional delegation.

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.

2011 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 federal and state legislators, as appropriate, and track federal and state legislation as needed.
6. Provide opportunities at meetings and in between meetings for education and feedback.
7. Work with DOE to disseminate information on the cleanup and post-closure operations of Rocky Flats.
8. Participate in local, regional and national forums.
9. 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
 - o Letters
 - o Press releases

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 issues related to the interface of the Refuge to lands that DOE will retain as part of its management responsibilities.

2011 Activities:

1. Work with USFWS on implementation and funding of the 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.

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.

2011 Activities:

1. Conduct Stewardship Council triennial review

2. Work with DOE to ensure the Stewardship Council continues to meet the needs as the LSO for Rocky Flats.
 3. Operate Stewardship Council in compliance with state and federal regulations.
 4. Conduct financial audit.
 5. Prepare and adopt the annual work plan and the annual budget.
 6. Submit financial reports to DOE.
 7. Review and renew as necessary consulting agreements.
 8. Provide annual report on activities.
-
-

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
Arthur Widdowfield

MEMORANDUM

TO: Board
FROM: David Abelson
SUBJECT: Fiscal Year 2011 Budget Hearings
DATE: October 27, 2010

At this upcoming meeting, the Board will hold budget hearings on the fiscal year 2011 Stewardship Council budget and approve a budget resolution adopting the budget. As a unit of local government under the Colorado Constitution, the Stewardship Council must hold this hearing prior to adopting a final budget.

The budget I am presenting is the same one the Board reviewed at the September 2010 meeting. No changes were offered at that meeting. The actual/projected expenses have been updated to include actual expenses through September. The initial draft reflected actual expenses through July.

Also attached are the hearing notice and budget resolution that will be submitted to the State of Colorado. The notice will be published in the Denver Post.

Please let me know what questions, if any, you have. (FYI, the budget is two pages. For some reason, when it converts to a pdf it suggests there are four pages.)

Action Item: Hold budget hearings and approve resolution adopting budget.

ROCKY FLATS STEWARDSHIP COUNCIL
2011 Budget -- DRAFT #2

		<u>2010 Budget</u>	<u>2010 Actual/ Projected Expenses*</u>
A. Personnel	\$ 93,000.00	\$ 93,000.00	\$ 82,200.00
Executive Director and Technical Advisor (\$7750/month for 12 months)			
B. Fringe Benefits	\$ -	\$ -	\$ -
Benefits	\$ -		
Staff are contract employees			
C. Travel	\$ 5,700.00		
Out of State	\$ 4,500.00	\$ 4,500.00	\$ 2,198.06
National DOE-related trips \$1500/trip X 3 trips			
Local Travel	\$ 1,200.00	\$ 1,200.00	\$ 785.00
\$100/month for 12 months			
D. Computer Equipment	\$ 500.00		
Purchase misc. hardware, software	\$ 500.00	\$ 500.00	\$ -
E. Supplies	\$ 1,200.00		
Supplies (\$100/month for 12 months)	\$ 1,200.00	\$ 1,200.00	\$ 544.77
F. Contractual	\$ 40,100.00		
Attorney & Accounting Services	\$33,500.00		
Legal Services (\$1400/ month for 12 months)	\$ 16,800.00	\$ 16,800.00	\$ 13,021.80
Accounting (\$850/month for 12 months)	\$ 10,200.00	\$ 10,200.00	\$ 5,184.00
Audit Report	\$ 6,500.00	\$ 6,500.00	\$ 4,550.00
Admin. Services	\$ 4,600.00		
Misc. Services: budget notices, etc.	\$ 1,000.00	\$ 1,000.00	\$ 890.76
Minutes Preparation (6 meetings)	\$ 3,600.00	\$ 3,600.00	\$ 2,875.00
Local Government Expenses	\$ 2,000.00	\$ 2,000.00	\$ 1,440.29
Miscellaneous expenses not covered by DOE funds (includes meeting expenses)			
G. Construction	\$ -	\$ -	\$ -
None			
H. Other	\$ 16,250.00		
Printing & Copy	\$ 2,000.00	\$ 2,000.00	\$ 1,180.41
Postage	\$ 1,500.00	\$ 1,500.00	\$ 593.64
\$125/month for 12 months			
Liability Insurance	\$ 4,000.00	\$ 4,000.00	\$ 3,480.82
Property Contents/General Liability	\$ 500.00		
Board Members	\$ 3,500.00		
Telephone, email, etc	\$ 3,400.00	\$ 3,400.00	\$ 1,856.52

Website		\$ 3,000.00	\$ 5,000.00	\$ 4,420.00
Hosting	\$ 500.00			
Web master	\$ 2,500.00			
Subscriptions/Memberships		\$ 2,350.00	\$ 2,900.00	\$ 1,794.60
ECA membership	\$ 950.00			
Conference registration fees	\$ 750.00			
Newspapers	\$ 650.00			

J. Indirect Costs \$ -

N/A

TOTAL PROPOSED BUDGET	\$ 156,750.00	\$ 159,300.00	\$ 127,015.67
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Net Change from 2010 budget \$ (2,550.00)

REVENUE FOR 2011

Local government contributions	\$ 8,000.00
Department of Energy grant	\$125,000.00
RFCLOG carry-over	\$ 23,750.00

TOTAL \$156,750.00

*2010 Actual/Projected Expenses = actual January through July; projected July through December

STATE OF COLORADO

ROCKY FLATS STEWARDSHIP COUNCIL

The Board of Directors of the Rocky Flats Stewardship Council (“Stewardship Council”), State of Colorado, held a meeting at the Rocky Mountain Metropolitan Airport (formerly Jefferson County Airport), Mt. Evans Room, 11755 Airport Way, in Broomfield, Colorado 80021, on November 8, 2010 at the hour of 8:30 A.M., at which a quorum of the Board of Directors was present.

The Executive Director reported that prior to the meeting he had notified each of the Directors of the date, time and place of this meeting and the purpose for which it was called. He further reported that Notice of the Board Meeting has been posted in accordance with the Bylaws of the Stewardship Council and, to the best of his knowledge, remains posted to the date of this meeting.

Thereupon, Director _____, introduced and moved the adoption of the following Resolution:

RESOLUTION

A RESOLUTION SUMMARIZING EXPENDITURES AND REVENUES FOR THE GENERAL FUND AND ADOPTING A BUDGET AND APPROPRIATING SUMS OF MONEY TO THE GENERAL FUND IN THE AMOUNTS AND FOR THE PURPOSES SET FORTH HEREIN FOR THE ROCKY FLATS STEWARDSHIP COUNCIL, STATE OF COLORADO, FOR THE CALENDAR YEAR BEGINNING ON THE 1ST DAY OF JANUARY, 2011, AND ENDING ON THE LAST DAY OF DECEMBER, 2011.

WHEREAS, the proposed budget has been submitted to the Board of Directors of the Stewardship Council for its consideration; and

WHEREAS, upon due and proper notice, published in accordance with law as attached at Exhibit A, said proposed budget was open for inspection by the public at a designated place, a public hearing was held on November 8, 2010 and interested electors were given the opportunity to file or register any objections to said proposed budget; and

WHEREAS, the budget being adopted by the Board has been prepared based on the best information available to the Board regarding the effects of Article X, Section 20 of the Colorado Constitution; and

WHEREAS, whatever increases may have been made in the expenditures, like increases were added to the revenues so that the budget remains in balance, as required by law.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE

ROCKY FLATS STEWARDSHIP COUNCIL, STATE OF COLORADO:

Section 1. Summary of 2011 Revenues and 2011 Expenditures. That the estimated revenues and expenditures for the general fund for fiscal year 2011, as more specifically set forth in the budget attached hereto, are accepted and approved.

Section 2. Adoption of Budget. That the budget as submitted, amended, attached hereto and incorporated herein, is approved and adopted as the budget of the Rocky Flats Stewardship Council for fiscal year 2011.

Section 3. Appropriations. That the amounts set forth as expenditures and balances remaining, as specifically allocated in the budget, attached hereto, are hereby appropriated from the revenue of the general fund, to the general fund, for the purposes stated and no other.

Section 4. Budget Certification. That the budget shall be certified by Lori Cox, Chairman of the Board, and made a part of the public records of the Rocky Flats Stewardship Council.

The foregoing Resolution was seconded by Director _____.

RESOLUTION APPROVED AND ADOPTED THIS 8th DAY OF NOVEMBER, 2010.

[Remainder of Page Intentionally Left Blank]

2011 Budget Resolution

ROCKY FLATS STEWARDSHIP COUNCIL

By: _____
Lori Cox, Chairman

ATTEST:

Secretary

RFSCo/RESO
ST1408
0756.0015(11)

STATE OF COLORADO
ROCKY FLATS STEWARDSHIP COUNCIL

I, Lori Cox, hereby certify that I am a Director and qualified Chairman of the Rocky Flats Stewardship Council, and that the foregoing constitutes a true and correct copy of the record of proceedings of the Board of Directors of said Stewardship Council, adopted at a meeting of the Board of Directors of the Rocky Flats Stewardship Council held on November 8, 2010 at the Rocky Mountain Metropolitan Airport (formerly Jefferson County Airport), Mt. Evans Room, 11755 Airport Way, in Broomfield, Colorado, as recorded in the official record of the proceedings of the Stewardship Council, insofar as said proceedings relate to the budget hearing for fiscal year 2011; that said proceedings were duly had and taken; that the meeting was duly held; and that the persons were present at the meeting as therein shown.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of the Stewardship Council this 8th day of November, 2010.

Lori Cox, Chairman

EXHIBIT A

NOTICE AS TO PROPOSED 2011 BUDGET

NOTICE IS HEREBY GIVEN that a proposed budget has been submitted to the **ROCKY FLATS STEWARDSHIP COUNCIL** for the fiscal year 2011. A copy of such proposed budget has been filed in the office Seter & Vander Wall, P.C. 7400 East Orchard Road, Suite 3300, Greenwood Village, Colorado, where same is open for public inspection. Such proposed budget will be considered at a meeting of the Rocky Flats Stewardship Council to be held at 8:30 A.M. on Monday, November 8, 2010. The meeting will be held at 11755 Airport Way, Mt. Evans Room, in Broomfield, Colorado. Any interested party may inspect the proposed budget and file or register any objections at any time prior to the final adoption of the 2011 budget.

**BY ORDER OF THE EXECUTIVE COMMITTEE:
ROCKY FLATS STEWARDSHIP COUNCIL**

By: /s/ SETER & VANDER WALL, P.C.
Attorneys for the District

Publish in: The Denver Post
Publish on: November 1, 2010

ROCKY FLATS STEWARDSHIP COUNCIL
2011 BUDGET MESSAGE
SUMMARY OF SIGNIFICANT ASSUMPTIONS

Services Provided

The purpose of the Rocky Flats Stewardship Council, consistent with public health, safety and welfare, is to provide an effective mechanism for local governments in the vicinity of Rocky Flats and their citizens to work together on issues of mutual concern relating to the future use and long-term protection of Rocky Flats, and to serve as a focal point for local government communication and advocacy with state and federal agencies regarding Rocky Flats issues.

Revenue

The Stewardship Council receives its revenues from the Department of Energy; Rocky Flats Coalition of Local Governments; and Local Government contributions (Boulder County, Jefferson County, City and County of Broomfield, Cities of Arvada, Boulder, Golden, Northglenn, and Westminster and Town of Superior).

Expenditures

The funds are used for G&A, overhead expenses, as well as costs incurred with buffer zone and stewardship planning processes.

The Stewardship Council prepares its budget on the modified accrual basis of accounting.

Update to RFLMA Points of Compliance

- Cover memo
- Broomfield RFLMA comments
- Westminster RFLMA comments
- Northglenn RFLMA comments
- Woman Creek Reservoir Authority RFLMA comments
- 2006 DOE—Standley Lake Protection Project Operations Agreement

ROCKY FLATS STEWARDSHIP COUNCIL

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

(303) 412-1200
(303) 600-7773 (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
Arthur Widdowfield

MEMORANDUM

TO: Board
FROM: Rik Getty
David Abelson
SUBJECT: Update on POC Move and Dam Breach
DATE: October 28, 2010

We have scheduled 20 minutes for Broomfield, Westminster and Northglenn to update the board on their discussions to resolve differences with DOE and CDPHE over DOE's plan to move the Points of Compliance (POCs) from Indiana Street to the eastern edge of the DOE-retained lands (called the Central operating Unit [COU]), and to breach dams A-4, B-5 and C-2. DOE and CDPHE will also update you on their actions and discussions.

Attached to this memo are the three cities' and the Woman Creek Reservoir Authority's (WCRA) comments on DOE's plan to move the POCs. Changes to the POCs would be reflected in the Rocky Flats Legacy Management Agreement (RFLMA). The comment period on the RFLMA changes closed on October 19th. A summary of the comment letters follows

A Few Updates

As the parties will discuss, in September DOE concluded that due to the ongoing discussions, the POCs will not be relocated until next fall. (Should we have a dry spring and summer, DOE may opt to move the POCs earlier.) DOE has also indicated that they will issue the dam breach EA within six months. Originally, we had expected DOE to release the EA and the regulatory decision document (Finding of No Significant Impact [FONSI]) this fall.

Additionally, one of the issues Broomfield and others have raised concerns the analytical basis DOE would use to determine whether or not they would breach dams A-4, B-5 and C-2 in 2018-2020. To address this concern, DOE is proposing to follow an "adaptive management" approach. The traditional NEPA model includes predicting the impacts of an action, identifying mitigation measures for those impacts, and then implementing the action along with the mitigation. Adaptive management adds two steps: (1) monitoring environmental conditions following implementation of the action with any mitigation, and (2) adapting the action's implementation or mitigation as appropriate based on the environmental monitoring data.

Summary of Comments on RFLMA Changes

As noted above, Broomfield, Westminster, Northglenn and the WCRA commented on DOE's plan to change the monitoring locations along Indiana Street (see attached correspondence). (We do not know if other, non Stewardship Council parties also issued comments.) As expected, there was a recurring set of consistent themes in these four letters. Following is a summation of those themes.

Formation of downstream working group

Each party advocated for the formation of a working group that would enter into discussions with DOE, CDPHE, and the EPA before any decisions are made regarding dam breaching and POC relocation. In particular, the cities are concerned that since DOE has not released the response to public comment on the dam breach EA, it is difficult to provide comments on the POC relocation as those decisions are, *de facto*, linked.

Rik and David note: DOE and CDPHE have agreed to develop this working group.

POC relocation

All four oppose moving the Indiana Street POCs. However, WCRA notes that if DOE moves the POCs to the eastern edge of the COU (the DOE lands), then WCRA wants the Indiana Street locations to be maintained as Points of Evaluation (POE) monitoring locations, so that they know the water quality exiting the federal lands.

Rik and David note: DOE has committed to monitoring water at Indiana Street during the time that they manage the ponds in a flow-through condition. (DOE has twice made this commitment at Stewardship Council meetings.) DOE, however, does not want to include these monitoring points in the RFLMA, as that would imply a regulatory commitment to maintain the points.

Dam breaching

All four oppose the current dam breaching as proposed in the EA.

Violation of institutional control #2

Broomfield, Westminster, and Northglenn believe the proposed dam breaching and POC relocation activities violate institutional control #2. That control forbids excavation deeper than 3' below surface unless the action is remedy-related. Their basic argument is that neither action (breaching the dams or moving the POCs) is remedy-related. As DOE often remarks, the ponds are not part of the final site remedy. So, the argument goes, digging below 3' is prohibited under the final regulatory documents (specifically, the CAD/ROD).

Broomfield and WCRA agreements with DOE

Broomfield and WCRA have agreements with DOE concerning water management practices. Broomfield believes that the proposed dam flow-through configuration followed by future dam breaches violate the terms of their water lease agreement with DOE. In particular, Broomfield believes the agreement mandates test and release, which would necessitate the presence of a dam, so pre-discharge samples could be taken prior to terminal pond discharges.

WCRA has an Operations Agreement (attached) with DOE. WCRA believes the agreement could be undermined if the POC monitoring locations are moved upstream from Indiana Street. The section in the agreement regarding termination is as follows:

7. This agreement shall terminate when the Parties unanimously agree in writing to termination. Absent mutual agreement of the Parties to terminate the Agreement, this Agreement shall terminate automatically upon either the removal of the RFETS from the National Priorities List under CERCLA or the termination of any monitoring requirements at the Indiana Street Point of Compliance in accordance with a Record of Decision for the RFETS under CERCLA, whichever occurs later. Nothing in this Agreement shall be construed to restrict the Standley Lake Cities or the Authority from taking any action to ensure the continued viability of the SLPP and WCR, such as seeking federal funds to continue operation.

Please let us know what questions you have.



October 19, 2010

RFLMA Attachment 2 Modification Comments
U.S. Department of Energy
11025 Dover Street, Suite 1000
Westminster, Colorado 80021

Sent via Email to rfinfo@LM.doe.gov

RE: Proposed 2010 Modifications to Attachment 2 – Legacy Management Requirements of the Rocky Flats Legacy Management Agreement (RFLMA)

To RFLMA Parties:

The City and County of Broomfield (Broomfield) appreciates the opportunity to offer comments on the proposed modifications to the *Rocky Flats Legacy Management Agreement (RFLMA) Attachment 2 – Legacy Management Requirements*. Broomfield also wants to express its thanks to the RFLMA Parties, which includes the Department of Energy, Office of Legacy Management (DOE-LM), the U.S. Environmental Protection Agency (EPA), and the Colorado Department of Public Health and Environment (CDPHE), for extending the public comment period on two separate occasions at our request.

Broomfield has a population of approximately 58,000, more than 30,000 jobs across all industry sectors, over 4 million square feet of retail space, and is home to over 20 corporate, regional, and national, headquarters. Broomfield, which is immediately downstream and downwind of the Rocky Flats site, is seriously concerned with the post closure changes that are being proposed by DOE-LM. Broomfield was actively involved with the decision making process to support an accelerated regulatory closure and to establish the current monitoring regime. If DOE-LM continues to proceed without the support of the downstream communities, it will undermine the collaborative and cooperative process that was successfully used to achieve accelerated closure at Rocky Flats.

As a downstream community and asset holder, Broomfield does not support the approach that has been proposed by DOE-LM. We recognize that there are two separate regulatory processes for approving the proposed breaching of the dams and amending the RFLMA; however, the approach used so far has not provided Broomfield with a level of comfort to support these changes. Both of these changes should be evaluated in a holistic manner since they have potentially significant irreversible consequences. We believe that the establishment of a working group will (1) result in a more efficient means to exchange information and ideas, (2) provide a more effective approach for developing consensus with the affected stakeholders, and (3) improve public participation and support. Our

goal, as with the DOE-LM, EPA, and CDPHE, is to ensure that the public health and environment remains protective to those who live, work, shop, visit, and recreate in Broomfield.

Summary Listing of Concerns

Broomfield has several overarching concerns related to the changes being proposed by DOE-LM:

1. The proposed amendments to RFLMA which eliminate the test and release operations for the terminal ponds violates the terms and conditions of the Lease Agreement between the Department of Energy and Broomfield, dated September 26, 2006.
2. The construction of the new monitoring points, as well as the breaching of the dams which is being considered as a separate action under the National Environmental Protection Act (NEPA) process, violates the institutional control which prohibits excavations greater than 3 feet.
3. Any changes or modifications to the Institutional Controls requires a formal amendment to the Corrective Action Decision/Record of Decision (CAD/ROD) and cannot be made through a consultative process.
4. DOE-LM is proposing to disregard state regulations and EPA guidance documents for Applicable or Relevant and Appropriate Requirements (ARAR) by eliminating upstream surface water Points of Compliance (POC) located at the terminal ponds and moving them further downstream from the source of contamination.
5. The proposal to use a 12-month rolling average instead of a 30-day average to determine surface water compliance masks the variability of the monitoring data and disregards the ability to incorporate an advance warning system.
6. AOC Wells and the discharge locations for the four groundwater treatment units need to be designated as POC to adhere to state and federal regulations.
7. Contact Record 2010-04, dated July 15, 2010, presumes that the amendments to the RFLMA will be implemented and prematurely grants approval for DOE-LM to excavate below 3 feet for the new monitoring locations. In addition, it also assumes that the NEPA document for the dam breachings has been approved.
8. Any new monitoring points should be operated in conjunction with existing POCs (i.e. located at the terminal ponds and Indiana Street) for several years to make sure monitoring results at the proposed location are representative of both upstream and downstream conditions.
9. No changes or revisions to the POC monitoring frequency, water quality standards, method of calculation, and compliance standards should be made until

the evaluation period in the previous item above is completed and another public comment period is held.

10. DOE-LM has not provided any data or modeling studies to support the statement that groundwater emerges to surface water before leaving the Central OU [*RFLMA Section 5.2*].

Broomfield wants to make sure that the remedy remains protective of human health and the environment. In addition, Broomfield would prefer to support the changes rather than taking on an adversarial position. To achieve this, we recommend that DOE-LM, USAPA, and CDPHE consider an alternative approach that uses an incremental implementation strategy and provides for greater community involvement.

Broomfield requests that a working group be established to address the comments and concerns stated in this letter. No approvals or final decisions on the dam breachings or RFLMA amendments should be made until the working group has had the opportunity to reach a consensus on purpose, need, timing, and scope of the proposed changes. Broomfield will provide its vision of the roles, responsibilities, and participants of this working group in the next 4 to 6 weeks. We believe that the working group should be formally recognized and acknowledged as an amendment to RFLMA.

Our remaining comments are intended to provide further support and additional clarity to the Summary Listing of Concerns stated above. To achieve this, we have divided the remainder of this letter into three main headings: General Comments, Specific Comments, and Closing Remarks. We request that DOE-LM, USEPA, and CDPHE disposition each comment individually and would appreciate a joint meeting with each agency to review the responses before any final decisions or approvals are made.

General Comments

During the past year, Broomfield has made the following assertions through various written and verbal communications with DOE-LM, the U.S. Environmental Protection Agency (EPA), and the Colorado Department of Public Health and Environment (CDPHE):

- The proposed changes openly violate the institutional controls and other restrictions in the regulatory closure documents, state and federal environmental statutes, and written agreements;
- There are no compelling technical or scientific justifications for the changes;
- With regulatory closure occurring less than 5 years ago, the site has not been subject to a sufficient number of wet, normal, and dry hydrologic cycles to demonstrate long-term effectiveness of the remedy; and
- Many of the engineered controls are not functioning as intended and the site is still undergoing physical changes.

To date, Broomfield has not received any satisfactory written responses from DOE-LM, USEPA, or CDPHE to repeated requests on the first two items listed above. Broomfield believes that any future changes should adequately address these very important concerns, at a minimum. Any decision to proceed without a formal response would constitute poor public policy.

Water Lease Agreement

Broomfield believes that the interim changes to operate the terminal ponds in a flow through manner and the permanent modifications to breach the dams are in direct violation of the terms and conditions of the Lease Agreement between DOE and Broomfield, dated September 26, 2006. Both modes of operation are in direct conflict to the requirement to sample and test surface water before discharges are made.

Institutional Controls

Breaching the remaining dams and constructing new monitoring points would violate institutional control that prohibits excavations deeper than 3 feet. The CAD/ROD does not provide a process for issuing variances to the Institutional Controls. A description of the consultative process begins on page 71 of the CAD/ROD and reads:

DOE shall notify EPA and CDPHE 45 days in advance of any proposed land use changes that are inconsistent with the objectives of these institutional controls or the selected remedy/corrective action. DOE shall not modify or terminate institutional controls, implantation actions or modify land use without approval of EPA and CDPHE. DOE shall seek concurrence before any anticipated action that may disrupt the effectiveness of these institutional controls or any action that may alter or negate the need for the institutional controls. For purposes of this CADROD, DOE may not modify or terminate these institutional controls without the approval of EPA and CDPHE, by formal amendment to this CAD/ROD. (Emphasis added.)

Broomfield asserts that approving excavations beyond 3 feet for non-remedy related purposes constitutes a modification to the Institutional Control. Since the proposed activities create new pathways that were not evaluated in the comprehensive risk assessment, an amendment to the CAD/ROD is needed to include supplemental risk assessments for each location where excavations will occur.

Points of Compliance/ Applicable or Relevant and Appropriate Requirements (ARAR)

EPA guidance documents for ARARs clearly state that surface water Points of Compliance (POC) should be located at the site boundary or at the point of discharge. For the Rocky Flats site, all of the groundwater treatment units at the Rocky Flats site have been designated in the remedy as engineering controls. Therefore, regulatory points of compliance should be established at the discharge of all groundwater treatment

systems to maintain consistency with EPA guidance documents and with state water quality regulations.

Groundwater Monitoring

Contact Record 2010-04, dated July 15, 2010 states that the Area of Concern (AOC) wells serve as the points of compliance for groundwater. The RFLMA should be revised to support this statement and maintain compliance with State WQCC Regulation No. 41. In addition, all AOC wells should be tested for the entire suite of analytes listed in Table 1 of the RFLMA.

No Technical, Environmental, or Economic Justification

DOE-LM has repeatedly stated that one of its primary goals is to re-establish natural conditions at the Rocky Flats site. While this is an admirable objective to pursue, it does not address the fact that residual contamination will remain at the site for many generations to come. Broomfield believes that the current remedy (which collectively includes the institutional controls, the engineered controls, the monitoring program, and operations plan) is adequate and the changes proposed by DOE-LM do not reduce risk or provide greater protection for human health and the environment.

30-Day Average vs. 12-Month Rolling Average

Currently, there are two analytical methods to determine if a violation of an enforceable standard occurs at the existing surface water POCs. A 30-day average calculation applies to the Indiana Street POC, while a less sensitive 12-month rolling is used at the POC located at the terminal ponds. Broomfield is concerned that the use of the longer timeframe will delay the timing when a reportable condition occurs. We believe that any future POCs should be based on the 30-day average since it will better reflect subtle changes in contamination levels and provide more advanced warning of increases in contaminate levels.

Lack of a Contingency Plan

The actions above are further compounded by the fact that DOE-LM has not prepared a contingency plan in the event a compliance standard is exceeded. Instead, DOE-LM will rely on a consultative process with EPA and CDPHE to decide how to proceed with further studies or monitoring. This method of operation is unacceptable to Broomfield.

Specific Comments

In addition to the general comments discussed above, Broomfield has several specific comments of the proposed amendments to Attachment 2 of RFLMA. These changes are listed in chronological order. Proposed additions are shown in ***bold italic*** typeface and proposed deletions are shown in ~~strike-through~~ typeface.

The existing surface water use classification of Recreation 2 at the top of the page should be replaced with the following to maintain consistency with WQCC Regulation Nos. 31 and 38:

- ~~Recreation 2, and~~
- ***Recreation N (North Walnut Creek, South Walnut Creek, and Pond C-2),***
- ***Recreation E (Woman Creek),***

Section 2.1 Surface Water Standards – Page 2

The first full paragraph, beginning with the second sentence should be revised as follows to reflect the fact that the all previously granted temporary modifications for the site expired on December 31, 2009:

If the numeric values from basic standards and the site specific standards differ, the site specific standard applies, except where temporary modifications ***have been approved by the WQCC*** are in place. ~~Temporary modifications for six organic compounds, nitrate and nitrite, as listed in Table 1, have been granted through the year 2009 by the WQCC.~~

Section 2.1 Surface Water Standards – Page 2

The last sentence of the second paragraph should be revised as follows since Contact Record 2010- 04, dated July 15, 2010, states that Area of Concern (AOC) wells satisfy the ARAR in [WQCC] Regulation No. 41 for groundwater POCs:

Exceedances of water quality standards at a surface water POC ***or a ground water AOC Well*** may be subject to civil penalties under Sections 109 and 310(c) of CERCLA.

Section 5.0 Monitoring Requirements – Page 3

The second sentence under the third paragraph should be revised as follows:

If standard analytical methods ***have detection limits that are higher than the respective standard*** cannot attain the standard then alternative methods or PQLs will be proposed to the CDPHE ***for review and approval by the WQCC.***

Section 5.1 Monitoring Surface Water – Page 4

No changes to this section should be made until such time that DOE-LM can demonstrate through concurrent sampling that the proposed POCs will be representative of the existing upstream and downstream POCs.

Section 5.2 Monitoring Groundwater – Page 4

The second sentence in the Area of Concern (AOC) Wells classification should be revised as follows pursuant to WQCC Regulation No. 41:

These wells are monitored *as Groundwater POCs* to determine whether the plume(s) may be discharging to surface water *and demonstrate compliance with the water standards in Table 1.*

Section 5.3.3 Groundwater Treatment Systems – Page 5

The last sentence should be revised as follows since the groundwater treatment systems discharge to surface waters of the State:

The *effluent discharge point will serve as the POC and the treatment* systems will be *operated and* maintained to ensure the effluent meets *the water standards in Table 1 standards.*

Section 5.4.1 Boundary Wells – Page 6

This section should be retained without any changes until such time the monitoring data or new groundwater studies and/or modeling show that groundwater contamination is not migrating beyond Indiana Street.

Section 5.4.2 Pre-discharge Pond Sampling – Page 6

Broomfield asserts that this paragraph should remain unchanged since a final decision to breach the dams has not been made. In addition, if DOE plans to operate the terminal ponds in a flow through condition (a proposal that we strictly oppose unless protocols and procedures are significantly revised), then at a minimum, appropriate sampling protocols and procedures need to be added to this section to specify when flow through operations will cease and then subsequently resume. These are the types of revisions, among others, which we submit are appropriate to address in the working group. Further, additional modifications and amendments to the RFLMA and Water Lease with Broomfield will be required to allow any changes to the existing test and release mode of operations for the terminal ponds.

Section 6.0 Action Determinations – Page 7

Add language that local communities are notified of all reportable conditions and are invited to participate in any consultative process between DOE, CDPHE, and EPA.

When reportable conditions occur (except in the case of evidence of violation of institutional controls as described below), DOE will inform CDPHE, ~~and EPA,~~ *and the downstream communities' working group* within 15 days of receiving the inspection reports or validated data. Within 30 days of receiving inspection reports or validated analytical data documenting a reportable condition, DOE will ~~submit a plan and a schedule for an evaluation to address the condition~~ *initiate the consultative process described in RFLMA Paragraph 11 to determine if mitigating actions are necessary. As part of the first step in the consultative process,* DOE will *submit a draft plan and proposed schedule to identify the potential source, cause, and risks associated with the reportable condition* ~~consult as described in RFLMA Paragraph~~

~~to determine if mitigating actions are necessary.~~ ***The downstream communities' working group will be invited to participate whenever the consultative process is initiated for informational purposes and to provide support if requested.*** Final plans and schedules ***to conduct further investigations and studies or*** for implementing any mitigating actions, ~~if any,~~ will be approved by CDPHE in consultation with EPA. DOE is not, however, precluded from undertaking timely mitigation ***to protect human health and the environment*** once a reportable condition has been identified.

In the case of a violation of institutional controls, DOE will notify EPA, ~~and CDPHE,~~ ***and the downstream communities' working group*** within 2 days of discovering any evidence of such a violation, and at that time initiate the consultative process to address the situation. In no case will DOE notify EPA, ~~and CDPHE,~~ ***and the downstream communities' working group*** more than 10 days after the discovery of a situation that may interfere with the effectiveness of the institutional controls. DOE will notify EPA, ~~and CDPHE,~~ ***and the downstream communities' working group*** of the actions it is taking within 10 days after beginning the process to address the situation.

Section 6.0 Action Determinations – Page 8

The last bullet point that references Figure 13 Flowchart – Pre-discharge Pond Sampling should not be deleted.

Table 1 Surface Water Standards – Pages 11 through 15

Remove the Temporary Modifications column and delete footnotes [c] and [h].

Table 1 Surface Water Standards – Pages 11 through 15

Revise footnote [n] to indicate that the standard is for arsenic.

Table 2 Water Monitoring Locations and Sampling Criteria – Pages 16 through 18

1. Points of Compliance – No changes to delete the existing or construct new surface water Points of Compliance should be made until sufficient field data has been gathered to demonstrate the new proposed locations will continue to be representative of the existing monitoring sites.
2. Boundary Wells – The boundary wells should not be deleted.
3. Present Landfill (PLF) Area – Assuming the Present Landfill pond is breached and PLFPONDEFF monitoring site is deleted, there is no need to add the new surface water monitoring site designated as NNG01. The monitoring site PLFSYSEFF, which corresponds to the Present Landfill Treatment System effluent, would better serve as the compliance location since it discharges to surface waters of the State and is located as close as practical to the source of contamination.

4. Present Landfill (PLF) Area – Based on the preceding item above, the analytes for PLFSYSEFF should be changed from “VOCs, SVOCs, U, metals” to “*As required by decision rule.*”
5. Pre-discharge – All three pre-discharge monitoring locations listed should be retained.

Proposed Figure 1 Water Monitoring at Rocky Flats – Page 26

The proposed sequence and dates for the dam breachings listed in the right hand margin do not correspond to the verbal information provided by DOE. Regardless, the original figure should be retained since the justification for the new monitoring sites are based on plans to breach the terminal dams which have not been approved.

Figure 5 Points of Compliance – Page 30

No changes to the figure should be made since the changes are based on the assumption that the dams have been breached. In addition, Reportable Conditions and evaluation of compliance with remedy performance standards for Nitrate must be based on a 30-day average, not a 12-month rolling average, to adhere to the chronic standards listed in State WQCC Regulations Nos. 31 and 38.

Figure 6 Points of Evaluation – Page 31

The method of calculation for all applicable analytes should be based on a 30-day average instead of the 12-month rolling average since these monitoring site are intended to serve as an early warning system. Accordingly, footnote 2 regarding the 12-month rolling average should also be deleted.

Figure 7 Area of Concern Wells, Boundary Wells, and SW018 – Page 32

The existing figure should be retained as is, without any of the changes proposed by DOE.

Figure 11 Groundwater Treatment Systems – Page 36

The following revisions should be made to the flow chart:

1. Box that states “Sample ~~PLFPONDEFF~~⁷ NNG01⁷” should be deleted since there is no need to construct a new surface water monitoring site downstream of the PLFSYSEFF if the Present Landfill pond is breached. PLFSYSEFF is the appropriate monitoring location since it is where discharges to surface water occurs and it is as close as possible to the source of contamination.
2. Footnote 7 should be deleted based on the preceding item above.
3. PLFPONDEFF should be deleted from footnote 6 if the monitoring site is removed.

Figure 13 Pre-discharge Pond Sampling – Page 38

This figure should not be deleted and be retained.

Closing Remarks

Broomfield is amenable to considering flow-through operations of the terminal ponds contingent upon the development of operational and performance criteria for initiating or terminating flow-through operations on a temporary or permanent basis. Such criteria must be agreed upon by the downstream communities and documented in RFLMA. In addition, DOE-LM must adopt a contingency plan that outlines the physical and/or operational actions that DOE-LM will employ in the event a compliance standard is exceeded at any surface water Point of Compliance.

If EPA and CDPHE approves the changes to RFLMA as proposed by DOE-LM, the level of protection provided by the remedy will be reduced, and there will be a corresponding increase in the risks associated with the site. In effect, DOE-LM's proposal will result in the following:

1. Creation of new exposure pathways that were not evaluated or considered as part of the comprehensive risk assessment in the CAD/ROD.
2. Moves existing upstream points of compliance further from the source of contamination.
3. Proposes to establish new surface water points of compliance at the confluence of multiple tributaries which would dilute concentrations and monitoring results with larger volumes of flow.
4. Adopts a less sensitive 12-month average for regulatory compliance purposes instead of keeping the 30-day average that exists at the downstream POCs.
5. Eliminates the physical capability to prevent water that exceeds the standards from migrating off-site.

Despite our opposition to the approach taken so far, we believe that the formation of a working group would provide a forum to allow DOE-LM to meet its goals, allow CDPHE and EPA to provide continued regulatory oversight, and allow the downstream communities to establish greater confidence that the remedy will continue to remain protective of human health and the environment well into the future. Broomfield recommends the establishment of such a group to ensure the proposal and any future site changes occur in a phased manner through a collaborative and cooperative manner. This type of an approach will reaffirm our confidence in the long-term performance of the remedy and help foster a credible public image. As stated previously, we will provide a recommendation for the organizational structure of the working group in the next 4 to 6 weeks.

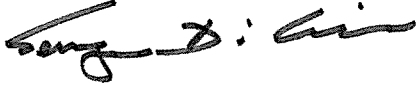
Thank you for the opportunity to provide comments on this important document. We look forward to continue working with you.

Proposed 2010 Modifications to Attachment 2 – Legacy Management Requirements of
the Rocky Flats Legacy Management Agreement

October 19, 2010

Page 11 of 11

Sincerely,



George Di Ciero
City and County Manager

cc: Doug Young, Senator Udalls' Office
Zane Kessler, Senator Bennet's Office
Andy Schultheiss, Representative Polis' Office
Bill Holden, Representative Perlmutter's Office
Dave Geiser, DOE-LM
Thomas Pauling, DOE-LM
Scott Surovchak, DOE-LM
James Martin, USEPA
Carol Rushin, USEPA
Larry Svoboda, USEPA
Vera Moritz, USEPA
Martha Rudolph, CDPHE
Howard Roitman, CDPHE
Joe Schieffelin, CDPHE
Gary Baughman, CDPHE
Carl Spreng, CDPHE
Steve Berendzen, USFWS
John Watson, Esquire, Berenbaum Weinshienk PC
Lori Cox, Broomfield Councilmember
Jeff Stoll, Broomfield Public Health Officer
David Allen, Broomfield Deputy Director of Public Works
Brent McFall, Westminster City Manager
Mike Smith, Westminster Director of Public Works
Bill Simmons, Northglenn City Manager
Josh Nims, Woman Creek Reservoir Authority
Dr. Mark Johnson, Jefferson County Public Health
David Abelson, Rocky Flats Stewardship Council



WESTMINSTER

October 19, 2010

Sent via Email to rinfo@LM.doe.gov

RFLMA Attachment 2 Modification Comments
U.S. Department of Energy
11025 Dover St. Suite 1000
Westminster, CO 80021

City of Westminster
Office of the
City Manager

4800 West 92nd Avenue
Westminster, Colorado
80031

303-658-2400
FAX 303-706-3921

Re: Comments on RFLMA Attachment 2 Modifications

To Whom It May Concern:

The City of Westminster ("Westminster" or "City") appreciates the opportunity to comment on the proposed revisions to the Rocky Flats Legacy Management Agreement ("RFLMA").

By way of background, Westminster's primary drinking water supply, Standley Lake, is located downstream of the former Rocky Flats Plant Site ("Site"). Westminster helped lead efforts in the 1990's to construct the Standley Lake Protection Project and thereby prevent flows leaving the Site from reaching the City's drinking water supply. Although the Standley Lake Protection Project severed the hydrologic connection between activities on the Site and Standley Lake, water leaving federal property continues to flow through portions of Westminster adjacent to Walnut and Big Dry Creeks. Westminster continues to actively monitor and comment on proposals involving the Site and, in this instance, stands in opposition to the current proposal to revise RFLMA.

RFLMA sets forth the regulatory requirements for monitoring water quality at the Site. Currently, the Department of Energy ("DOE") tests the quality of water leaving the federal lands at Indiana Street. On July 20, 2010, DOE, the U.S. Environmental Protection Agency ("EPA") and the Colorado Department of Public Health and Environment ("CDPHE") released a proposed modification to the water quality monitoring program for public comment. The proposed modifications generally contemplate removing all water quality monitoring at Indiana Street and creating new monitoring points significantly further upstream on DOE controlled lands. These new monitoring points would become points of compliance (POC's) under RFLMA, but, as a result of their upstream location, would no longer be able to monitor all flows leaving federal lands. In a separate, but related, proposal, DOE, EPA and CDPHE also support the breaching of certain upstream dams that provide an additional layer of protection to downstream communities. By separate letter, Westminster has provided comments in opposition to the proposal involving breaching of the upstream dams. The net result of these two proposals is that uncontrolled and unmonitored flows would leave the Site and flow through portions of Westminster and other downstream communities.



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RFLMA Attachment 2 Modification Comments
U.S. Department of Energy
October 19, 2010
Page 2 of 7

Westminster strongly opposes the proposed RFLMA modifications. Retention of the existing POCs at Indiana Street ensures that all flows leaving the federal lands comply with applicable water quality standards. Westminster encourages DOE and the regulators to withdraw the current proposal. The specifics of Westminster's position and technical concerns are set forth below.

General Comments:

The proposed RFLMA modification was released with Contact Record 2010-04 which provides the detailed rationale for the proposed changes to RFLMA. The Contact Record describes one of the primary reasons for proposing the RFLMA modification for relocating the POCs is based on the dam breaching actions proposed in the Draft Rocky Flats Surface Water Configuration Environmental Assessment ("EA"). Westminster, along with numerous other affected governments, submitted comments opposing the EA proposed actions before the public comment deadline on June 1, 2010. To date, the disposition of all public comments and the final EA have not been released; therefore, we conclude that release of the proposed RFLMA modification for public comment is premature. In providing comments on the proposed RFLMA modification, the public is forced to make assumptions about the final EA decision that may not be accurate. The published version of the proposed RFLMA modification does not accurately reflect the verbal proposals DOE has offered since the draft EA and RFLMA modification documents were released for public comment. The public is not fully informed about DOE's current intentions regarding the surface water configuration and management at the Site.

The City of Westminster respectfully requests that DOE withdraw the proposed modification to RFLMA Attachment 2 due to unresolved issues associated with the rationale for the proposal. We contend that DOE's current proposal is premature for the following reasons:

- The construction of the new POC monitoring stations in the Woman Creek and Walnut Creek drainages below the terminal ponds may be in violation of Institutional Control #2, which prohibits excavation below three feet for purposes that are not remedy-related. DOE could propose modification of the institutional controls by a formal amendment to the Corrective Action Record/Record of Decision (CAD/ROD), which in turn would require modification of the Environmental Covenant (EC) and RFLMA. The process of modifying the institutional controls could be a lengthy process subject to public comment. The resolution of this issue and the subsequent impact on the current RFLMA proposal cannot be assumed or predicted.

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RFLMA Attachment 2 Modification Comments
U.S. Department of Energy
October 19, 2010
Page 3 of 7

- Contact Records 2010-02 (dam breaching) and 2010-04 (POC relocation) were approved by CDPHE. The City of Westminster encourages CDPHE to recognize the inconsistencies and ambiguities associated with the two interrelated proposals and withdraw approval of the aforementioned contact records. If approval of the contact records is withdrawn or the new POCs cannot be constructed as proposed, there is not sufficient cause for proposing the RFLMA modification as currently presented for public comment.

While we contend the RFLMA modification proposal is premature, Westminster will not forego the first opportunity to provide public comment on the RFLMA document since it was adopted in 2007. Our comments are based on all information provided or referenced in the document released for public comment.

Specific Concerns:

Relocation of the Points of Compliance

Westminster has significant concern about the basic premise of the proposal to relocate the POCs from the Indiana Street locations to the Central Operating Unit ("COU") boundary. Contact Record 2010-04 details DOE's rationale for the RFLMA proposal to modify monitoring locations. One reason suggests that deletion of the Peripheral Operating Unit ("POU") from the National Priority List requires moving the Indiana Street POCs to the COU boundary. Westminster contends that modifying the monitoring locations is not required for the stated reason, as DOE retains the right to access the Indiana Street POCs because the CAD/ROD states *"The selected remedy/corrective action will be implemented through a modification to the Rocky Flats Environmental Covenant (DOE 2006b) to include all of the institutional controls required for the Central OU, through DOE retention of jurisdiction for or access to any real property to be used in carrying out the final response action (that is, the Central OU and designated monitoring points outside the Central OU), and through an interagency agreement/corrective action order among DOE, EPA and CDPHE."* (Emphasis added.) The text in RFLMA itself (February 2007) defines the Rocky Flats Site to include United States Government owned property and provides a map delineating the Site boundary in document Attachment 1, which encompasses both the COU and the POU acreages. Westminster contends that the POCs should be retained at the current locations until such time as active construction of the Jefferson County Parkway forces the relocation. Options for relocating the monitoring stations will be evaluated at that time.

Similarly, the boundary wells, also located on the POU at Indiana Street, currently serve as the last point to measure groundwater leaving the Site. DOE contends in

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RFLMA Attachment 2 Modification Comments
U.S. Department of Energy
October 19, 2010
Page 4 of 7

RFLMA that “*all contaminated groundwater emerges to surface water before leaving the Central OU.*” Without reference wells located outside the COU boundary, DOE cannot ensure this assertion will remain accurate over time. There are no groundwater wells located downstream of the ponds on the COU. Westminster insists that monitoring at the existing boundary well locations should be retained at the current frequency until such time as active construction of the Jefferson County Parkway forces the relocation. Options for relocating the monitoring stations will be evaluated at that time.

Westminster is a principle member of the Woman Creek Reservoir Authority (Authority). The Authority’s comments provided for the proposed RFLMA modification thoroughly detail our concerns about moving the POCs; as such, we support the Authority’s opposition to elimination of GS-01 as the Point of Compliance.

Applicable or Relevant and Appropriate Requirement (ARAR)

DOE maintains that the state and federal guidance for locating groundwater POCs as close as possible to the “waste management area” boundary is also applicable to surface water POCs; however, DOE fails to cite state and federal documents that support this claim. If DOE’s assertion is correct, it would follow that dilution of surface water downstream of the “waste management area” by supplemental surface water flows from surrounding drainages could jeopardize accurate assessment of the affected areas. For example, the proposed new WOMAN POC will result in significant dilution of the South Interceptor Ditch (“SID”) flows measured at SW027 (SID above Pond C-2) by as much as 2000%. The 2009 annual flow at SW027 was 4.35 acre-feet and the 2009 annual flow at GS59 (closest upstream location from Pond C-2 on Woman Creek) was 177.54 acre feet. The new WOMAN POC is planned to be located downstream from current POC GS31, just below the confluence with Woman Creek, thus combining the flows from SW027 and GS59. The current monitoring location at GS01 adequately provides the compliance data encompassing all flows leaving the Site. Note the 2009 annual flow at GS01 was 217.22 acre-feet.

As stated in Contact Record 2010-04, “...*Under CERCLA guidance, compliance with surface water ARARs is measured at an appropriate point considering groundwater impacts to surface water within the NPL site boundary.*” The same Contact Record further describes how the plans to notch the dams, rather than completely removing them, will effectively capture alluvial groundwater and direct it towards the surface water flowing through the notches. If this assessment is correct, what constraints preclude using or modifying the existing POC locations downstream of the terminal

Sent via Email to rinfo@LM.doe.gov
RFLMA Attachment 2 Modification Comments
U.S. Department of Energy
October 19, 2010
Page 5 of 7

ponds (e.g. GS31 below Pond C-2) as the POC when operating the pond in a flow through configuration? The current POCs downstream of the terminal ponds are even closer to the "waste management area" than the proposed new POCs. The current POCs at Indiana Street, in conjunction with the POEs upstream of the terminal ponds and the current POCs below the terminal ponds, provide a clear picture of any contaminant migration.

Environmental Covenant

Lacking any response to comments provided on the EA, Westminster must again provide comment regarding our contention that construction of the new POCs in the Woman and Walnut Creek drainages violates Institutional Control #2. The CAD/ROD, Environmental Covenant and RFLMA reference Institutional Control #2: *"Excavation, drilling and other intrusive activities below a depth of three feet are prohibited, except for remedy-related purposes and routine or emergency maintenance of existing utility easements, in accordance with pre-approved procedures."* The CAD/ROD states *"These controls will extend throughout the Central OU"* and *"will run with the Property in perpetuity and be binding on DOE and all parties having any right, title or interest in the Property."*

To reinforce our position regarding the issue, the following statements paraphrase portions of a memo from Daniel S. Miller (First Assistant Attorney General - Colorado) to Ken Salazar (Attorney General - Colorado) on April 10, 2002 regarding a legal analysis of the federal government's obligation to comply with Colorado's environmental covenant law:

- Colorado Senate Bill 01-145 (SB 145) took effect on July 1, 2001 creating a statutory "environmental covenant" as a mechanism for enforcing use restrictions imposed in connection with remediation of contaminated sites.
- Use restrictions are imposed or relied upon in an environmental remedial decision to protect human health and the environment.
- Institutional controls are required when cleanup levels are set based on land use restrictions being in place. This typically occurs when the party responsible for the cleanup wants to reduce its cleanup costs.
- In the event of an actual or threatened violation of an environmental covenant, the Department (CDPHE) may issue an administrative order requiring compliance with the terms of the covenant, or may ask the attorney general to file suit for appropriate injunctive relief.
- SB 145 also allows other entities that have an interest in ensuring the covenant is not violated to sue for appropriate injunctive relief.

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RFLMA Attachment 2 Modification Comments
U.S. Department of Energy
October 19, 2010
Page 6 of 7

Westminster acknowledges the provision in the CAD/ROD allowing DOE to propose land use changes to CDPHE and EPA with 45 days advance notice. CDPHE and EPA may approve the proposed changes by formal amendment to the CAD/ROD. An amendment to the CAD/ROD may result in opening the CAD/ROD for public comment. The resolution of this issue and the subsequent impact on the RFLMA cannot be assumed or predicted.

Westminster contends that the current monitoring locations adequately evaluate remedy performance.

Pond Operations

In the event the terminal ponds are operated in a flow through condition, Westminster insists the sampling locations in each terminal pond must be retained for pre-discharge sampling if the dam valves were closed due to concerns regarding release of contaminants off the COU. The ability to close the dam valves is a protective measure advocated by the downstream communities in the case of an unforeseeable event. The specific circumstances requiring terminal pond sampling can be determined during discussions with the RFLMA parties and the downstream communities.

Standards Evaluation

Compliance with surface water standards is based on the Colorado Water Quality Control Commission ("WQCC") regulations. Westminster contends that DOE's protocols for evaluating compliance with the RFLMA Table 1 standards at POCs do not adhere to current WQCC regulations for the following analytes:

Segment 5 – uranium and nitrate

Segments 4a and 4b – plutonium, americium, uranium and nitrate

The WQCC Regulation #38 allows for use of the 12-month flow-weighted rolling average concentration (computed monthly) only for Segment 5 and only for plutonium and americium. Westminster requests clarification on DOE's rationale regarding the application of the current RFLMA protocols for evaluating compliance with surface water standards at the Site.


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RFLMA Attachment 2 Modification Comments
U.S. Department of Energy
October 19, 2010
Page 7 of 7

Temporary Modifications

Revise Table 1 to remove all references to the expired Temporary Modifications. All associated language in the RFLMA text should be removed.

In closing, Westminster strongly opposes the proposed plan to relocate the Points of Compliance. We appreciate the efforts of the RFLMA Parties to dialogue about the issues in an attempt to resolve concerns and clarify information and positions. DOE and CDPHE have committed to a water working group to further explore Site issues with the downstream communities. We fully support this effort and intend to actively participate. Thank you for the opportunity to provide comment on the proposed RFLMA modification.

Sincerely,



J. Brent McFall
City Manager

CC – via Email:

Ray Plienness, DOE-LM
Scott Surovchak, DOE-LM
Martha Rudolph, CDPHE
Carl Spreng, CDPHE
Vera Moritz, USEPA
Steve Berendzen, USFWS
Alan King, City and County of Broomfield
David Allen, City and County of Broomfield
Shirley Garcia, City and County of Broomfield
David Willett, City of Northglenn
Shelley Stanley, City of Northglenn
Bud Elliot, City of Thornton
Ed Lanyon, City of Thornton
Josh Nims, WCRA
David Abelson, RFSC
Doug Young, Senator Udall's Office
Zane Kessler, Senator Bennett's Office
Stuart Feinhor, Representative Polis' Office



*Office of the City Manager
11701 Community Center Drive
PO Box 330061
Northglenn, Colorado 80233-8061
Phone (303) 451-8326
FAX (303) 450-8708
TDD (303) 450-8805*

Sent Via Email to rfinfo@LM.doe.gov and U.S. Mail

RFLMA Attachment 2 Modification Comments
United States Department of Energy
11025 Dover Street, Suite 1000
Westminster, CO 80021

October 19, 2010

RE: Comments on the proposed RFLMA Attachment 2 Modifications

To Whom It May Concern:

The City of Northglenn ("Northglenn" or "City") appreciates the opportunity to comment on the proposed changes to the RFLMA Attachment 2 Modifications. Northglenn requests that the RFLMA parties (DOE, EPA, and CDPHE) withdraw the proposal due to unresolved issues associated with the rationale for the proposal as outlined in this letter. Furthermore, Northglenn requests that a committee comprised of asset holders and RFLMA parties be formed to resolve issues related to water quality. Barring these outcomes, the City's comments are outlined below.

Institutional Controls

It is Northglenn's belief that the construction of the new Point of Compliance monitoring stations in the Woman Creek and Walnut Creek drainages may be in violation of Institutional Control #2 which prohibits excavation below three feet for purposes that are not remedy-related. Any proposal to modify the institutional controls would require amending the Corrective Action Record/Record of Decision ("CAD/ROD"), the Environmental Covenant ("EC") and the RFLMA. Amendments to the CAD/ROD, similarly to the RFLMA, are a public process. The Colorado Department of Public Health and Environment ("CDPHE") has approved Contact Records 2010-02 (dam breach) and 2010-04 (revision of monitoring points); each with provisions requiring excavation below three feet for purposes that are not remedy-related. The Department is urged to rescind approval of the aforementioned contact records.

RFLMA/Environmental Assessment

At the time of writing, the final decision on the Environmental Assessment ("EA") for dam breaching has not been issued. As a result, public comment on the EA has not been addressed. The two documents (RFLMA and EA) are related, answers to EA questions have a bearing on the proposed RFLMA changes. The disconnect between the two documents, creates a concern for Northglenn that some of our comments submitted in this letter may not be applicable. Furthermore, Northglenn is concerned that the RFLMA Attachment 2 Modifications, presupposes the breaching of the dams. Case in point, pre-discharge pond sampling has been eliminated in the RFLMA Attachment 2 Modification document, yet the determination to breach the dams has not been made.

RFLMA Public Meeting

Northglenn has previously expressed concern over the lack of a contingency plan in our comment letter related to the dam breaching EA; those concerns will not be reiterated in this letter. Northglenn does however, disagree with the statement made by the regulators at the August 10, 2010 public meeting, that sensitive water quality standards at the POC's, up gradient and down gradient water quality sampling, the Standley Lake Protection Project facilities and replacement of Broomfield's drinking water source are considered a contingency plan.

Justification

The existing points of compliance ("POC"), GS-01 and GS-03, both at Indiana Street, have a long and rigorous water quality record. Historically, these POC's have been used to confirm that all relevant water quality standards are being met. The DOE's proposal is to move these points of compliance approximately three quarters of a mile upstream to the Central Operable Unit boundary, abandon the Indiana Street Points of Compliance, and construct new points of compliance on DOE retained land. The regulatory justification for moving the POC's to the Central Operable Unit is not given. Before abandoning a long and rigorous water quality record for a new, untried location, Northglenn requests that the DOE supply a copy of the document directing them to locate monitoring sites on DOE retained land. Maintaining the points of compliance at their current locations provides our citizens with assurances that water leaving the former Rocky Flats Site meets relevant water quality standards.

Water Quality Standards

Groundwater use designation for the Site is surface water protection. Currently, groundwater samples are filtered (Site Operations Guide, Doc. No. S03037-2.0). Regulation 41, Radioactive Materials Standards Table, footnote 2 states: Radionuclide samples for these materials should be analyzed using unfiltered (total) samples. The footnote refers to Americium and Plutonium 239/240, identified in the table. The City requests that this apparent disconnect be addressed prior to adopting any changes to the RFLMA, Attachment 2.

Technical comments specific to RFLMA Attachment 2 Modifications

Page iii

Modification to Section 5 – It is unclear, in this table or in the figures located at the end of the document, whether the new POC's will have the full enforceability as GS-01 and GS-03.

Modification to Figure 1, Water Monitoring Locations – deleting PLFPONDEFF and replacing with NNGS01 will allow for volatilization and potential dilution to occur between the treatment facility and the new sampling location. This is not a true measure of how well the treatment facility is working nor is it protective of the environment.

Modification to Figure 5 – Northglenn requests DOE provide documentation from the Water Quality Control Regulations that allows using the 85% in setting a nitrate standard. Multiple groundwater treatment facilities exist on site. The Site's groundwater use classification is surface water protection. Given this, why isn't the nitrate standard measured at the treatment plant outfall(s)? This would be an excellent way to determine how well the treatment plant is operating and support the use designation.

- Page 3, Sec 5.0 Northglenn requests to be notified of changes in sampling protocols, methodology, and documents related to water quality monitoring as these documents have bearing on statistical interpretation of the data.
- Page 4, Sec 5.1 Provide ARAR documentation supporting the justification for moving the POC's to the COU boundary.
- Page 6, Sec 5.4.1 Northglenn disagrees with eliminating the Boundary Wells located at Indiana Street. These wells, with their corresponding surface water POC's, are the last data collection point before water leaves the historic Rocky Flats boundary. This is an important sampling site to our citizens and to the Woman Creek Reservoir Authority. Northglenn recognizes that the wells are located in a transportation right of way and that it might be necessary to move or remove these wells in the future. Until that time, the required once a year monitoring hardly seems a hardship.
- Page 30, Figure 5 Are the calculated value and compliance value equivalent in their regulatory meaning. If they are equivalent, for clarity of record and legacy documentation, Northglenn requests language in the RFLMA to this effect. Please cite the WQCC Regulation allowing the setting of a nitrate standard at 85%.
- Page 32, Figure 7 Northglenn objects to the deletion of the Boundary Wells. The DOE performs groundwater flow calculations to estimate movement of pollutant plumes. Northglenn requests the DOE consider our recommendation (detailed in the next sentence) rather than discontinuing monitoring if the two most recent sampling results do not exceed the standard. Northglenn requests that the DOE use flow calculations to determine when the pollutant might reach the well. If the pollutant plume is not measured within the modeled/estimated time, then the flow chart would serve as the determinant as to whether sampling should be discontinued. It is Northglenn's understanding that the well monitoring program (Evaluation, Sentinel, & Area of Concern Wells) is designed to work in a series, from the source (Evaluation wells) to "early warning" (Sentinel wells) and finally, the Area of Concern Wells serving as the last point where groundwater is tested prior to day lighting as surface water. If this understanding is correct, and given that site hydrology is moving from surface to groundwater, changes in location, monitoring frequency or constituents, to AOC and Sentinel wells has the potential to impact surface water. Northglenn also requests to be notified of any proposed changes to AOC and Sentinel wells.
- Page 33, Figure 8 Two criteria are used to determine whether to discontinue monitoring. Our comments/questions are related to these criteria. Northglenn requests clarification as to the rationale for setting the uranium standard at 240 ug/L or pre-CY05 whichever is higher. Northglenn requests clarification as to the rationale for allowing an indeterminate trend at the 95% confidence level as a monitoring "out". We request clarification on the minimum number of years and sample size DOE uses for trending.
- Page 34, Figure 9 Same questions as Figure 8 on the criteria.
- Page 35, Figure 10 Northglenn requests to be notified of proposed changes to RCRA wells.

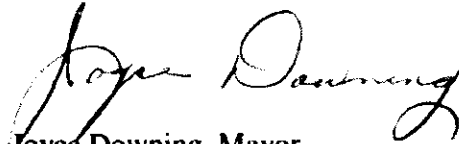
Summary of Northglenn Positions

Northglenn Requests:

1. DOE withdraw the proposed modifications to the RFLMA Attachment 2 and maintain the document in the current state.
2. DOE withdraw the dam breaching EA and CDPHE rescind the contact record related to breaching terminal dams until such time as the inconsistencies between the RFLMA and the EA can be worked out.
3. Northglenn request the formation of a working group composed of downstream communities, USFWS, and the regulators for the purpose of discussing and reaching agreements on water quality issues.

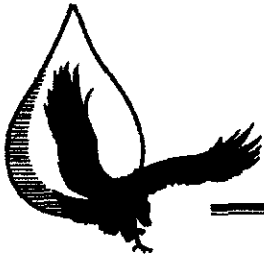
Failing complete withdrawal of the proposed RFLMA Attachment 2 Modification, Northglenn requests written responses to our questions and concerns. The City supports the positions taken, and the comments provided, by the affected downstream communities. Thank you for the opportunity to comment on the proposed revisions to the RFLMA. Do not hesitate to contact my staff, Shelley Stanley, 303.450.4067 or ststanley@northglenn.org should you have any questions.

Sincerely,



Joyce Downing, Mayor

cc: Martha Rudolph, Colorado Department of Public Health and Environment
Carl Spreng, Colorado Department of Public Health and Environment
Vera Moritz, EPA
Ray Pleinus, Legacy Management
Rocky Flats Stewardship Council
David Allen, City and County of Broomfield
Shirley Garcia, City and County of Broomfield
Ed Lanyon, City of Thornton
Josh Nims, City of Westminster
Cathy Shugarts, City of Westminster
Shelley Stanley, City of Northglenn
Steve Berendzen, USFWS
Doug Young, Senator Udall's Office
Zane Kessler, Senator Bennet's Office
Andy Schultheiss, Congressman Polis' Office



Woman Creek Reservoir Authority

4800 W. 92nd Avenue
Westminster, Colorado 80031
Phone (303) 658-2180
FAX (303) 706-3927

October 12, 2010

Via Email and U.S. Mail

RFLMA Attachment 2 Modification Comments
United States Department of Energy
11025 Dover Street
Suite 1000
Westminster, Colorado 80021

Re: Comments on CR 2010-04, RFLMA Attachment 2 Modification

To Whom It May Concern:

I am writing on behalf of the Woman Creek Reservoir Authority (the "Authority" or "WCRA"), a political subdivision and public corporation of the State of Colorado created under C.R.S. § 29-1-204.2. The Authority's membership consists of the Cities of Northglenn, Thornton and Westminster, each of which utilizes Standley Lake as a source of municipal drinking water supply. The Authority is the owner and operator of Woman Creek Reservoir, generally located at the intersection of Woman Creek and Indiana Street, immediately adjacent to the historical boundaries of what has been formerly known as the Rocky Flats Plant Buffer Zone. Woman Creek Reservoir is a component of the Standley Lake Protection Project, a federally funded project designed to provide an extra layer of protection to the downstream municipal drinking water supplies in Standley Lake from upstream activities at the Rocky Flats Plant site.

Woman Creek Reservoir operations contemplate the diversion of all Woman Creek flows into the reservoir, and the subsequent release of water to the Walnut Creek basin, near Great Western Reservoir, thereby severing the hydrologic connection between Woman Creek and Standley Lake. Water released from Woman Creek Reservoir then combines with the native flows in Walnut Creek and flows through portions of the communities of Broomfield and Westminster before reaching Big Dry Creek, which, in turn, flows through portions of Northglenn and Thornton until it reaches the South Platte River.

Upon completion of construction of Woman Creek Reservoir in 1996, the Authority entered into an Operations Agreement with the Department of Energy, ("DOE"), to clarify DOE's responsibility for dealing with any contaminated Woman Creek flows that might reach the Authority's reservoir. A copy of the Operations Agreement is attached.

I am writing to provide comments on the CR 2010-04, RFLMA Attachment 2 Modification proposal as described in the "Proposed Modification to Monitoring Locations at the Rocky Flats Site", released on July 20, 2010. The following comments are submitted on behalf of the Authority:

1. Maintaining the Indiana Street POC's is critical to ongoing Authority operations. Elimination of the Indiana Street POC's is inconsistent with DOE obligations under the Operations Agreement with the Authority.

One of the clear objectives under the Rocky Flats Cleanup Agreement of 1996 ("RFCA"), was that flows leaving the Rocky Flats site would meet relevant water quality standards. Under that agreement, the site itself was referred to as the Rocky Flats Environmental Technology Site ("RFETS") and was defined as "including the property owned by the United States Government, formerly known as the Rocky Flats Plant or Rocky Flats Site, and now known as the Rocky Flats Environmental Technology Site, including the Buffer Zone." See RFCA, Part 5 Definitions, Paragraph 25, subparagraph bj. July 16, 1996. In the preamble of that agreement, the parties to RFCA agreed that, "...all on-site surface water and all surface water and groundwater leaving RFETS will be of acceptable quality for all uses including domestic water supply.... Reliable monitoring and controls to protect water quality during storage of plutonium and other special nuclear material and wastes, and during storm events will continue. To assure the above described water quality, long-term operation and maintenance of waste management and cleanup facilities will continue." See RFCA, Preamble, Paragraph B.3.b., July 16, 1996. To satisfy these water quality objectives, the RFCA established points of compliance at Indiana Street, as well as at the relevant terminal ponds.

The successor agreement to RFCA, the Rocky Flats Legacy Management Agreement, ("RFLMA") maintained the points of compliance at Indiana Street as part of the ongoing monitoring requirements. At present, points of compliance GS-01 and GS-03 under RFLMA are located on Woman and Walnut Creeks, respectively, immediately before those Creeks reach Indiana Street (the "Indiana Street Points of Compliance"). These are the points where water flowing through the former Rocky Flats Plant Site, including the groundwater which daylights to these streams, leaves federally controlled land.¹ Historically, the Indiana Street Points of Compliance have been used to confirm that DOE is in compliance with relevant water quality standards. The current proposal, as we understand it, is to revise the RFLMA to move these points of compliance approximately three quarters of a mile upstream onto the Central Operable Unit and no longer require DOE testing of waters leaving federally controlled lands at the Indiana Street Points of Compliance. The Authority strongly opposes any such action.

The Indiana Street Points of Compliance provide the Authority, its downstream municipal members and Broomfield, with important assurances that the quality of water leaving the former Rocky Flats Plant Site meets relevant standards. Moving these points of compliance upstream simply means that flows off a significant portion of federal lands, (which are documented to contain some levels of plutonium), are no longer subject to compliance testing at Indiana Street. This, in turn, eliminates the Authority's ability to fully assure downstream citizens that water leaving the federal lands meets relevant standards and can safely flow through the various communities. In addition, Woman Creek is a gaining stream on the federal lands during times of the year. This is likely due, in part, to groundwater contributions from the former "buffer zone" lands that now comprise the National Wildlife Refuge. Removing compliance

¹ The land related to the former Rocky Flats Plant was made up of two components: the Industrial area that is now known as the Central Operable Unit ("COU") and the buffer zone lands surrounding the COU. On information and belief, this entire property interest (both the COU and the buffer zone lands) is held in the name of the United States government. Presently, DOE maintains jurisdiction over the COU lands and the USF&W Service maintains jurisdiction over the buffer zone lands. In either instance, however, the federal government remains the underlying landowner of the entire property, not DOE or USF&W Service.

testing under RFLMA at the federal land boundary at the Indiana Street Point of Compliance would mean that the water gained would not be tested before leaving federal lands.²

More importantly, the Indiana Street Point of Compliance is critical to Woman Creek Reservoir operations. DOE's compliance testing at the Indiana Street Points of Compliance provides the Authority with the basis to require DOE action at Woman Creek Reservoir in the event of an exceedance. To the extent an exceedance of relevant water quality standards occurs at the Indiana Street Point of Compliance, DOE has agreed to take certain actions to address the issue. If no exceedance occurs, water is released from Woman Creek Reservoir to the Walnut Creek basin. Moving the compliance point upstream on Woman Creek undermines the assurances under RFLMA that all flows leaving the former Rocky Flats site comply with the relevant water quality standards, since all such flows would no longer be tested under the DOE proposal -- only those flows leaving the COU would be tested going forward. Without a monitoring point at Indiana Street, DOE and the regulators have lost the ability to assure the Authority and downstream communities that all water leaving federally controlled lands meets the relevant standards.

As indicated above, both the Authority and DOE are parties to the Operations Agreement which sets forth DOE's obligations for responding to an exceedance at the Indiana Street Point of Compliance. The Operations Agreement is the only direct agreement between DOE and the Authority concerning DOE response obligations. As such, it is an extremely important document to the Authority. The current proposal serves to undermine the Operations Agreement. It is imperative that monitoring requirements under RFLMA continue at Indiana Street. Absent such monitoring requirements under RFLMA, DOE will likely argue that the obligations under the Operations Agreement are, or could be, automatically terminated. Paragraph 7 of the Operations Agreement contemplates automatic termination of the document upon the later occurrence of two specific events; the removal of the RFETS from the National Priorities List under CERCLA or the termination of any monitoring requirements at the Indiana Street Point of Compliance in accordance with a Record of Decision for the RFETS under CERCLA. The Authority is deeply concerned that DOE will argue that the present proposed modifications to RFLMA, if adopted, constitutes one such specific event. Such a result is flatly unacceptable to the Authority.

2. The proposed revisions to RFLMA must be considered in the context of the pending proposal to breach the terminal dams. To the extent the terminal dams are breached or operated in "flow through", the need for monitoring at Indiana Street as the water leaves federally controlled property is even greater. Maintaining the Indiana Street Points of Compliance under RFLMA is critical to the downstream communities and is the only way to ensure that water leaving federal lands meets standards.

The Authority believes the current proposal to modify Attachment 2 of RFLMA as proposed by the regulators must be considered in concert with the pending proposal to breach certain terminal ponds on Woman and Walnut Creeks. An Environmental Assessment ("EA") has been submitted for public comment relative to terminal dam breaching activities. The Authority has participated in the public comment relative to the EA and maintains its strong preference for a "no action" decision. In an EA comment letter submitted prior to the RFLMA

² The proposed modifications also eliminate the so-called boundary wells that have historically provided groundwater monitoring on the west side of Indiana Street. The Authority believes maintaining those boundary wells is an important component of RFLMA and urges that any proposal to cease boundary well operation and testing be withdrawn.

modification proposal, the Authority requested “specific assurances from DOE and the relevant regulators that a ‘breach’ or any other ‘alternative’ considered in this process does not include or constitute a relaxation, movement, change or re-visitation of DOE’s ongoing obligations for operation and monitoring of the Indiana Street Point of Compliance in the future. DOE must continue to monitor water quality at the Indiana Street Point of Compliance indefinitely. Any attempt to relax or move the point of compliance would constitute a major change to the RFLMA and would be inconsistent with DOE’s existing agreements with the Authority.” Clearly, the current RFLMA proposal does exactly the opposite; namely it intends to eliminate the points of compliance at Indiana Street and replace them with points of compliance a significant distance upstream. The Authority is disappointed on multiple levels at the current proposal and the means by which it has been advanced. The Authority strongly opposes this effort and encourages the RFLMA parties to withdraw the currently proposed revisions to the RFLMA.

3. At an absolute minimum, monitoring must continue under RFLMA at Indiana Street, even as a point of evaluation rather than a point of compliance.

The Authority would prefer that the points of compliance known as GS-01 and GS-03 be maintained and operated indefinitely as part of DOE’s ongoing obligation to ensure that surface flows leaving federally controlled lands meet relevant standards. Failing that, the Authority requests that the proposed amendments be revised to ensure that monitoring continues at GS-01, the Indiana Street Point of Compliance on Woman Creek. The Authority would be willing to accept a revision to GS-01 so that it is a point of evaluation under RFLMA. Under such an approach, continued monitoring requirements would be in place under RFLMA and would ensure that surface water flows leaving federal lands and coming into Authority controlled facilities meet relevant standards. By requiring this monitoring under RFLMA, rather than some unenforceable assurance by DOE, the Authority has the benefit of the federal regulators backing on the maintenance of this monitoring requirement. Moreover, it would eliminate any attempt by DOE to claim that the Operations Agreement between it and the Authority has somehow automatically terminated. As noted above, the Authority relies on its Operations Agreement with DOE to ensure that DOE remains solely responsible for any exceedances. This is a fundamental reason why the Authority opposes the proposed revisions since, with CDPHE and EPA’s inherent blessing, the proposed revisions potentially give DOE an argument to avoid responsibility under its private agreement with the Authority.

Summary of Authority Positions

- The Authority encourages DOE and the regulators to withdraw the proposed amendments to the RFLMA and maintain the document in the current state.
- On a related matter, the Authority encourages DOE and the regulators to withdraw the proposal concerning the breaching of the terminal ponds, as well as the Environmental Assessment related thereto.
- Assuming that DOE and the regulators are unwilling to withdraw the proposed RFLMA amendments and/or the terminal pond breaching proposal, the Authority requests that a point of evaluation under RFLMA, be maintained at the current Indiana Street Point of Compliance location indefinitely, or at a minimum, until the Central Operable Unit is removed from the National Priority List.

- The Authority further requests that DOE acknowledge, in writing, that the proposed changes to the RFLMA do not constitute a change in the Indiana Street Points of Compliance that would cause a termination of the existing Operations Agreement. To this end, the RFLMA should specifically reference that the proposed point of compliance at the COU boundary is the functional equivalent of the existing Indiana Street Point of Compliance for purposes of the DOE Operations Agreement. Finally, as a condition of approval of the RFLMA proposed changes, the regulators must require DOE to enter into an amendment of the existing DOE Operations Agreement that specifically identifies the new point of compliance on Woman Creek and an acknowledgment that said agreement is not automatically terminated as a result of any approved changes to RFLMA.

- Failing a complete withdrawal of the proposed RFLMA changes, (which is the Authority's preferred outcome), or the continued existence of GS-01 as an additional point of compliance under RFLMA, alternative specific suggested language changes to the RFLMA would include:

- In the second bullet of paragraph 5.1, a specific reference to GS-01 in paragraph 5.1 as a point of evaluation. The paragraph would then read, "Points of Evaluation (POEs): Located in the Central OU upstream of the ponds and POCs, and in the Peripheral OU downstream on Woman Creek at GS-01, where Woman Creek flows leave federally controlled lands. These locations are used to demonstrate compliance with the surface-water standards in Table 1, and in the case of GS-01, additionally used for purposes of determining DOE obligations under the Standley Lake Protection Project Operations Agreement dated August 21, 1996, until such time as said Operations Agreement is mutually amended to incorporate the relocated Woman Creek point of compliance."

- As indicated above, the Authority opposes the elimination of the terminal ponds as contemplated in the pending EA. Therefore, the Authority supports re-insertion of the language in paragraphs 5.1 and 5.4.2 related to the terminal pond points of compliance and the pre discharge pond sampling.

- Re-insertion of the entirety of the Boundary Wells language in paragraph 5.4.1, and conforming references throughout the document.

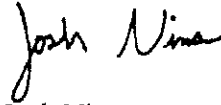
- The Authority requests formation of a water working group composed of DOE, EPA, CDPHE, downstream municipal water suppliers and the Authority to discuss ongoing water quality results and related activities at the former Rocky Flats Site.

- The Authority supports the positions taken, and the comments provided, by the effected downstream communities to the proposed RFLMA modifications.

The Authority remains in strong opposition to this proposal and urges the regulators and DOE to withdraw the proposal. Failing that, the proposal must be revised to require ongoing monitoring under RFLMA at the Indiana Street Point of Compliance (GS-01) on Woman Creek, consistent with the bullet points set forth above.

Thank you for the opportunity to comment on the proposed revisions to the RFLMA.

Sincerely,

A handwritten signature in black ink that reads "Josh Nims". The signature is written in a cursive style with a large initial "J" and "N".

Josh Nims
President
Woman Creek Reservoir Authority

cc via email: Shelley Stanley, Woman Creek Reservoir Authority Board
Ed Lanyon, Woman Creek Reservoir Authority Board
David Willett, City of Northglenn
Bud Elliot, City of Thornton
Mike Smith, City of Westminster
Shirley Garcia, City and County of Broomfield
David Allen, City and County of Broomfield
Martha Rudolph, Esq., Colorado Department of Public Health and Environment
Carl Spreng, Colorado Department of Public Health and Environment
Vera Moritz, Environmental Protection Agency
Ray Plienus, Legacy Management
Scott Surovchak, Legacy Management
Rocky Flats Stewardship Council

STANDLEY LAKE PROTECTION PROJECT OPERATIONS AGREEMENT

THIS AGREEMENT is entered into effective this 21st day of August, 1996, between the Woman Creek Reservoir Authority (the "Authority"), a water authority, a body corporate and politic, a separate governmental entity, a political subdivision and a public corporation of the State of Colorado, pursuant to Section 18(2)(a) and (2)(b) of Article XIV, Constitution of the State of Colorado, and to § 29-1-204.2, Colorado Revised Statutes, as amended (the "Act") and the United States Department of Energy ("DOE").

1.0 Introduction

The Rocky Flats Environmental Technology Site ("RFETS" or "Site") is a federal government-owned, contractor-operated facility under the administrative control of the U.S. Department of Energy (DOE). The facility is located in Jefferson County, Colorado and is approximately ten (10) miles north of Golden, Colorado. The description of the RFETS is provided in Exhibit A.

Standley Lake is a storage reservoir which lies within the Woman Creek watershed and serves as the drinking water supply for approximately 200,000 people in Jefferson County, Colorado. The Cities of Westminster, Thornton and Northglenn (the "Standley Lake Cities") derive a portion of their water supplies from Standley Lake. Woman Creek flows through the RFETS Buffer Zone prior to reaching Standley Lake. Portions of the land surrounding Standley Lake, as a result of the accidental releases from the RFETS in the 1950's and 1960's, may contain low-level deposits of radionuclides.

The United States Congress authorized the DOE to use certain amounts of environmental restoration and waste management funds to reimburse the Standley Lake Cities for the cost of implementing water management programs. The Standley Lake Cities have determined to use these funds for the Standley Lake Protection Project (SLPP). The SLPP is designed to physically prevent Woman Creek flows passing through the RFETS from reaching Standley Lake, a municipal raw water supply for the Standley Lake Cities.

Funded by a DOE grant, the SLPP consists of Woman Creek Reservoir and Pipeline (WCR), the Standley Lake Wetlands Project, and the Kinnear Ditch Pipeline Project, facilities that will physically isolate Standley Lake from Woman Creek, which currently conveys flows from the RFETS into Standley Lake. The funds furnished from the DOE (e.g., DOE Grant No. DE-FG-34-91RF00116) have been used to construct the SLPP. The Standley Lake Cities have entered into a separate Intergovernmental Agreement with the Authority, whereby in consideration of a one-time lump sum payment of \$8.147 million, from the Standley Lake Cities to the Authority, the Authority agrees to own and operate the WCR and associated facilities consistent with the terms of this agreement. DOE agrees

that the payment of the \$8.147 million one-time lump sum payment by the Standley Lake Cities to the Authority constitutes a disbursement and qualifies as a reimbursable expense under the terms of the Grant.

The Authority, in connection with the implementation of the SLPP, will purchase a portion of the land surrounding Standley Lake (the "SLPP Lands"). The description of the SLPP Lands is included in Exhibit B. This surrounding land may have been subject to contamination from past airborne dispersal of radionuclides from the RFETS.

The undersigned parties enter this Agreement for the purpose of defining a common understanding for operational responsibilities for the Standley Lake Protection Project (SLPP). This Agreement facilitates the operation of the SLPP and each party acknowledges that it has the authority to enter into this Agreement.

2.0 Collection and Containment of Water in Woman Creek Reservoir

The Authority envisions two operational scenarios for WCR: 1) normal operation (i.e., compliance with standards) and 2) event operation. Decisions to retain or release water are the sole responsibility of the Authority, in coordination with the Colorado Water Quality Control Division of the Colorado Department of Public Health and Environment ("CDPHE").

2.1 Normal Operation

- 1. The natural flows from Woman Creek will be diverted and collected in one of the three compartments in WCR. The compartments will have capacities of approximately 100 ac-ft each. To the extent possible, water will be stored in a different compartment in Woman Creek Reservoir every 90 days. The 90 day time frame is a goal and may vary slightly depending on Woman Creek flow and sampling frequency at the Indiana Street Point of Compliance.**
- 2. Pursuant to the Rocky Flats Cleanup Agreement ("RFCA"), testing of flows in Woman Creek will occur at the Indiana Street Point of Compliance as that term is defined in the RFCA.**
- 3. If, pursuant to the terms of the RFCA, DOE has been in compliance with the relevant standards at the Indiana Street Point of Compliance, the Authority may release any resulting water stored in Woman Creek Reservoir during the previous 90 day storage period without further testing or regulatory requirements.**

2.2 Event Operation

1. If, pursuant to the terms of the RFCA, DOE is not in compliance with the relevant standards at the Indiana Street Point of Compliance the Authority may retain in isolation any water stored in Woman Creek Reservoir during the previous 90 days and may decide to release the water after any actions taken pursuant to a mitigation plan under RFCA are completed. DOE will notify the Authority within 3 days of receiving test results indicating that it is not in compliance with the relevant standards under the RFCA at the Indiana Street Point of Compliance.
2. Water stored in Woman Creek Reservoir that exceeds the standards at the Indiana Street Point of Compliance may need to be treated, or otherwise managed prior to release to the Walnut Creek Basin. Any such treatment or management will be undertaken pursuant to a mitigation plan under RFCA. Upon completion of any treatment requirements under the mitigation plan, the Authority may decide to release the water to the Walnut Creek Basin.
3. In no event will the Authority be held responsible for any activity required under the RFCA, (including but not limited to any testing, treating or disposition of water in Woman Creek Reservoir), resulting from an exceedance of the relevant standards at the Indiana Street Point of Compliance. To the extent any action is required under RFCA for an exceedance at the Indiana Street Point of Compliance, DOE, and not the Authority, will be solely responsible for carrying out any such required action.

3.0 DOE's CERCLA Responsibility

1. CERCLA serves as a legal and jurisdictional basis for and the scope of DOE's responsibility for the accidental releases which may have resulted in the deposition of radioactive materials on the SLPP lands.
2. Section 120(a)(2) of CERCLA, provides that all guidelines, rules, regulations, criteria for preliminary assessments, site investigations, and remedial actions are applicable to federal facilities to the same extent as they are applicable to non-federal facilities. The RFETS and a portion of the surrounding land, pursuant to the CERCLA, were placed on the NPI. by the EPA in 1989.
3. The RFETS and the DOE are subject to the regulatory and legal requirements of CERCLA. Accordingly, preliminary assessments, site investigations, remedial actions, and emergency actions conducted at the

RFETS and the surrounding lands are done so under the authority of the RFCA with the DOE, the EPA, and the CDPHE. Moreover, the enforcement of CERCLA-related activities at the RFETS is done so under the authority of the RFCA.

3.1 Assurances of DOE's Continuing Responsibility

1. The DOE recognizes that:

- (a) DOE is a Potentially Responsible Person (PRP) within the meaning of section 107(a) of CERCLA;**
- (b) DOE may be liable as a PRP for response costs associated with the cleanup of the RFETS and the SLPP Lands and that such costs may include, but not be limited to any preliminary assessments, site investigations, and remedial actions performed pursuant to the RFCA or any subsequent Cleanup Agreement entered into by DOE, EPA and CDPHE; and**
- (c) DOE may, to the extent required by CERCLA, and to the extent past radionuclide contamination is attributable to releases from the RFETS, be liable for response costs associated with the cleanup of the SLPP Lands.**

2. The DOE agrees with the Authority that:

- (a) Cleanup, decontamination, and restoration activities will be conducted properly and safely in accordance with the RFCA or any subsequent Cleanup Agreement entered into by DOE, EPA and CDPHE;**
- (b) All waste materials and special nuclear materials will be managed in accordance with applicable law so as to reduce or eliminate risks to the environment and public health and safety;**
- (c) DOE will take all necessary steps within the limits of federal law to satisfy any obligation or liability arising from its status as a PRP, and acknowledges that assumption of title to the SLPP is a potential component of remedial options;**
- (d) DOE will assume all costs for cleanup or other remedial actions required under CERCLA for past radionuclide contamination or any**

other hazardous contaminate that is attributable to releases from the site;

- (e) If appropriated funds are not available to fulfill its obligations or liabilities as a PRP, DOE will use its best efforts to obtain timely funding to meet such obligations or liabilities; however, nothing herein shall be interpreted to require the obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341.

3. DOE recognizes its continuing responsibilities under existing environmental statutes to prevent and remediate contamination from RFETS. If the grant funds are exhausted from uses specified in this Agreement and radioactive and/or hazardous materials remain at the RFETS, DOE or its successor agrees to consult with the Authority regarding whether continued operation of the project is in the best interest of the government. If the parties agree that continued operation is necessary, DOE will use its best efforts, within the limits of federal law, to ensure continued operation of the SLPP. Best efforts may include under appropriate circumstances as determined by DOE (in consultation with the Authority) the following:

- (a) forthwith acceptance of ownership of the SLPP Lands and all operation and maintenance obligations set forth in this Agreement; or
- (b) assumption of all SLPP operation and maintenance obligations set forth in this Agreement; or
- (c) commitment to pay for all operation and maintenance obligations set forth in this Agreement or to reimburse the Authority or its successor for all such costs; or
- (d) commitment to pay a third party for all future operation and maintenance obligations set forth in this Agreement; or
- (e) any other negotiated resolution or settlement between the Authority and DOE; and/or
- (f) obtaining funding necessary to achieve the continued operation and maintenance of the SLPP.

Notwithstanding the examples of "best efforts" outlined above, nothing herein shall be interpreted to require the obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. §1341.

4.0 Performance Provisions

1. The undersigned parties hereby agree to abide by the terms and conditions of this Operations Agreement.

2. The undersigned parties expressly reserve any and all rights which may exist under any federal or state law, including, but not limited to any and all rights associated with any past and/or future contamination events at any component of the Standley Lake Protection Project.

5.0 General Provisions

1. The terms and obligations outlined in this agreement shall be binding within the limits of applicable law on the undersigned parties, their assigns, transferees, successor and any subsequent purchasers of any portion of the RFETS and/or WCR.

2. Invalidation of any of the provisions of this Agreement or of any paragraph, sentence, clause, phrase, or word herein, or the application thereof in any circumstance, shall not affect the validity of the remainder of this Agreement.

3. This Agreement may not be amended or modified except by an amendment in writing signed by all of the Parties.

4. It is the understanding and intent of the undersigned parties that DOE (and not the Authority or the Standley Lake Cities) will be solely responsible for any action required under RFCA as a result of an exceedance of the relevant standards at the Indiana Street Point of Compliance under the RFCA. To the extent that RFCA is ever amended, superseded or replaced by a subsequent interagency agreement or record of decision under CERCLA, DOE agrees to work with the Authority to ensure that DOE (and not the Authority or the Standley Lake Cities) remains solely responsible for ensuring protective water quality levels at the Indiana Street Point of Compliance.

5. Notwithstanding the terms of the RFCA, DOE agrees to use its best efforts to timely and adequately address any exceedances of water quality standards arising at Woman Creek Reservoir that result from activities at the RFETS.

6. The waiver of any breach of any of the provisions of this Agreement by any of the Parties shall not constitute a continuing waiver or a waiver of any subsequent breach by said Party either of the same or of another provision of this Agreement.

7. This Agreement shall terminate when the Parties unanimously agree in writing to termination. Absent mutual agreement of the Parties to terminate the Agreement, this Agreement shall terminate automatically upon either the removal of the RFETS from the National Priorities List under CERCLA or the termination of any monitoring requirements at the Indiana Street Point of Compliance in accordance with a Record of Decision for the RFETS under CERCLA, whichever occurs later. Nothing in this Agreement shall be construed to restrict the Standley Lake Cities or the Authority from taking any action to ensure the continued viability of the SLPP and the WCR, such as seeking federal funds to continue operation.

8. The effective date of this Agreement shall be the date on which the last party signs this Agreement. The undersigned verify that they have the authority to enter into this Agreement.

9. The parties hereto understand and agree that the Authority, and its officers and employees, are relying on, and do not waive or intend to waive, by an provision of this agreement, any right, immunity, or protection provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as it is from time to time amended, or otherwise available to the Authority, its officers, or employees.

10. Any notices required to be given in writing by a party to the others pursuant to this Agreement shall be deposited in the United States mail, first class postage prepaid, return receipt requested, addressed as follows:

Woman Creek Reservoir Authority
Jim Landeck, President
c/o City of Northglenn
11701 Community Center Drive
Northglenn, Colorado 80233-1099

U.S. Department of Energy
Manager
Rocky Flats Field Office
Rocky Flats Environmental Technology Site
Post Office Box 928
Golden, Colorado 80402-0928

Dated this 19TH day of August, 1996.

Crisie Johnson

Manager, Rocky Flats Field Office
Department of Energy

James M. Friedrich

President, Woman Creek Reservoir Authority

Stewardship Council History

- Cover memo
- LSO authorizing legislation
- Letter from DOE to the Rocky Flats Coalition
- DOE's letter approving the LSO
- Fiscal year 2005 Congressional funding authorization

ROCKY FLATS STEWARDSHIP COUNCIL

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

(303) 412-1200
(303) 600-7773 (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
Arthur Widdowfield

MEMORANDUM

TO: Board

FROM: David Abelson

SUBJECT: Discussion of the History of the Rocky Flats Stewardship Council

DATE: October 28, 2010

Earlier this year, the board requested that we discuss the history of the Rocky Flats Stewardship Council, focusing on the reasons for the organization. I've scheduled 30 minutes for this discussion.

Background

In 1999, the Rocky Flats Coalition of Local Governments (the predecessor organization to the Stewardship Council) and the Rocky Flats Citizens Advisory Board (CAB) formed a joint dialogue, the Rocky Flats Stewardship Working Group. The group's dialogue focused on incorporating into cleanup decisions post-closure management needs and requirements (what we called "long-term stewardship"). A key component of long-term stewardship is establishing institutional controls. Institutional controls, as the name implies, include institutions such as a site manager (DOE), regulators (EPA and CDPHE), a community oversight group, and legal/regulatory controls. (Institutional controls stand in contrast to physical controls [e.g., fences, monitoring stations, signs, etc.])

The Rocky Flats cleanup project benefitted greatly from the active and consistent involvement of the Coalition and CAB, among others. In 2003, it became clear that post-closure management would likewise benefit from ongoing local government and community oversight. Accordingly, in 2004, as DOE's Office of Environmental Management (EM) was nearing completion of active remediation activities, and Congress and DOE were taking steps to establish the Office of Legacy Management (LM), Senator Wayne Allard secured legislation establishing Local Stakeholder Organizations (LSO). The legislation (attached) authorized establishing LSOs at Rocky Flats, Mound (Ohio) and Fernald (Ohio). For different reasons, the local governments and communities surrounding Mound and Fernald opted not to establish LSOs for their sites.

Members

After a challenging public dialogue, and the involvement of Senators Allard and Salazar, and Representatives Udall and Beauprez, DOE agreed to appoint nine governments (with Golden and Northglenn serving in rotating positions) and four community organizations/individuals.

Choosing the governments was challenging and somewhat political. During cleanup, the seven Rocky Flats Coalition governments were highly engaged, so it was clear that these governments would be part of the Stewardship Council. Golden was also engaged through one of their former councilors, Bob Nelson. Among other things, Bob actively participated in the aforementioned Rocky Flats Stewardship Working Group meetings, and attended the majority of the Coalition board meetings. Northglenn was not engaged outside of their membership in the Woman Creek Reservoir Authority. Yet, like Golden, they wanted to be formally involved in the Stewardship Council.

So, a deal was struck where Golden and Northglenn would both be board members. They would participate in all of the meetings. The only difference is that in alternating years they would have a vote.

The other challenge the Coalition faced was the Stewardship Council membership being dominated by local governments. The members of the CAB wanted greater community representation. Part of the challenge was that the LSO legislation provided in part that the LSO

shall be composed of such elected officials of local governments in the vicinity of the closure site concerned as the Secretary considers appropriate to carry out the responsibilities set forth in subsection (c) who agree to serve on the organization, or the designees of such officials.

The other part of the deal that Allard et al. worked out with DOE was to establish a board of 12, with four seats for community members/groups. That agreement did not appease the CAB's concerns, but was still adopted.

Local Stakeholder Organization (LSO) Mission

As provided in the LSO legislation, the LSO are charged with

1. soliciting and encouraging public participation in appropriate activities relating to the closure and post-closure operations of the site;
2. disseminating information on the closure and post-closure operations of the site to the State government of the State in which the site is located, 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;
3. transmitting to appropriate officers and employees of the Department of Energy questions and concerns of governments, persons, and entities referred to paragraph (2) on the closure and post-closure operations of the site; and
4. performing such other duties as the Secretary and the local stakeholder organization jointly determine appropriate to assist the Secretary in meeting post-closure obligations of the Department at the site.

The Stewardship Council in turn adopted the following 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.

Funding is provided through a grant from DOE. Initial funding came through a 2005 direct Congressional appropriation; subsequent funding came directly from DOE at the agency's discretion.

Focus Since Closure

DOE and its prime contractor, Kaiser-Hill, completed active remediation activities in October 2005. The cleanup was certified as complete by the EPA in September 2006. Despite this huge success, remediation activities continue as DOE continues to treat contaminated groundwater. (Because DOE is still treating groundwater, the DOE retained lands remain on the CERCLA National Priorities List.)

From its inception in March 2006, the Stewardship Council's primary focus in 2006 and 2007 was on the final cleanup regulatory documents, and on the post-closure regulatory documents, including the Rocky Flats Legacy Management Agreement. In 2007, we also worked on the first post-closure CERCLA review. (The next CERCLA review is scheduled for 2012.)

While addressing these macro regulatory issues, we've also focused more narrowly on specific areas of the site. That work can be divided into remediation challenges – e.g., 991 hillside slump, original landfill, solar ponds – and changes DOE is making to the site – e.g., changes in monitoring locations, changes in site standards, dam breaching.

The organization has also focused on communications. That includes (but is not limited to):

1. participating in national forums;
2. preparing and circulating briefing information to community members, congressional staff, and others;
3. developing fact sheets and addressing questions and concerns member groups raise; working with USFWS on signage for the site;
4. meeting with Congressional staff; and
5. developing and managing the website.

Biggest Challenge

When Congress authorized the creation the LSO, there was great uncertainty regarding how community involvement post-closure would change from structures we established during cleanup. There was no roadmap – and in fact, the Stewardship Council is setting the model for how to work in this regulatory environment. While the work is no less important than it was

during closure, the nature of the work (and the issues we tackle) has changed. Our role is to oversee and to communicate, and to provide a public forum to discuss issues. However, save for a few issues, there are no great disputes that tend to energize the group and focus attention. And yet, with this changing emphasis, the board has remained committed to our role as the LSO.

Documents

Attached to this memo are a few documents worth reviewing:

1. LSO authorizing legislation
2. Letter from DOE to the Rocky Flats Coalition stating membership shall be eight governments and four non-elected groups/individuals. Local government membership was later increased to nine, with Golden and Northglenn annually alternating voting.
3. DOE's letter approving the LSO
4. Fiscal year 2005 Congressional funding authorization (funds were provided to the Rocky Flats Coalition to use in establishing the Stewardship Council; \$400,000, the balance remaining from the \$500,000, was subsequently transferred from the Coalition to the Stewardship Council).

108th CONGRESS
2d Session
Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005

AN ACT

To authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005'.

SEC. 3118. LOCAL STAKEHOLDER ORGANIZATIONS FOR 2006 CLOSURE SITES.

(a) Establishment. –

- (1) The Secretary of Energy shall establish for each Department of Energy 2006 closure site a local stakeholder organization having the responsibilities set forth in subsection (c).
- (2) The local stakeholder organization shall be established in consultation with interested elected officials of local governments in the vicinity of the closure site concerned.

(b) Composition. – A local stakeholder organization for a Department of Energy 2006 closure site under subsection (a) shall be composed of such elected officials of local governments in the vicinity of the closure site concerned as the Secretary considers appropriate to carry out the responsibilities set forth in subsection (c) who agree to serve on the organization, or the designees of such officials.

(c) Responsibilities. – A local stakeholder organization for a Department of Energy 2006 closure site under subsection (a) shall –

- (1) solicit and encourage public participation in appropriate activities relating to the closure and post-closure operations of the site;
- (2) disseminate information on the closure and post-closure operations of the site to the State government of the State in which the site is located, 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;
- (3) transmit to appropriate officers and employees of the Department of Energy questions and concerns of governments, persons, and entities referred to paragraph (2) on the closure and post-closure operations of the site; and

(4) perform such other duties as the Secretary and the local stakeholder organization jointly determine appropriate to assist the Secretary in meeting post-closure obligations of the Department at the site.

(d) Deadline for Establishment. – The local stakeholder organization for a Department of Energy 2006 closure site shall be established not later than six months before the closure of the site.

(e) Department of Energy 2006 Closure Site Defined. – In this section, the term "Department of Energy 2006 closure site" means the following:

- (1) The Rocky Flats Environmental Technology Site, Colorado.
- (2) The Fernald Plant, Ohio.
- (3) The Mound Plant, Ohio.



Department of Energy

Washington, DC 20585

June 27, 2005

Mr. Shaun McGrath, Chair
Rocky Flats Coalition of Local Governments
8461 Turnpike Drive, Suite 205
Westminster, CO 80031

Dear Mr. McGrath:

This is in response to your letter dated June 6, 2005, regarding the Rocky Flats Coalition of Local Governments (RFCLOG) approach to establishing the Rocky Flats Local Stakeholder Organization (LSO). We understand that your approach is consistent with the guidance provided in the April 26, 2005, letter from Senators Allard and Salazar and Congressmen Udall and Beauprez.

The Office of Legacy Management (LM) concurs with your approach to membership of eight local elected officials and four non-elected officials, all with equal stature, and the establishment of the LSO no later than six months prior to regulatory closure. As stated in Secretary Bodman's letter dated June 13, 2005, to Senators Allard and Salazar and to Congressmen Udall and Beauprez, "the LSO will be established at least six months prior to signature of the final Record of Decision for the site."

As next steps, LM is requesting that the local elected officials develop a plan that addresses how the three main activities required by Section 3118 of the Fiscal Year 2005 National Defense Authorization bill will be conducted. The plan should explain how the LSO anticipates working within the context of the draft Rocky Flats post-closure public involvement plan (PIP). The plan should include a timeline of the actions/activities identified by the LSO including the stand-up of the Rocky Flats LSO.

The plan should also include the approach to be used for determining how the non-elected officials will be nominated to serve on the LSO. At this point, LM is interested in the method; the membership of the LSO will not be determined until LM has reviewed the Rocky Flats LSO plan. Finally, LM requests that all elected officials sign the Rocky Flats LSO plan; we understand that this currently includes the City of Golden and the seven members of the RFCLOG.

LM encourages you to develop and discuss your plan with members of the public and other key stakeholders (e.g., the Rocky Flats Citizens Advisory Board, retiree/workers groups, environmental groups as well as other interested key stakeholders). Specifically, it would be valuable to discuss the types of information and the levels of participation that will be needed after the Corrective Action Document/Record of Decision (CAD/ROD) is signed and the site is in long term surveillance and maintenance.



LM looks forward to working with you and receiving the Rocky Flats LSO proposed plan by October 31, 2005. Please contact me or Scott Surovchak at 303-966-3551 (email: scott.surovchak@rf.doe.gov) with any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Michael W. Owen". The signature is written in a cursive style with a large initial "M".

Michael W. Owen
Director
Office of Legacy Management

Cc: Senator Wayne Allard
Senator Ken Salazar
Congressman Mark Udall
Congressman Bob Beauprez
Gerald L. DePoorter, RFCAB



Department of Energy

Washington, DC 20585

December 21, 2005

DEC 28 2005

Mr. Shaun McGrath
Chairman
Rocky Flats Coalition
of Local Governments
8461 Turnpike Drive, Suite 205
Westminster, CO 80031

Mr. McGrath,

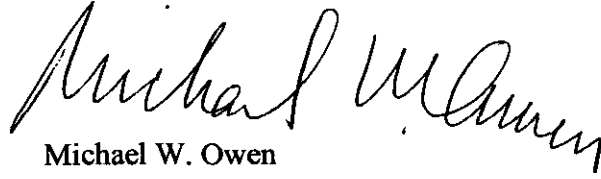
This is in response to your letter dated November 16, 2005, that forwarded the *draft Local Stakeholder Organization (LSO) Plan* to me for approval. The Department of Energy approves the enclosed plan, as amended. We see this plan as the set of activities that will be done by the LSO on behalf of DOE. A summary discussion of the amendments is provided below:

- Amendments to the LSO responsibilities section of the document included moving two items from sub-section 4. (Perform other duties...) to sub-section 2. (Disseminate information) to better reflect the scope of the LSO.
- References to working with the U.S. Fish and Wildlife Service and Congress were removed as inappropriate. We can not direct an organization to work with another federal agency nor can we fund an organization to represent us before the Congress.
- A statement on educating the public on integration of contaminant management and refuge management was deleted. Management of the Rocky Flats National Wildlife Refuge is the responsibility of the U.S. Fish and Wildlife Service; we expect that agency to determine how to best interact with the communities surrounding the site.
- The paragraph addressing direct communication between LM and the communities was removed as unnecessary; it was never intended that the LSO would be the only forum for stakeholders to communicate with DOE.
- Finally, specific reporting requirements such as those used as examples in the proposed plan are addressed in other, regulatory documents such as the *Interim Surveillance and Maintenance Plan* and will be including in the *Long-term Surveillance and Maintenance Plan* following the completion of the CERCLA Record of Decision (ROD) for the site.



The Office of Legacy Management appreciates your efforts to develop this plan and looks forward to its implementation. If you have any questions, please contact Scott Surovchak locally at 303-966-3551, or Tony Carter in our Washington D.C. office at 202-586-3323.

Sincerely,

A handwritten signature in black ink that reads "Michael W. Owen". The signature is written in a cursive style with a large, sweeping initial "M".

Michael W. Owen
Director
Office of Legacy Management

Local Stakeholder Organization Plan

As Amended

DOE Office of Legacy Management

December 14, 2005

Background

In a June 27, 2005 letter to the Board of Directors of the Rocky Flats Coalition of Local Governments, Legacy Management (LM) requested the Coalition spearhead the development of a Local Stakeholder Organization (LSO) Plan. Per LM's request, the LSO Plan should "address how the three main activities required by Section 3118 of the Fiscal Year 2005 National Defense Authorization bill will be conducted." The letter further requests the LSO plan identify how the LSO anticipates working within the context of the Rocky Flats Post-closure Public Involvement Plan (or PCPIP) and include "the approach for determining how the non-elected officials will be nominated to serve on the LSO." This Plan addresses these issues.

Local governments represent constituencies closest to the Site, and through their exercise of representative government, they are able to pull groups together to address issues. The partnership that has developed between DOE and local governments needs to be maintained, and thus governments are charged with spearheading the development of this plan.

The PCPIP includes the following relevant information (quoting from the PCPIP):

Public Meetings

- **Site Transition:** Public meetings will be held as needed to address significant transition issues. In addition, EM and LM will present information about ongoing transition activities from EM to LM during regular RFCLoG and RFCAB meetings.
- **Post-Closure:** The establishment of a Rocky Flats LSO will provide the post-closure forum for stakeholders to continue a dialogue with DOE. LM plans to coordinate with the LSO to hold three quarterly and one annual general public meetings during the first 2 years post-closure to discuss post-closure issues of importance to stakeholders. These meetings will provide information about LTS&M activities being conducted at the site and will present the results of annual site inspections.

Briefings for Local, State, and Federal Elected Officials

- **Site Transition:** Rocky Flats will continue to hold briefings throughout site transition. LM will participate in or hold its own meetings with elected officials as needed to discuss specific topics related to site transition.
- **Post-Closure:** LM plans to continue briefing elected officials through the LSO to discuss new data trends or the evaluation of post-CAD/ROD changes.

Meetings With Stakeholder Groups

- **Site Transition:** Rocky Flats will continue to support and participate in RFCAB and RFCLOG meetings. LM will frequently attend, especially when issues related to post-closure activities are on the agenda. EM and LM will continue to meet with stakeholder groups as requested through site transition.
- **Post-Closure:** Stakeholder groups will be included in the LSO public meetings held post-closure.

The following LSO responsibilities, which draw on these sections of the PCPIP, track the responsibilities set forth in Section 3118 of the Fiscal Year 2005 National Defense Authorization Act.

NDAA Section 3118 – LSO Responsibilities

To ensure maximum buy-in by the LSO Board of Directors, the LSO Plan that LM will approve must be a high-level document with final decisions about the work plan being reserved for the yet-unnamed LSO Board, in consultation with LM.

Section 3118 of the Fiscal Year 2005 Defense Authorization Act includes the following provisions. The legislative language is in **bold**; actions that the LSO will likely take to meet each responsibility are in *italics*. Note, because of the interrelated nature of the responsibilities Congress established in Section 3118, the specific actions that have been identified can fall under more than one subsection below.

(c) RESPONSIBILITIES.—A local stakeholder organization for a Department of Energy Environmental Management 2006 closure site under subsection (a) shall—

- 1. Solicit and encourage public participation in appropriate activities relating to the closure and post-closure operations of the site.** These actions include:
 - a. Host regular, public meetings for LSO members and the general public, including Board meetings, the frequency to be determined by the LSO Board. Meetings will provide an opportunity:*
 - i. 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;*
 - ii. To be briefed on the results of the operational and performance monitoring data of site operations.*
 - iii. Other items as necessary.*
 - b. Work with DOE on implementation of Post-Closure Public Involvement Plan, including meetings identified in the PCPIP.*
 - c. Work with DOE to identify the role of the LSO in the four public meetings LM identified in the PCPIP.*
 - d. Provide opportunities at meetings and between meetings for education and feedback.*
 - e. Provide interface and communicate with federal, state, and local elected officials and agencies.*

- f. *Provide a mechanism for LSO members and the general public to review annual DOE budgets for implementation of DOE responsibilities.*
 - g. *Participate in CERCLA Five-Year Reviews and other reviews that DOE, the State, or EPA undertake.*
2. **Disseminate information on the closure and post-closure operations of the site to the State government of the State in which the site is located, 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.** These actions include:
- a. *Develop and implement mechanisms for LSO members and the general public to be informed of the results of the monitoring data and other relevant information, recognizing that not all communication between LM and Rocky Flats constituencies will flow through the LSO. Potential options include:*
 - i. *Periodic newsletters and/or annual reports*
 - ii. *Email updates*
 - iii. *Other mechanisms as necessary*
 - b. *Provide a mechanism for educating succeeding generations about the residual hazards at Rocky Flats and the continued need for a comprehensive site-wide stewardship program.*
 - c. *Evaluate legal and regulatory issues regarding implementation of site-wide long-term stewardship plan and provide information to the LSO Board and to the community.*
 - d. *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 LSO Board and to the community.*
 - e. *Track, and communicate as necessary, issues related to former site workers.*
 - f. *Work with DOE on funding for LSO operations and other related legislative and regulatory issues that affect the management of Rocky Flats and the LSO.*
3. **Transmit to appropriate officers and employees of the Department of Energy questions and concerns of governments, persons, and entities referred to paragraph (2) on the closure and post-closure operations of the site.** These actions include:
- a. *Solicit and transmit to the appropriate DOE organization community comments on regulatory closure and post-closure documents, including*
 - i. *CAD/ROD*
 - ii. *Delisting/EPA certification*
 - iii. *Post-closure RFCA*
 - iv. *CERCLA Five-Year Reviews*
 - v. *Other items as necessary*

- b. Solicit and transmit to DOE comments on long-term surveillance and maintenance issues as other issue as necessary.*
- 4. Perform such other duties as the Secretary and the local stakeholder organization jointly determine appropriate to assist the Secretary in meeting post-closure obligations of the Department at the site.**
 - a. Additional activities may be assigned as conditions or circumstances dictate.*

The challenge in developing the LSO Plan comes is detailing the specific actions the LSO will take to meet the work scope identified in the PCPIP. LM notes that as activities at Rocky Flats decrease, LM anticipates a corresponding reduction in topics that warrant communication with stakeholders. The LSO Plan and corresponding LSO work plan will need to evolve to address the changing needs at the site. For that reason, the specifics of how the LSO will work with LM to implement the PCPIP must, for the purposes of the LSO Plan, remain at a high level.

Timeline For Standing Up LSO

The LSO must be established no later than six months prior to regulatory closure of Rocky Flats. Given that regulatory closure is, based on best estimates, scheduled for fall 2006, the LSO should be established on or around February 1, 2006. The following timeline is based on this date.

July – October:

- Prepare LSO Plan for submittal to DOE

November – January:

- Work with DOE to identify non-elected members for the LSO
- Draft IGA and present it to member governments for their approval
- Draft LSO bylaws for modification and approval by LSO
- Draft policies and procedures, including procurement policy, for modification and approval by LSO
- Analyze LSO staffing needs
- Draft LSO work plan for modification and approval by LSO
- Draft LSO budget for modification and approval by LSO

February:

- Hold initial LSO meetings – modify and approve work plan and budget
- Hire staff and/or consultants as determined by LSO Board of Directors
- Finalize bylaws and policies and procedures

Process for identifying non-elected officials to serve on the LSO

There is no single formula for determining which non-elected officials should serve on the LSO. In determining membership, LM should look to balance people with knowledge of Rocky Flats with adding new perspectives and engaging constituencies not traditionally engaged on Rocky Flats issues, including non-elected officials who represent organizations or individuals who have experience or skills that would benefit the LSO.

Membership should be tied to the LSO work plan. Characteristics that could serve to guide membership include:

1. Impacted by and interested in a majority of the scope topic areas of the LSO
2. Willingness to invest time and energy on all of the topic areas
3. Some familiarity with Rocky Flats history, the cleanup process, etc.
4. Represent a broad constituency with a wide diversity of viewpoints
5. Bring new ideas to the table

LM has indicated that entities considered for membership should include Rocky Flats retirees/former workers, environmental groups, and educational institutions. Individuals who have established a history of involvement in Rocky Flats issues also may be considered.

As for government representatives, following the Coalition's June 6, 2005, recommendation, LM tentatively set government membership of the LSO as the seven Coalition governments and the City of Golden. Subsequently the City of Northglenn formally expressed interest in serving on the LSO. In light of this request, the Coalition now recommends that the seven Coalition governments get permanent seats of the LSO and that the cities of Golden and Northglenn serve annually on a rotating basis.

Colorado Sunshine Act

The LSO will likely be organized as a unit of local government under the Colorado Constitution. As such the LSO shall comply with the Colorado Sunshine Law (§ 24-6-402). Compliance with this law will, in part, ensure that meetings are open to the public, that notice is provided, that actions are not taken without a quorum of the Board, that minutes of the meetings are recorded, and that meetings cannot be held in closed session unless they qualify under a limited number of circumstances as provided in law. Further, as a unit of local government, the LSO would be subject to the Colorado Open Records Act (§ 24-72-201). By following both laws, the LSO would ensure greater openness than is specified under the Federal Advisory Committee Act.

from FY05 Omnibus Appropriations -
statement of the managers

Legacy Management

Small
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The conferees support the established mission of the office of legacy management to manage the long-term stewardship responsibilities at the department's clean up sites. The conference agreement provides a total of \$46,895,000 for the office of legacy management of which \$13,201,000 is provided for program direction. Within available funds, the conferees provide \$8,000,000, to remain available until expended, for planning, design, construction, and land acquisition, if necessary, to establish a records management facility centrally located near sites transferring into Legacy Management status, and in close proximity to the Office of Legacy Management's records management capability. The conferees urge the Department to accelerate these activities with the goal of such a facility being operation by early fiscal year 2007. From within available funds, the conference agreement provides \$1,200,000 to complete transition of the STAR Center in Pinellas County, Florida and \$4,000,000 for the final payment, subject to the existing requirement for matching funds, to the Miamisburg Mound Community Improvement Corporation. From available funds, \$500,000 is provided to establish a Local Stakeholder Post-Closure organization in the State of Colorado.

U.C

Operational

Funding for Defense Activities in Idaho

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The conference agreement provides \$114,347,000 for defense-related activities at the Idaho National Laboratory (INL) and associated Idaho cleanup sites.