

ROCKY FLATS STEWARDSHIP COUNCIL

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

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

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

Board of Directors Meeting – Agenda

Monday, April 6, 2009, 8:30 – 11:30 AM

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

- 8:30 AM Convene/Agenda Review
- 8:35 AM Business Items (briefing memo attached)
1. Consent Agenda
 - o Approval of meeting minutes and checks
 2. Ratify approval of letter re: NRD Damage Fund
 3. Ratify approval of letter re: federal stimulus funding
 4. Executive Director's Report
- 9:00 AM Public Comment
- 9:10 AM Briefing/Discussion on "The Charlie Wolf Act", A Bill To Amend the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) of 2000 (briefing memo attached)
- o As the Board has discussed numerous times, implementation of the EEOICPA is deeply flawed.
 - o Following the direction established by the Colorado's Congressional delegation regarding their concerns with the EEOICPA, the Stewardship Council has weighed in four times with its concerns about the program.
 - o Senator Udall, working with his colleagues in the Senate and House, drafted legislation to amend the EEOICPA to make it easier for former workers to receive compensation under the Act.
 - o The Board will discuss the bill and presumably approve a resolution in support of the bill.

Action Item: Approve Resolution in support of the Charlie Wolf Act

- 9:30 AM Briefing on Triennial Review of Site Water Standards (briefing memo attached)
- In June 2009, the Colorado Water Quality Control Commission will review water standards for various basins on the South Platte, including Woman Creek and Walnut Creek as they pass through Rocky Flats.
 - DOE will brief on the review, including proposed changes to the supply usage classification and expiration of the temporary modifications for nitrate.

- 9:50 AM Briefing/Conversation of Rocky Flats Cleanup (briefing memo attached)
- DOE will discuss the history of the cleanup and basis for ongoing management activities.
 - The briefing is geared towards increasing the Board's understanding of the history of the cleanup and how those actions influence and inform site activities and the Stewardship Council's focus.

- 10:50 AM Continue Discussing Interpretative Signage for Rocky Flats (briefing memo attached)
- At this meeting the Board will continue discussing signage for Rocky Flats.
 - The conversation will focus on the history of the site as a weapons facility.
 - The intent is not to specify language but to identify categories of information and the types of messages that the Board believes should be conveyed.

11:20 AM Public comment

- 11:25 AM Updates/Big Picture Review
1. Executive Director
 2. Member Updates
 3. Review Big Picture

Adjourn

Next Meetings: June 1
 September 14

Business Items

- Cover memo
- February 2, 2009, draft board meeting minutes
- List of Stewardship Council checks
- Letter to Natural Resource Trustees
- Letter to Colorado's Senator re: stimulus Funding

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MEMORANDUM

TO: Board
FROM: David Abelson
SUBJECT: Business Items
DATE: March 24, 2009

In addition to approving the consent agenda (approval of minutes and checks), the Board will need ratify two letters – one in support of NRD Funding and a second concerning stimulus funding.

Letter to Natural Resource Trustees re: NRD Damage Fund

At the February 2, 2009, meeting the Board directed staff to draft a letter in support of the NRD grant application local governments and community groups submitted to the Natural Resource Trustees. The letter was vetted with the Board and was sent to the Trustees. Formal approval is needed at the meeting.

Action item: Ratify approval of letter to NRD Trustees

Letter to Congress re: federal stimulus funding

At the February 2, 2009, meeting the Board directed staff to draft a letter to Colorado's Senators with copies to House members in support of funding for DOE's Environmental Management program in the federal stimulus bill that Congress was debating. The letter was vetted with the Board and was sent to Senators Udall and Bennet. Formal approval is needed at the meeting.

Action item: Ratify approval of letter re: federal stimulus funding

Please let me know what questions you have.

Rocky Flats Stewardship Council
Monday, February 2, 2009, 8:30 – 11:45 AM
Rocky Mountain Metropolitan Airport (formerly Jefferson County Airport)
Terminal Building
11755 Airport Way, Broomfield, Colorado

Board members in attendance: Lorraine Anderson (Director, Arvada), Clark Johnson (Alternate, Arvada), Lisa Morzel (Director, Boulder), Matt Jones (Alternate, Boulder), Meagan Davis (Alternate, Boulder County), Lori Cox (Director, Broomfield), Bill Fisher (Director, Golden), Faye Griffin (Director, Jefferson County), Kate Newman (Alternate, Jefferson County), David Allen (Alternate, Broomfield), Shelley Stanley (Alternate, Northglenn), Andrew Muckle (Director, Superior), Matt Magley (Alternate, Superior), Bob Briggs (Director, Westminster), Ron Hellbusch (Alternate, Westminster), Jeannette Hillery (Director, League of Women Voters), Sue Vaughan (Alternate, League of Women Voters), Shirley Garcia (Director, Rocky Flats Cold War Museum), Don Rohlf (Alternate, Rocky Flats Cold War Museum), Roman Kohler (Director, Rocky Flats Homesteaders), Karen Imbierowicz (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: Vera Moritz (EPA), John Dalton (EPA), Carl Spreng (CDPHE), Kristan Pritz (Broomfield), Cathy Shugarts (City of Westminster), Steve Berendzen (USFWS), John Boylan (Stoller), Rick DiSalvo (Stoller), Bob Darr (Stoller), Zane Kessler (Sen. Bennett), Jim Schmidt (City of Boulder), Amy Ito (Jefferson County Open Space), Ann Lockhart (Rocky Flats Cold War Museum), Jennifer Bohn (RFSC accountant).

Convene/Agenda Review

Chair Lorraine Anderson convened the meeting at 8:35 a.m. There were no changes to the agenda.

Business Items

The first order of business was the election of officers for 2009. The Board's bylaws call for such an election each year. The term for new officers will begin at this meeting and continue through the first meeting of 2009. Lisa Morzel nominated Jeannette Hillery as Chair. This was seconded by Andrew Muckle. Jeannette Hillery nominated Lori Cox as Vice Chair. Bob Briggs seconded this nomination. Lisa Morzel nominated Bob Briggs as Secretary/Treasurer. This was seconded by Jeannette Hillery. All positions were approved by acclamation. At this point, Jeannette Hillery took over as Chair of the meeting and thanked Lorraine Anderson for her service as Chair.

Roman Kohler moved to approve the November 3, 2008 minutes. The motion was seconded by Lisa Morzel. The motion passed 12-0.

Bob Briggs moved to approve the checks. The motion was seconded by Lori Cox. The motion passed 12-0

Barb Vander Wall noted that, as unit of local government, the Stewardship Council is required to approve meeting times and dates each year. Lorraine Anderson moved to approve the resolution regarding 2009 Meeting Dates and Notice Provisions. The motion was seconded by Lori Cox. The motion passed 12-0.

At the November meeting, the Board directed staff to draft letters to the new members of the Colorado Congressional Delegation congratulating them on their election and informing them about Rocky Flats and the Stewardship Council. The letter was drafted, vetted with the Board and mailed in January, 2009. Formal approval is now required. Lori Cox referenced a sentence referring to lands to be transferred and asked David for an explanation. He said that some of the parcels still need to have their titles cleared regarding mineral rights. This is a lengthy process but is underway now. Roman Kohler moved to approve the letters sent to the new Congressional delegation. The motion was seconded by Lorraine Anderson. The motion passed 12-0.

Executive Director's Report

After welcoming new members of the Stewardship Council, David noted that staff is still waiting for clarification of directors and alternates from some of the member entities.

David provided an update on a bill sponsored by State Representative Wes McKinley that is being considered by the Colorado legislature. This bill focuses on providing cautionary language in signs to be posted at the Rocky Flats National Wildlife Refuge. David explained Rep. McKinley's background as Foreman of the Rocky Flats Grand Jury during the early 1990's. This bill came up for hearing two weeks ago. Lorraine Anderson and Jeannette Hillery testified against the bill. They both noted that they heard a great deal of misinformation at the hearing and pointed to the importance of the Stewardship Council's existence and ability to correct the record about the facts pertaining to Rocky Flats. Lorraine also noted that not a single person supporting the bill mentioned that the USFWS had already posted entrance signs. Lisa Morzel asked why this bill was being discussed. Lorraine responded that it may be motivated by feelings based on past experiences with Rocky Flats and also a fear factor related to the history of the site. Lisa wondered how the Stewardship Council could reach out as a resource before this topic comes up again. David Abelson noted that USFWS has developed specific language for signs since the last time this bill was introduced. The Board discussed sending a letter in November with important information pertaining to this bill prior to a vote in case it comes up again.

David noted that the Colorado Water Quality Control Commission made a ruling on Rocky Flats' uranium standard petition and that DOE will discuss this during their quarterly update later in the meeting.

David next summarized the changes in Colorado's congressional delegation, including the appointment of former Senator Ken Salazar as Secretary of the Interior and the Governor's appointment of Michael Bennett to take over Salazar's seat. David said that the Stewardship Council will not be meeting with the Interior Department quite yet, as this agency is in flux currently. Many positions are not filled, and other officials are still getting up to speed on the issues. He did encourage local government representatives to talk with Interior about funding for the Rocky Flats Refuge, and to communicate that the Refuge needs not simply a one year bump, but an ongoing commitment.

Next week, David will be attending an ECA conference in Washington, D.C. He will also meet with Senator Udall's staff, other Colorado representatives, and DOE Legacy Management. Four of Colorado's six representatives are new to Congress; therefore, much institutional knowledge was lost.

David addressed the frustration revolving around the Department of Labor's implementation of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA). He noted that staff from Senator Udall's office, which has been leading attempts to help Rocky Flats workers, has highlighted the need to start thinking differently about this problem. A meeting is scheduled for later in the week to bring new members of Congress up to speed on this issue and to look ahead on how it can best be addressed.

In other Stewardship Council business, all member governments have approved the Board's Intergovernmental Agreement, as required on a triennial basis (with the exception of the City of Westminster, which will address on February 9). David also noted that he emailed copies of the Board's financial statements for last quarter. Jennifer Bohn will be sending out annual information about Board dues and Barb will circulate oaths of office for signature.

Lorraine Anderson said that she read in the newspaper that Sen. Udall is creating a new organization to support Rocky Flats workers. She asked if the Stewardship Council could be involved in some way. Jeannette asked Roman Kohler if he knew anything about this organization. Roman said his understanding was that Sen. Udall plans to seek the assistance of his fellow Senators to bring about a bill related to this issue.

Lisa Morzel asked what will happen to former Senator Salazar's 'Beyond the Fences' initiative now that he holds the Interior Secretary position. Zane Kessler with Senator Bennett's office responded that the new Senator has expressed an interest in continuing this effort and that the Working Group is still holding monthly meetings. Lisa expressed her approval and asked Zane to tell Sen. Bennett that the Stewardship Council is happy to have him on board.

Bill Fischer asked how the Stewardship Council can support efforts to spread fact-based information about Rocky Flats, and how members may be authorized to address these discussions. David Abelson said that the Board has scheduled a thorough briefing on the Rocky Flats cleanup for the April meeting. This is intended as a way to take a step back and make sure all Stewardship Council members really understand the facts of the cleanup project. He also

pointed to the Stewardship Council's briefing papers which are available on the website as a good source of information to use with constituents. He will continue to think of other methods for spreading this information. Bill also asked if any of the language in McKinley's bill makes sense. David said that there are some important things, such as the need for people to understand Rocky Flats' history as a former weapons site, the history of cleanup, and long-term management needs.

Public Comment

There was none.

Review Draft Washington, D.C. Talking Points

In the coming months, Board members and staff will meet in Washington, D.C. with members of Congress, their staffs and DOE. To ensure that their messages will reflect the position and policies of the Stewardship Council, the Board will approve talking points for their meetings.

Lori Cox made a suggestion for the first section, #3, Background General. She thought the words 'provide public oversight' would be better than 'advise DOE'. Lorraine Anderson suggested keeping both phrases, and Lori was fine with that option. Ron Hellbusch suggested adding a talking point about the possibility of obtaining stimulus funding for projects that are construction-related. Lorraine Anderson said she agreed with Ron's suggestion and, although it does not have to be tied to the stimulus, an influx of one-time money would be useful. Sue Vaughan noted that it is important for this group to have a consensus on its role in relation to DOE. Lisa Morzel said she agreed with this point because the Stewardship Council has received criticism in the past regarding this role. Lorraine pointed out the Stewardship Council decided not to become an official Federal Advisory Committee Act group in order to retain a level of independence, which many other groups around the country do not have. Lisa suggested clarifying this distinction to the new representatives in Washington. Jeannette said that this point is addressed in Talking Point #1.

Lorraine Anderson moved to approve the talking points. The motion was seconded by Lisa Morzel. The motion passed 12-0. David will circulate the revised talking points to all members so they can be used by anyone if necessary.

Approve Recommendation Regarding Natural Resource Damage (NRD) Fund Grants

Local government staff and community members have developed a joint grant to be funded through the NRD Fund. The Board has discussed and reviewed the framework of these proposals at previous meetings. At this meeting, the Board will be briefed on the final proposal.

David Abelson noted as that the various participants in this grant process are now looking at multi-phased approach, based on issues that have come up during the process.

David briefed the Stewardship Council on the latest modifications to the proposals being submitted to the Trustees. Boulder's proposal for prairie and habitat projects was increased to \$150,000 (was \$75,000). Also, since it has been determined that the issues related to Section 16 will take a lot more dialogue and time to address, the parties agreed that putting this in the NRD request was premature. Work on the Section 16 issues is ongoing and will continue to be addressed in a later phase. Broomfield's funding request for an Open Space purchase was also removed from the proposal because the property owner wanted more than fair market value. Westminster's proposal has been increased by \$88,000 for re-vegetation. The new total for the combined proposal is approximately \$2.45 million and was submitted to the Trustees last week.

David Abelson strongly recommended that the Board endorse this submittal. Lorraine Anderson moved that the Board support the proposed NRD projects. Lisa Morzel seconded the motion. The motion passed 12-0. David Abelson will draft the Board's letter of support and will circulate via email.

Asked when Phase 2 might begin, David Abelson pointed out that there are many unknown factors at this point. Kristin Pritz (Broomfield) said that the Trustees' decision is expected in late spring and that she will keep the Stewardship Council updated on the project. Meagan Davis said that these proposals are a nice package that will accomplish what the NRD funds were intended. Matt Jones expressed his appreciation to Kristin for all her work.

Discuss Interpretative Signage for Rocky Flats

The USFWS' site conservation plan for Rocky Flats includes commitments to place interpretative signage at various locations in the Refuge. Those signs will include information about the history of the site as a nuclear weapons facility, the remediation project and ongoing management requirements. The Stewardship Council's conversation will focus on identifying the types of information regarding history of the site and the remediation project that it believes USFWS should include in their signs.

David began by providing some context for this discussion. During cleanup, one of the important community issues was the long-term retention of information about Rocky Flats. This included the use of institutional controls and the education of successive generations. When the Conservation plan was developed, everyone agreed there was a need to inform Refuge visitors about the history and special circumstances of this site, notably the DOE-retained lands in the center. USFWS developed signage for the entrance and DOE has posted basic signs around the areas that it controls. The Stewardship Council has also discussed how information onsite can be used to lead to additional information offsite. Starting today, the idea is for the Board to focus only on information related to the DOE mission at Rocky Flats (i.e. not to focus on wildlife or recreation issues), to discuss and debate signage ideas, and then to codify and send recommendations to USFWS.

David noted that there will be six access points across all four sides of the Refuge. He suggested that the Board begin with brainstorming about what type of information should be conveyed to visitors. These ideas can then be refined to determine how best to communicate them. He added

that the Board would like to inform, not warn and should not overwhelm Refuge visitors with information.

Lori Cox said she was confused about what the role of the Stewardship Council is or should be in this process. David noted that although the Stewardship Council did not exist when the Refuge CCP was developed, USFWS has said they wanted to work with community in developing these plans. As the Rocky Flats LSO, a core part of the Stewardship Council's role and mission is to inform and educate the public about the site. The issue of Refuge signage has been in the group's Work Plan. The only concern of USFWS at this point is that they do not have funding to commit to working on this issue.

Lori also asked about how much liberty USFWS has in terms of signage. Steve Berendzen said that the agency tries to follow the CCP as closely as they can. He strongly encouraged the Stewardship Council to work in coordination with them, and said he does appreciate the help. He said USFWS quite often cooperates with partners to do things such as this. David Allen said he thought it will be helpful to focus on specific kinds of signs. He also posed the question of how important the topic of cleanup will be years from now.

Andrew Muckle suggested a Colorado historical organization as a potential funding source if necessary. He also said web links are probably a better choice for signs rather than providing telephone numbers for more information. He added that it would be great to have a multimedia presentation available to the public. Lorraine said she thought Kaiser Hill had produced a video addressing the cleanup. She also responded to David Allen that the cleanup of Rocky Flats site is one of most important things that ever occurred in the U.S. She said that there is a whole community of workers that needs to be recognized, and their story must be told; without that, Rocky Flats does not mean much. Lisa Morzel said she agreed. She added that it would be a good idea to use graphics as part of the message. She also would like to see an emphasis on the ongoing monitoring. Megan Davis said she also agreed with these points, and that the message should also emphasize that there was continuous involvement of local communities and governments in the cleanup decisions.

David Allen said fully agreed that cleanup should be recognized, but that there was a danger of sending mixed messages by raising questions in the public's mind. Lorraine pointed out the need to explain that the DOE fenced areas are not in place to protect the public, but rather to protect the remedies. Sue Vaughan added that it is also important to consider the audience and what they need from a sign versus what the Cold War Museum can handle in more depth. Jeannette said that the museum will help identify these issues. Shirley Garcia confirmed that Museum planners are working on developing Rocky Flats storylines for an upcoming exhibit and hope to be done by the end of summer. She said they will continue to work on collaboration with this group. Lisa Morzel commented that Rocky Flats environmental monitoring activities could be great educational tools for children.

David Abelson asked the group to focus on what to convey and why, and to what extent and depth. David Allen suggested putting up panels of before and after photos with historical descriptions at various locations. Bob Briggs said he is currently working on materials for the

100th anniversary of the City of Westminster. They have decided on developing a historical timeline, and that this may be a good way to approach presenting the history of Rocky Flats also. Andrew Muckle asked if there is an existing map showing where signs may be placed. Steve Berendzen said he did not think the CCP was that specific, but that USFWS can provide feedback during the process. He said the agency could assign one of their specialists from the Regional Office to work on this project and attend future meetings. Steve added that there are some general sign plans, but no specifics. David Allen said it is too early to suggest specific content. David Abelson agreed, but said that the group needs to start somewhere. Matt Jones said that there is a science behind this kind of signing. For example, one study showed that people spend an average of eight seconds at entrance signs. He added that in most cases, specialists who are trained in creating signs will produce a draft, and then people will comment on that. Jeannette Hillery said she would like to see what kind of language is used on the signs at the Rocky Mountain Arsenal. Sue Vaughan suggested that the group also think about programs and background packets for educational visitors.

Host DOE Quarterly Meeting

DOE briefed the Stewardship Council on site activities for July through September, 2008. DOE has posted the report on their website at www.rfets.gov. Activities included surface water monitoring, groundwater monitoring, ecological monitoring, and site operations.

Surface Water

George Squibb began by discussing Surface Water activities during the Third Quarter. There were no pond discharges or transfers, and pond levels were at about 14.4% of capacity. Dam breaches at ponds A1 and A2 are nearly complete, and are ongoing at B1-B4. All construction and erosion controls are expected to be installed by mid-March 2009. Lisa Morzel asked what the reason was for breaching the dams. George said that dams are regulated by the State, so breaching will reduce costs. It will also return the site to a more natural state.

There was over four inches of precipitation during the quarter. Flow rates ranged from zero to 15%. Water quality at all points of evaluation, except GS10, was below applicable standards. Reportable values for total uranium at GS10 continue to be observed and are probably caused by groundwater contributions of naturally occurring uranium to South Walnut Creek.

At the Original Landfill, surface water quality results during the second quarter of 2008 triggered monthly sampling for selenium. Selenium was not detected in the third monthly sample collected during the quarter, so monthly sampling was discontinued. At the Present Landfill, surface water quality results triggered monthly sampling for vinyl chloride. Vinyl chloride was not detected in the first monthly sample, so this monthly sampling was also discontinued. Lisa Morzel asked about the higher uranium levels and whether DOE is performing isotopic analyses. George said they are, and are finding 77% natural uranium. This is about the same ratio as at the end of closure.

Groundwater

John Boylan presented the update on groundwater activities in the third quarter. All RCRA wells were monitored and the results will be evaluated in the 2008 Annual Report. The Solar Ponds Passive Treatment System (SPPTS) effluent is now monitored at “SPOUT”. The effects of Phase I upgrades on effluent water quality include the following:

- Flow to the SPPTS has approximately doubled, reducing residence time within the media.
- Concentrations of nitrate have doubled to tripled (load has increased approximately 4 to 6 times).
- Concentrations of uranium have increased by approximately 50% (load has increased approximately 2 times).

Based on original treatment studies and SPPTS performance data, reduced treatment was anticipated. Nitrate levels are now approximately 20 times those of University of Waterloo studies (which removed approximately 60% of nitrate). Rocky Flats is targeting 98% removal. Heavy snowmelt in the winter of 2006–2007 increased flow, thereby reducing treatment. Current conditions include higher flow and higher concentrations.

As a result of increased nitrate and uranium load and shortened treatment time, treatment effectiveness is reduced and effluent concentrations are above target levels. The system effluent and discharge gallery water quality are essentially the same (effluent is no longer re-contaminated before discharge). DOE has consulted with the regulators and the phased path forward continues to be followed. The rejuvenation of existing media is being evaluated.

John reviewed the four phases of the SPPTS Path Forward. Phase I was to collect additional contaminated groundwater and route it through treatment cells. This is complete. Phase II involves installing a new uranium treatment cell as a first treatment step toward ensuring that future downstream nitrate treatment media will not be radioactive waste. Construction is set to begin in mid-February and should be completed by March 31, 2009. Phase III includes defining and performing a pilot-scale study to identify preferred nitrate treatment media (inert, plastic media with brewery byproduct as carbon source, and walnut shells infused with vegetable oil). Construction is set to begin in March and be completed in late April. Finally, Phase IV will involve combining findings from Phase III (media) and flows measured since the completion of Phase I to design and construct a full-scale nitrate treatment cell.

Bill Fischer asked if there is something that could change the path forward. John said they will continue through at least through Phase III, and probably Phase IV as well.

Water Quality Control Commission

Rick DiSalvo next presented an update on the status of Rocky Flats proceedings with the Colorado Water Quality Control Commission (COWQCC). There was a hearing on January 12 regarding the Rocky Flats petition to adopt the statewide basic uranium standard, which will become effective in March. At this hearing, the COWQCC recognized that changed conditions warranted revision and also said that a mistake was made in promulgating the statewide Uranium

standard in 2005. They said they should have applied a ‘hyphenated standard’, with a range from 16.8 to 30 µg/L. Therefore, the statewide uranium standard will be clarified. For Rocky Flats, the Commission revised the site-specific uranium standard to 16.8 µg/L (approximately 11.5 pCi/L), which is a health-based standard. Rick noted that a higher ambient-based standard may be addressed in the future, based on data and what is practical. The Commission also removed gross alpha and gross beta standards for Rocky Flats, as specific radionuclides (uranium, plutonium, and americium) are being monitored.

Rick also updated on the status of Rocky Flats’ expiring Temporary Modifications (TMs) Annual Review. At a hearing in December, the current Rocky Flats TMs (six VOCs, nitrate/nitrite) and the expiration date (December 31, 2009) were retained.

The final process affecting Rocky Flats is the Triennial Review of the South Platte River Basin. A Rulemaking Hearing is scheduled for June, 2009. Potential Rocky Flats issues include the expiring Rocky Flats TMs, as well issues relating to standards for nitrates and arsenic. Rick explained that the SPPTS upgrades should reduce nitrate loading to North Walnut Creek, but the site may not meet the 10 µg/L standard by December 31, 2009. Also, the new statewide basic standard for arsenic (0.02–10 µg/L) is below the site-specific standard (50 µg/L)

Lisa asked Rick to explain the difference between natural and manmade uranium, and discuss their toxicity to humans. He explained the difference between the isotopic signatures, and mentioned depleted and enriched uranium. Rocky Flats used enriched uranium in its criticality test facility, but most of the uranium used at the site was depleted uranium. LANL analysis shows that the enriched uranium component of Rocky Flats samples is much less than 1%. Bill Fisher asked for more information about the arsenic standard. Rick said that the Rocky Flats standard is 50 µg/L. The site has only seen levels above the 10 µg/L statewide standard on occasion, so they do not think that meeting the State standard would be problem. Carl Spreng added that the earlier question about toxicity of uranium would refer to its effect on kidneys, and that the isotopic signature would not affect this.

Site Operations

Rick moved on to an update on Site Operations. Inspections were conducted at the Original Landfill on July 30, August 25, and September 30. A vegetation inspection was completed on August 8. Seep #4 was saturated during July and August, and showed a surface flow of approximately 1 gallon per minute (gpm) during September. Seep #8 showed a surface flow of approximately 1–2 gpm throughout the third quarter. Seep #7 was dry throughout the third quarter. CDPHE approved the design for a Seep #7 Drain Extension on September 2. The project was started on September 3, and completed on September 10. The drain was extended and tied in with the existing drain.

The site also completed a Berm Regrade Project at the Original Landfill. Rocky Flats Alluvium was added to the tops of berms to obtain minimum berm height requirements. Troughs of berms, where ponding was occurring, were regraded. The project was started on September 16, and finished on September 24.

Also at the Original Landfill, Settlement monument E was installed on September 11. All Settlement monuments were surveyed that day, and data were within the expected range per the Original Landfill Monitoring and Maintenance Plan. Consolidation monitors were removed in July. Inclinometers were measured on July 17, August 27, and September 25-30. No significant displacement was observed.

At the Present Landfill, the quarterly inspection was completed on August 24, the vegetation inspection on August 18, and the settlement monument surveys on June 21.

Lisa Morzel asked how much movement the settlement monuments showed. Rick said that the expected range is modeled in the design calculations, and is specific to each exact location. He said none have exceeded the expected settlement, which is about a foot.

Public comment

There were none.

Updates/Big Picture Review

Lorraine reported some news from ECA. She said one of the stimulus budget items is for nuclear cleanup. The House version has \$500 million, while the Senate has \$6.4 billion. She asked that everyone contact their House members to support an increase closer to the Senate version. David Abelson noted that part of the impetus for this additional funding is because the last federal budget had DOE funding levels that were \$1.3B below the basic compliance requirements. Lisa Morzel asked if the Stewardship Council might send a letter in support of this funding as a measure of goodwill. Lisa moved that the Stewardship Council send a letter in support of an appropriation closer to the Senate amount to help remediate nuclear sites. Lorraine Anderson seconded the motion. The motion passed 12-0.

April 6, 2009

Potential Briefing Items

- Overview of Cleanup
- Continue discussing interpretive signage for Rocky Flats
- COWQCC triennial review of site water quality standards

June 1, 2009

Potential Briefing Items

- Receive RFSC 2008 Audit

Potential Briefing Items

- Host LM quarterly public meeting
- Continue discussing interpretive signage for Rocky Flats
- Report on NRD Fund Awards

Staff noted that they will try to schedule the group's annual Rocky Flats tour in June. David Allen asked if there would be an update on the meetings in Washington, D.C. David Abelson said he would cover that in the Executive Director's report.

The meeting was adjourned at 11:35 a.m.

Respectfully submitted by Erin Rogers.

9:35 AM
03/17/09

Rocky Flats Stewardship Council Check Detail January 20 through March 17, 2009

Type	Num	Date	Name	Account	Paid Amount	Original Amount
Check		1/31/2009		CASH-Wells Fargo-Operating		-2.00
				Admin Services-Misc Services	-2.00	2.00
TOTAL					-2.00	2.00
Check	1332	2/1/2009	Qwest	CASH-Wells Fargo-Operating		-26.76
				Telecommunications	-26.76	26.76
TOTAL					-26.76	26.76
Check	1333	2/1/2009	Qwest	CASH-Wells Fargo-Operating		-71.73
				Telecommunications	-71.73	71.73
TOTAL					-71.73	71.73
Bill Pmt...	1334	2/1/2009	Crescent Strategies, LLC	CASH-Wells Fargo-Operating		-7,609.45
Bill	1/31/...	1/31/2009		Personnel - Contract	-6,850.00	6,850.00
				Telecommunications	-137.71	137.71
				TRAVEL-Local	-42.90	42.90
				Postage	-15.99	15.99
				Printing	-107.28	107.28
				Supplies	-93.97	93.97
				Website	-361.60	361.60
TOTAL					-7,609.45	7,609.45
Bill Pmt...	1335	2/1/2009	Energy Communities All...	CASH-Wells Fargo-Operating		0.00
TOTAL					0.00	0.00
Bill Pmt...	1336	2/1/2009	Jennifer A. Bohn	CASH-Wells Fargo-Operating		-518.50
Bill	09-9	1/31/2009		Accounting Fees	-518.50	518.50
TOTAL					-518.50	518.50
Bill Pmt...	1337	2/1/2009	Energy Communities All...	CASH-Wells Fargo-Operating		-535.00
Bill	2009 ...	1/31/2009		Subscriptions/Memberships	-535.00	535.00
TOTAL					-535.00	535.00
Check	1338	3/3/2009	Qwest	CASH-Wells Fargo-Operating		-72.99
				Telecommunications	-72.99	72.99
TOTAL					-72.99	72.99
Check	1339	3/3/2009	Qwest	CASH-Wells Fargo-Operating		-26.24
				Telecommunications	-26.24	26.24
TOTAL					-26.24	26.24
Bill Pmt...	1340	3/3/2009	Blue Sky Bistro	CASH-Wells Fargo-Operating		-255.00
Bill	1664	2/2/2009		Misc Expense-Local Government	-255.00	255.00
TOTAL					-255.00	255.00
Bill Pmt...	1341	3/3/2009	Erin Rogers	CASH-Wells Fargo-Operating		-500.00

9:35 AM

03/17/09

Rocky Flats Stewardship Council Check Detail January 20 through March 17, 2009

Type	Num	Date	Name	Account	Paid Amount	Original Amount
Bill	2/28/...	2/28/2009		Personnel - Contract	-500.00	500.00
TOTAL					-500.00	500.00
Bill Pmt...	1342	3/3/2009	Jennifer A. Bohn	CASH-Wells Fargo-Operating		-620.50
Bill	09-17	2/28/2009		Accounting Fees	-620.50	620.50
TOTAL					-620.50	620.50
Bill Pmt...	1343	3/3/2009	Seter & Vander Wall, P.C.	CASH-Wells Fargo-Operating		-2,859.90
Bill	55330	1/31/2009		Attorney Fees	-1,667.90	1,667.90
Bill	55393	2/28/2009		Attorney Fees	-1,192.00	1,192.00
TOTAL					-2,859.90	2,859.90
Bill Pmt...	1344	3/3/2009	Tricia Marsh	CASH-Wells Fargo-Operating		-270.00
Bill	1179	2/16/2009		Website	-270.00	270.00
TOTAL					-270.00	270.00
Bill Pmt...	1345	3/4/2009	Crescent Strategies, LLC	CASH-Wells Fargo-Operating		-8,588.43
Bill	2/28/...	2/28/2009		Personnel - Contract	-6,850.00	6,850.00
				Telecommunications	-143.41	143.41
				TRAVEL-Local	-140.53	140.53
				Postage	-15.99	15.99
				Printing	-35.31	35.31
				TRAVEL-Out of State	-1,403.19	1,403.19
TOTAL					-8,588.43	8,588.43

ROCKY FLATS STEWARDSHIP COUNCIL

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

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

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

February 18, 2009

Mr. Carl Spreng
Colorado Department of Public Health and Environment
Hazardous Materials and Waste Management Division
4300 Cherry Creek Drive South
Denver, CO 80246-1530

Mr. Dan Miller
Colorado Department of Law
Natural Resources and Environment Section
1525 Sherman Street, 5th Floor
Denver, CO 80203

Dear Mr. Spreng and Mr. Miller,

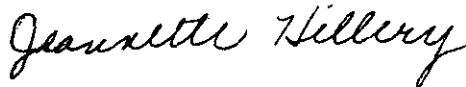
On behalf of the Board of Directors of the Rocky Flats Stewardship Council I am writing to voice our strong and unified support for the Natural Resource Damages (NRD) grant proposals submitted by Trust for Public Land, Boulder County, City of Boulder, City of Westminster, Town of Superior and the Jefferson County Nature Association. We strongly urge the NRD Trustees to fund these proposals in full.

These proposals were borne out of extensive conversations amongst the applicants and other local governments and community groups, and reflect a growing partnership that seeks to address conservation and acquisition activities on a regional basis. Through joint planning, acquisition and cooperative management efforts, the applicants are working to preserve native prairie ecosystems, rangelands, riparian areas, and wildlife corridors in an area that is rapidly developing around the Rocky Flats National Wildlife Refuge. By joining these projects and efforts together corridors are linked, connections are made, and otherwise separate parcels are connected to become part of an integrated, regional open space landscape. We believe their goal closely aligns with the Trustees' intent to restore, enhance, replace, or protect from future harm the natural resources injured as a result of hazardous substance releases at Rocky Flats.

The monies the applicants are seeking through their request to the Trustees are a critical first step in this effort. However, as their proposals make clear, the applicants will use these funds to leverage even greater amounts, far more than the 25 percent in matching funds as required by the funding guidelines. Many of those funds will come from the requesting government or organization, thereby highlighting their commitment to the proposed projects.

Thank you for considering our thoughts on this matter. Should you have any questions please contact our Executive Director, David Abelson, at (303) 412-1200 x1 or dabelson@rockyflatscc.org.

Sincerely,

A handwritten signature in cursive script that reads "Jeannette Hillery".

Jeannette Hillery
Chairman

Cc: Trust for Public Land
Jefferson County Nature Association

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

February 4, 2009

Senator Mark Udall
B40E Dirksen Senate Office Building
Washington, D.C. 20510

Senator Michael Bennet
702 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Udall and Senator Bennet,

On behalf of the Board of Directors of the Rocky Flats Stewardship Council, I am writing to draw your attention to the section in the Senate's economic stimulus plan that would increase funding for the Department of Energy's Office of Environmental Management (EM).

The Stewardship Council understands based on conversations with colleagues in Washington, D.C. that the Senate is considering providing roughly \$5.9 billion above the amount the House included for environmental cleanup in its bill, HR 1, "American Recovery and Reinvestment Act of 2009." While we cannot assess exactly how much money EM needs for environmental cleanup and how use of these funds will stimulate economic recovery, we firmly believe that additional funding closer to the Senate's amount is warranted.

As governments and community organizations neighboring Rocky Flats, we understand the importance of stable funding for EM activities. Due to stable funding and a corresponding commitment from DOE and Congress to accelerate cleanup for Rocky Flats, DOE was able to save tens of billions of dollars off of initial cost projections for remediating Rocky Flats. This funding model, which was to serve as the model for other DOE cleanup projects, was abandoned in recent years. Funding for EM has, in turn, dramatically decreased and DOE now struggles to meet certain regulatory commitments, including compliance orders. One result is that environmental remediation projects take longer to complete, thereby increasing the costs to taxpayers.

More broadly, the Rocky Flats cleanup in part depended on other DOE facilities accepting Rocky Flats waste and special nuclear materials. As a matter of equity and good governance, it remains incumbent on Colorado's elected leaders to support efforts for these DOE sites to secure the funding needed to reduce the increased obligations resulting from the cleanup of Rocky Flats. One way to meet this commitment is to support increased funding for Hanford, INL, Savannah River and any other site that now hosts Rocky Flats' legacy. The Senate's economic stimulus bill represents one such step.

As the bill progresses through the Senate, we request that the Senate adopt a funding level that is closer to the \$6.4 billion Senators are considering for environmental cleanup rather than the \$500 million included in HR 1.

Thank you for considering our thoughts on this matter.

Sincerely,

/s/

Jeannette Hillery
Chairman

Cc: Rep. Diana Degette
Rep. Jared Polis
Rep. Betsy Markey
Rep. Mike Coffman
Rep. Ed Perlmutter

Charlie Wolf Act

- Cover memo
- Draft legislation
- RFSC letter – February 2007
- RFSC letter – May 2007
- RFSC letter – June 2007
- RFSC letter – August 2008

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Karen Imbierowicz

MEMORANDUM

TO: Board

FROM: David Abelson

SUBJECT: Rocky Flats workers – New bill to amend the 2000 energy employees compensation act

DATE: March 27, 2009

As the Board briefly discussed at the February meeting and as I later communicated via email, Senator Udall, working with other members of the Colorado delegation, drafted legislation to amend the “Energy Employees Occupational Illness Compensation Program Act of 2000” (EEOICPA). The bill, the “Charlie Wolf Nuclear Workers Compensation Act”, will likely be introduced in both the Senate and House this coming week. A draft seeking comment was forwarded to the Board on March 12, 2009. That version is attached.

At this meeting we will discuss the bill and presumably approve a motion supporting it. Congressional staff will attend the meeting to discuss the bill and to answer any questions you might have.

Overview of New EEOICPA Bill

The intent of the bill is to remedy the many flaws that have arisen in implementing the EEOICPA. As provided in the Charlie Wolf bill, EEOICPA was enacted “to ensure fairness and equity for the civilian men and women who, during the past 50 years, have performed duties uniquely related to the nuclear weapons production and testing programs of the Department of Energy (including predecessor agencies of the Department of Energy) by establishing a program to provide efficient, uniform, and adequate compensation” for a host of work related illnesses specified in the bill.

EEOICPA specifies steps workers must take to secure compensation under the Act, including proving a causal link between their cancers and work at a nuclear facility. At Rocky Flats and other facilities throughout the DOE complex, workers have had significant troubles securing

compensation under the EEOICPA. Small classes of workers have been designated special cohort class under the EEOICPA, including a small class at Rocky Flats, thereby enabling them to receive compensation. (Special cohort class status, in short, provides that if a person worked at a listed facility and contracted one of 21 illnesses the worker automatically receives compensation under the EEOICPA. To receive compensation the class must be certified by a federal advisory board.)

The Charlie Wolf bill identifies in some detail the many problems workers have faced in securing compensation under the EEOICPA. The intent of the bill is to make three fundamental changes to the EEOICPA:

1. broaden the list of specified cancers,
2. shift the presumption to NIOSH to prove person did not get cancer from work at facility, and
3. essentially eliminate the need for special cohort status.

The bill applies to all sites in the DOE complex, not just Rocky Flats.

Background on Rocky Flats Stewardship Council's position on EEOICPA

Since its inception the Stewardship Council has established a clear track record of support for former Rocky Flats workers. The Board has written four letters which outline its concerns and through which it calls on Congress and the executive branch to remedy the many flaws in implementing the EEOICPA.

In its May 2007 letter, for example, the Stewardship Council supported legislation to designate all Rocky Flats workers as a special cohort class. As we reasoned in the letter,

1. At Rocky Flats critical records are missing and data is unreliable. Yet, under the current rules governing implementation of the EEOICPA, workers need to prove a causal connection between their cancers and exposures suffered while working at Rocky Flats
2. To do so they are required to prove such a link using data that was beyond their control.
3. The Advisory Board on Radiation and Worker Health's recommendation to deny special exposure cohort status to all workers except those who worked at Rocky Flats between 1952 and 1958 reinforces the need for this legislation.
4. This delineation is not based in science but rather reflects policy decisions that on their face conflict with Congressional intent under the EEOICPA.
5. As Congress is keenly aware, the EEOICPA has been fraught with problems. Special exposure cohort status would rectify problems Rocky Flats workers face by simplifying the process and altering the causal links necessary to achieve compensation under the EEOICPA.

The Board's position speaks to the need for the type of legislative changes proposed in the Charlie Wolf bill.

Please let me know what questions you have.

Action item: Approve motion supporting Charlie Wolf bill

111TH CONGRESS
1ST SESSION

S.

To amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to expand the category of individuals eligible for compensation, to improve the procedures for providing compensation, and to improve transparency, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. UDALL of Colorado introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to expand the category of individuals eligible for compensation, to improve the procedures for providing compensation, and to improve transparency, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Charlie Wolf Nuclear Workers Compensation Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings; purpose.
- Sec. 3. Specified disease.
- Sec. 4. Definitions for program administration.
- Sec. 5. Change in presumption for finding of cancer.
- Sec. 6. Distribution of information to claimants and potential claimants.
- Sec. 7. Enhancement of site profiles of Department of Energy facilities.
- Sec. 8. Clarification of covered illnesses.
- Sec. 9. Payment of compensation to survivors and estates of contractor employees.
- Sec. 10. Wage loss resulting from exposure.
- Sec. 11. Expansion of toxic substance exposure for covered illnesses.
- Sec. 12. Extension of statute of limitations for judicial review of contractor employee claims.
- Sec. 13. Expansion of authority of Ombudsman of Energy Employees Occupational Illness Compensation Program.
- Sec. 14. Payment for transportation and personal care services.
- Sec. 15. Enhancement of transparency in claims process.
- Sec. 16. Extension of time for claimants to respond to requests for information.

1 SEC. 2. FINDINGS; PURPOSE.

2 (a) FINDINGS.—Congress finds that—

3 (1) the Energy Employees Occupational Illness
 4 Compensation Program Act of 2000 (42 U.S.C.
 5 7384 et seq.) (referred to in this subsection as the
 6 “Act”) was enacted to ensure fairness and equity for
 7 the civilian men and women who, during the past 50
 8 years, have performed duties uniquely related to the
 9 nuclear weapons production and testing programs of
 10 the Department of Energy (including predecessor
 11 agencies of the Department of Energy) by estab-
 12 lishing a program to provide efficient, uniform, and
 13 adequate compensation for—

14 (A) beryllium-related health conditions;

15 and

1 (B) heavy metal-, toxic chemical-, and ra-
2 diation-related health conditions;

3 (2) the Act (42 U.S.C. 7384 et seq.) provides—

4 (A) a process for the consideration of
5 claims for compensation by individuals who
6 were employed at relevant times and at various
7 locations, which includes provisions to designate
8 employees at certain other locations as members
9 of a special exposure cohort the claims of whom
10 are subject to a less-detailed administrative
11 process; and

12 (B) compensation for employees who
13 worked at a facility under the jurisdiction of the
14 Department of Energy for a minimum of 250
15 days, and with respect to whom a medical diag-
16 nosis of cancer or chronic beryllium disease is
17 presumed to have been exposed to radiation, be-
18 ryllium, and other heavy metal and toxic chemi-
19 cals;

20 (3) the Act (42 U.S.C. 7384 et seq.) authorizes
21 the President, upon a recommendation by the Advi-
22 sory Board on Radiation and Worker Health estab-
23 lished under section 3624(a)(1) of the Act (42
24 U.S.C. 7384o(a)(1)), to designate additional classes
25 of employees at facilities under the jurisdiction of

1 the Department of Energy as members of a special
2 exposure cohort if the President determines that—

3 (A) it is not feasible to estimate with suffi-
4 cient accuracy the magnitude of the radiation
5 dose that the cohort received; and

6 (B) there is a reasonable likelihood that
7 the radiation dose may have endangered the
8 health of members of the cohort;

9 (4) it is not feasible to estimate with sufficient
10 accuracy the magnitude of radiation doses received
11 by employees at facilities under the jurisdiction of
12 the Department of Energy because—

13 (A) many radiation exposures by employees
14 were unmonitored or were not monitored ade-
15 quately over the lifetime of each facility, as
16 demonstrated in 2004, when an individual em-
17 ployed during the 1950's agreed to be scanned
18 under the former radiation worker program of
19 the Department of Energy and was found to
20 have a significant internal deposition of radi-
21 ation that had been undetected and unrecorded
22 for longer than 50 years;

23 (B) lung counters used for the detection
24 and measurement of plutonium and americium

1 in the lungs of the employees were not available
2 at some facilities until the late 1960's, thus—

3 (i) preventing the very insoluble oxide
4 forms of plutonium from being detected;
5 and

6 (ii) leading to a result in which a
7 large number of employees experienced in-
8 halation exposures that went undetected
9 and unmeasured;

10 (C) exposure to neutron radiation was not
11 monitored at some facilities until the late
12 1950's, and most of the measurements taken at
13 the facilities from the period beginning in the
14 late 1950's and ending in 1970 have been
15 found to be in error;

16 (D) in some areas of the facilities, neutron
17 doses were 2 to 10 times as great as the
18 gamma doses received by employees, although
19 only gamma doses were recorded;

20 (E) the radiation exposures of many em-
21 ployees at certain facilities were not measured,
22 and in some cases estimated doses were as-
23 signed, while some records for doses have been
24 destroyed or lost;

1 (F) as a result of the practices described
2 in subparagraph (E), the available exposure his-
3 tories and other data are not adequate to prop-
4 erly determine whether employees qualify for
5 compensation under the Act (42 U.S.C. 7384 et
6 seq.); and

7 (G) the model that has been used for dose
8 reconstruction by the National Institute for Oc-
9 cupational Safety and Health in determining
10 whether certain workers qualify for compensa-
11 tion under the Act (42 U.S.C. 7384 et seq.)
12 contains errors because—

13 (i) the default values used for particle
14 size and solubility of internally deposited
15 plutonium in employees are in error; and

16 (ii) the use of those erroneous default
17 values to calculate internal doses for claim-
18 ants can result in dose calculations that
19 may be 3 to 10 times below the calcula-
20 tions indicated by the records and autopsy
21 data of the Rocky Flats Plant of the De-
22 partment of Energy;

23 (5) the administrative costs arising from claims
24 have been disproportionately high relative to the
25 number of claims that have been processed;

1 (6) some employees, despite working with tons
2 of plutonium and having known exposures that have
3 lead to serious health effects, have been denied com-
4 pensation under the Act (42 U.S.C. 7384 et seq.) as
5 a result of—

6 (A) potentially flawed calculations based
7 on records that are incomplete or in error; and

8 (B) the use of incorrect models;

9 (7) the purposes of the Act (42 U.S.C. 7384 et
10 seq.) are more likely to be achieved if claims by the
11 employees described in this subsection are subject to
12 administrative procedures applicable to members of
13 the special exposure cohort;

14 (8) Charlie Wolf, an employee at the nuclear
15 weapons facilities of the Savannah River Site and
16 the Rocky Flats Plant of the Department of Energy,
17 died in 2009 from complications due to glioblastoma
18 brain tumors;

19 (9) the difficulties of Mr. Wolf in securing com-
20 pensation for the illness that he likely incurred from
21 exposures to toxic and radioactive materials at the
22 nuclear weapons facilities described in paragraph (8)
23 reinforce the need to ensure that the Act (42 U.S.C.
24 7384 et seq.) will be carried out more efficiently and
25 humanely for employees similar to Mr. Wolf;

1 (10) Mr. Wolf's first tumor was discovered
2 while he was working at the Rocky Flats Plant of
3 the Department of Energy, during which he served
4 as the director of buildings numbered 771 and 774,
5 2 facilities at which toxic and radioactive materials
6 were present and handled by employees;

7 (11) prior to working at the Rocky Flats Plant
8 of the Department of Energy, Mr. Wolf ran a pluto-
9 nium metal production line at the Savannah River
10 Site of the Department of Energy;

11 (12) Mr. Wolf and his family spent almost 8
12 years of their lives seeking compensation under the
13 Act (42 U.S.C. 7384 et seq.) although, due to the
14 requirements of the Act (42 U.S.C. 7384 et seq.)
15 and the manner by which the regulations and proce-
16 dures were carried out, the claims of Mr. Wolf were
17 subjected to lengthy and repeated delays and com-
18 plications that resulted from the difficulties associ-
19 ated with establishing the reconstruction of radiation
20 doses;

21 (13) as a result of the experiences of Mr. Wolf,
22 and many others like him, there is a need to reform
23 the Act (42 U.S.C. 7384 et seq.), and the program
24 carried out in accordance with the Act (42 U.S.C.

1 7384 et seq.), to improve the processing of claims;
2 and

3 (14) the reforms established through the
4 amendments made by this Act broaden the list of
5 specified cancers, broaden the membership of the
6 special exposure cohort, and change the presumption
7 of cancer due to work-related exposures to help
8 streamline the claims process and help workers like
9 Mr. Wolf and their survivors.

10 (b) PURPOSE.—The purpose of this Act is to amend
11 the Energy Employees Occupational Illness Compensation
12 Program Act of 2000 (42 U.S.C. 7384 et seq.) to improve
13 the processing of claims for work-related illnesses at facili-
14 ties under the jurisdiction of the Department of Energy.

15 **SEC. 3. SPECIFIED DISEASE.**

16 Section 4(b)(2) of the Radiation Exposure Com-
17 pensation Act (42 U.S.C. 2210 note; Public Law 101–
18 426) is amended—

19 (1) by striking “(other than chronic
20 lymphocytic leukemia)” and inserting “(including
21 chronic lymphocytic leukemia)”;

22 (2) by inserting “posterior subcapsular cata-
23 racts, nonmalignant thyroid nodular disease, para-
24 thyroid adenoma, malignant tumors of the brain and
25 central nervous system, bronchio-alveolar carcinoma,

1 benign neoplasms of the brain and central nervous
2 system,” after “disease,”; and

3 (3) by striking “or lung” and inserting “lung,
4 skin, kidney, salivary gland, rectum, pharynx, or
5 prostate”.

6 **SEC. 4. DEFINITIONS FOR PROGRAM ADMINISTRATION.**

7 (a) ESTABLISHED CHRONIC BERYLLIUM DISEASE.—
8 Section 3621 of the Energy Employees Occupational Com-
9 pensation Program Act of 2000 (42 U.S.C. 73841) is
10 amended by striking paragraph (13) and inserting the fol-
11 lowing:

12 “(13) ESTABLISHED CHRONIC BERYLLIUM DIS-
13 EASE.—The term ‘established chronic beryllium dis-
14 ease’ means chronic beryllium disease, as established
15 by—

16 “(A) an occupational or environmental his-
17 tory, or epidemiological evidence of beryllium
18 exposure; and

19 “(B) any 3 of the following criteria:

20 “(i) Characteristic chest radiographic
21 (or computed tomography) abnormalities.

22 “(ii) Restrictive or obstructive lung
23 physiology testing or a diffusing lung ca-
24 pacity defect.

1 “(iii) Lung pathology consistent with
2 chronic beryllium disease.

3 “(iv) A clinical course consistent with
4 a chronic respiratory disorder.

5 “(v) An immunologic test dem-
6 onstrating beryllium sensitivity (with pref-
7 erence given to a skin patch test or a be-
8 ryllium blood test).”.

9 (b) MEMBER OF SPECIAL EXPOSURE COHORT.—

10 (1) IN GENERAL.—Section 3621(14) of the En-
11 ergy Employees Occupational Illness Compensation
12 Program Act of 2000 (42 U.S.C. 7384l(14)) is
13 amended by adding at the end the following:

14 “(D) The employee—

15 “(i) is not covered under subpara-
16 graph (A), (B), or (C); and

17 “(ii) was employed by the Department
18 of Energy, or a contractor or subcontractor
19 of the Department of Energy, before Janu-
20 ary 1, 2006.”.

21 (2) REAPPLICATION.—A claim for which an in-
22 dividual qualifies, by reason of paragraph (14)(D) of
23 section 3621 of the Energy Employees Occupational
24 Illness Compensation Program Act of 2000 (42
25 U.S.C. 7384l) (as added by paragraph (1)), for com-

1 pensation or benefits under that Act (42 U.S.C.
2 7384 et seq.) shall be considered for compensation
3 or benefits notwithstanding any denial of any other
4 claim for compensation with respect to the indi-
5 vidual.

6 (c) SPECIFIED CANCERS.—

7 (1) IN GENERAL.—Section 3621(17) of the En-
8 ergy Employees Occupational Compensation Pro-
9 gram Act of 2000 (42 U.S.C. 7384l(17)) is amend-
10 ed—

11 (A) in subparagraph (D), by striking
12 “(other than chronic lymphocytic leukemia”;
13 and

14 (B) by adding at the end the following:

15 “(E) Basal cell carcinoma.

16 “(F) Skin cancer.”.

17 (2) REAPPLICATION.—A claim for which an in-
18 dividual qualifies, by reason of subparagraph (E) or
19 (F) of paragraph (17) of section 3621 of the Energy
20 Employees Occupational Illness Compensation Pro-
21 gram Act of 2000 (42 U.S.C. 7384l) (as added by
22 paragraph (1)), for compensation or benefits under
23 that Act (42 U.S.C. 7384 et seq.) shall be consid-
24 ered for compensation or benefits notwithstanding

1 any denial of any other claim for compensation with
2 respect to the individual.

3 **SEC. 5. CHANGE IN PRESUMPTION FOR FINDING OF CAN-**
4 **CER.**

5 Section 3623(b) of the Energy Employees Occupa-
6 tional Compensation Program Act of 2000 (42 U.S.C.
7 7384n(b)) is amended by striking “if, and only if, the can-
8 cer specified in that subclause was at least as likely as
9 not related to” and inserting “, unless it is determined,
10 by clear and convincing evidence, that such cancer was
11 not sustained as a result of”.

12 **SEC. 6. DISTRIBUTION OF INFORMATION TO CLAIMANTS**
13 **AND POTENTIAL CLAIMANTS.**

14 (a) INDEPENDENT PHYSICIANS FOR PERFORMANCE
15 OF MEDICAL AND IMPAIRMENT SCREENINGS.—Section
16 3631(b)(2) of the Energy Employees Occupational Illness
17 Compensation Program Act of 2000 (42 U.S.C.
18 7384v(b)(2)) is amended—

19 (1) in subparagraph (A), by striking “; and”
20 and inserting a semicolon;

21 (2) by redesignating subparagraph (B) as sub-
22 paragraph (C); and

23 (3) by inserting after subparagraph (A) the fol-
24 lowing:

1 “(B) lists that contain descriptions of phy-
2 sicians who are—

3 “(i) qualified to perform medical and
4 impairment screenings on matters relating
5 to the compensation program; and

6 “(ii) identified for purposes of this
7 subparagraph by 1 or more independent
8 medical associations, institutions of higher
9 education, or both that are selected by the
10 President for purposes of this subpara-
11 graph; and”.

12 (b) NOTICE OF AVAILABLE BENEFITS.—Section
13 3631 of the Energy Employees Occupational Illness Com-
14 pensation Program Act of 2000 (42 U.S.C. 7384v) (as
15 amended by subsection (a)) is amended by adding at the
16 end the following:

17 “(d) NOTICE TO CLAIMANTS REGARDING AVAILABLE
18 BENEFITS.—The President shall provide to an individual
19 who files a claim for compensation under this subtitle or
20 subtitle E a written notice that contains a description of
21 the benefits for which the individual may be eligible under
22 this Act.”.

1 **SEC. 7. ENHANCEMENT OF SITE PROFILES OF DEPART-**
2 **MENT OF ENERGY FACILITIES.**

3 (a) **INCLUSION OF TRADE NAMES OF CHEMICALS IN**
4 **SITE PROFILES.**—Section 3633 of the Energy Employees
5 Occupational Illness Compensation Program Act of 2000
6 (42 U.S.C. 7384w–1) is amended by striking subsection
7 (c) and inserting the following:

8 “(c) **DEFINITION OF SITE PROFILE.**—In this section,
9 the term ‘site profile’ means an exposure assessment of
10 a facility that—

11 “(1) identifies the toxic substances or processes
12 that were commonly used in each building or process
13 of the facility, and the time frame during which the
14 potential for exposure to toxic substances existed;
15 and

16 “(2) includes the trade name (if any) of any
17 substance described in paragraph (1).”.

18 (b) **PUBLIC ACCESS TO SITE PROFILES AND RE-**
19 **LATED INFORMATION.**—Section 3633 of the Energy Em-
20 ployees Occupational Illness Compensation Program Act
21 of 2000 (42 U.S.C. 7384w–1) (as amended by subsection
22 (a)) is amended by adding at the end the following:

23 “(e) **PUBLIC ACCESS TO SITE PROFILES AND RE-**
24 **LATED INFORMATION.**—The Secretary of Labor shall
25 make available to the public—

1 “(1) each site profile prepared under subsection
2 (a); and

3 “(2) any other database used by the Secretary
4 of Energy to evaluate claims for compensation under
5 this Act.”.

6 **SEC. 8. CLARIFICATION OF COVERED ILLNESSES.**

7 (a) DEFINITION OF COVERED ILLNESS.—Section
8 3671 of the Energy Employees Occupational Compensa-
9 tion Program Act of 2000 (42 U.S.C. 7385s) is amended
10 by striking paragraph (2) and inserting the following:

11 “(2) COVERED ILLNESS.—The term ‘covered ill-
12 ness’ means an illness or death resulting from expo-
13 sure to a toxic substance, including—

14 “(A) all forms of cancer;

15 “(B) silicosis;

16 “(C) asbestosis;

17 “(D) mesothelioma;

18 “(E) lung fibrosis;

19 “(F) chronic obstructive pulmonary dis-
20 ease;

21 “(G) chronic renal insufficiency;

22 “(H) peripheral neuropathy;

23 “(I) chronic encephalopathy;

24 “(J) occupational asthma; and

25 “(K) pneumoconiosis.”.

1 (b) REAPPLICATION.—A claim for which an indi-
2 vidual qualifies, by reason of section 3671(2) of the En-
3 ergy Employees Occupational Compensation Program Act
4 of 2000 (42 U.S.C. 7385s(2)) (as amended by subsection
5 (a)), for compensation or benefits under that Act (42
6 U.S.C. 7384 et seq.) shall be considered for compensation
7 or benefits notwithstanding any denial of any other claim
8 for compensation with respect to the individual.

9 **SEC. 9. PAYMENT OF COMPENSATION TO SURVIVORS AND**
10 **ESTATES OF CONTRACTOR EMPLOYEES.**

11 Section 3672 of the Energy Employees Occupational
12 Illness Compensation Program Act of 2000 (42 U.S.C.
13 7385s-1) is amended to read as follows:

14 **“SEC. 3672. COMPENSATION.**

15 **“(a) CONTRACTOR EMPLOYEES; SURVIVORS.—**

16 **“(1) CONTRACTOR EMPLOYEES.—**

17 **“(A) IN GENERAL.—**In accordance with
18 section 3673, a covered contractor employee of
19 the Department of Energy shall receive con-
20 tractor employee compensation under this sub-
21 title.

22 **“(B) COMPENSATION AFTER DEATH OF**
23 **CONTRACTOR EMPLOYEE.—**Except as provided
24 in paragraph (2)(B), if the death of a con-
25 tractor employee described in subparagraph (A)

1 occurs after the date on which the contractor
2 employee applies for compensation under this
3 subtitle, but before the date on which such com-
4 pensation is paid, the amount of compensation
5 that the contractor employee would have re-
6 ceived under this paragraph shall be paid to—

7 “(i) a survivor of the contractor em-
8 ployee in accordance with section 3674; or

9 “(ii) if, as of the date of the death of
10 the contractor employee, no survivor of the
11 contractor employee exists, the estate of
12 the contractor employee.

13 “(2) SURVIVORS.—

14 “(A) IN GENERAL.—Except as provided in
15 subparagraph (B), a survivor of a covered con-
16 tractor employee of the Department of Energy
17 shall receive contractor employee compensation
18 under this subtitle in accordance with section
19 3674.

20 “(B) ELECTION OF CONTRACTOR EM-
21 PLOYEE COMPENSATION OR SURVIVOR COM-
22 PENSATION.—A survivor of a contractor em-
23 ployee described in subparagraph (A) who is
24 otherwise eligible to receive compensation pur-

1 “(B) the requirements and procedures ap-
2 plicable to the provision of the benefits de-
3 scribed in subparagraph (A);

4 “(3) function as an advocate on behalf of indi-
5 viduals seeking benefits under this subtitle and sub-
6 title B;

7 “(4) make recommendations to the Secretary
8 regarding the location of centers (to be known as
9 ‘resource centers’) for the acceptance and develop-
10 ment of claims for benefits under this subtitle and
11 subtitle B; and

12 “(5) carry out such other duties as the Sec-
13 retary may require.”;

14 (2) in subsection (d), by inserting “and subtitle
15 B” after “this subtitle”;

16 (3) in subsection (e), by inserting “and subtitle
17 B” after “this subtitle” each place it appears; and

18 (4) by striking subsection (g) and inserting the
19 following:

20 “(g) CONTRACT AUTHORITY.—The Ombudsman may
21 enter into 1 or more service contracts with individuals who
22 possess expertise in any matter that the Ombudsman con-
23 siders appropriate for the performance of the duties of the
24 Office, including matters relating to health physics, medi-
25 cine, industrial hygiene, and toxicology.”.

1 **SEC. 14. PAYMENT FOR TRANSPORTATION AND PERSONAL**
2 **CARE SERVICES.**

3 (a) DEFINITION OF COVERED INDIVIDUAL.—In this
4 section, the term “covered individual” means an individual
5 who receives medical benefits under section 3629(a) of the
6 Energy Employees Occupational Illness Compensation
7 Program Act of 2000 (42 U.S.C. 7384t(a)).

8 (b) REGULATIONS.—Not later than 90 days after the
9 date of enactment of this Act, the Secretary of Labor shall
10 promulgate regulations to provide for the direct payment
11 to providers of the costs to covered individuals of—

12 (1) personal care services (as that term is used
13 in section 30.403 of title 20, Code of Federal Regu-
14 lations (as in effect on the day before the date of en-
15 actment of this Act)) authorized pursuant to section
16 3629 of the Energy Employees Occupational Illness
17 Compensation Program Act of 2000 (42 U.S.C.
18 7384t); and

19 (2) necessary and reasonable transportation ex-
20 penses incident to securing medical services, appli-
21 ances, or supplies pursuant to section 3629(c) of the
22 Energy Employees Occupational Illness Compensa-
23 tion Program Act of 2000 (42 U.S.C. 7384t(c)).

1 **SEC. 15. ENHANCEMENT OF TRANSPARENCY IN CLAIMS**
2 **PROCESS.**

3 (a) INFORMATION PROVIDED ON DENIAL OF CLAIM;
4 REQUIREMENTS RELATING TO CORRESPONDENCE.—Not
5 later than 90 days after the date of enactment of this Act,
6 the President shall promulgate regulations to ensure
7 that—

8 (1) any notification to an individual making a
9 claim under the Energy Employees Occupational Ill-
10 ness Compensation Program Act of 2000 (42 U.S.C.
11 7384 et seq.) that the claim of the individual has
12 been denied, and all other correspondence with the
13 individual relating to the claim, are written in lan-
14 guage that is clear, concise, and easily understand-
15 able; and

16 (2) any notification described in paragraph (1)
17 contains—

18 (A) an explanation of each reason for the
19 denial of the claim described in that paragraph;
20 and

21 (B) a description of the information, if
22 any, that the individual could have submitted
23 that could have resulted in approval of the
24 claim.

25 (b) DOCUMENT RETENTION.—Not later than 90 days
26 after the date of enactment of this Act, the Secretary of

1 Labor and the Secretary of Energy shall jointly promul-
2 gate regulations to ensure that the Department of Labor
3 and the Department of Energy—

4 (1) retain each original document in the posses-
5 sion of the Department of Labor or the Department
6 of Energy relating to a facility under the jurisdiction
7 of the Department of Energy if—

8 (A) any employee of the facility might rea-
9 sonably be expected to file a claim for com-
10 pensation under the Energy Employees Occupa-
11 tional Illness Compensation Program Act of
12 2000 (42 U.S.C. 7384 et seq.); and

13 (B) the document might reasonably be ex-
14 pected to be used by any employee described in
15 subparagraph (A) in making a claim for com-
16 pensation under the Energy Employees Occupa-
17 tional Illness Compensation Program Act of
18 2000 (42 U.S.C. 7384 et seq.); and

19 (2) provide each employee described in para-
20 graph (1)(A) with access to each document described
21 in that paragraph.

22 **SEC. 16. EXTENSION OF TIME FOR CLAIMANTS TO RE-**
23 **SPOND TO REQUESTS FOR INFORMATION.**

24 If the Secretary of Labor submits to an individual
25 who has filed a claim for compensation under the Energy

1 Employees Occupational Illness Compensation Program
2 Act of 2000 (42 U.S.C. 7384 et seq.) a request for infor-
3 mation that relates to the claim for compensation, the in-
4 dividual shall be required to respond to the request by not
5 earlier than 120 days after the date on which the indi-
6 vidual receives the request.

ROCKY FLATS STEWARDSHIP COUNCIL

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

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February 5, 2007

Mr. Paul L. Ziemer, Ph.D., Chairman
Advisory Board on Radiation and Worker Health
920 Southview Drive North
Lafayette, IN 47909

Dear Dr. Ziemer,

The Board of Directors of the Rocky Flats Stewardship Council is extremely concerned about ongoing delays former Rocky Flats workers have encountered in achieving just compensation under the Energy Employees Occupational Illness Compensation Program Act (EEOIPCA). The EEOIPCA is critical to ensuring that workers who have suffered as a result of exposures to radioactive and hazardous materials while working at Rocky Flats would be compensated for their illnesses.

Like our predecessor organization, the Rocky Flats Coalition of Local Governments, who supported the EEOIPCA and was concerned about bureaucratic delays that beset the program, we are concerned about the ongoing delays in providing compensation to those former workers who fall under the protections provided in the EEOIPCA. That is one of the reasons why the Rocky Flats Coalition supported special cohort status for these former workers, including legislative efforts to define the workers as a special cohort class. We too support this important designation.

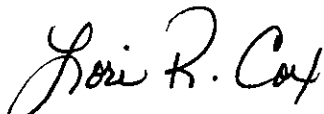
Our Congressional leaders have informed us that the Advisory Board on Radiation Health continues to grapple with how to account for the critical fact that records affecting numerous former Rocky Flats workers are missing or are otherwise unreliable. We further understand that in part based on concerns our representatives raised that the Advisory Board delayed resolution of the Rocky Flats workers' petition until at least May 2007, if not longer. While we support our legislators' decision to request a delay, we are concerned about the effect of ongoing delays on our constituents – the workers and their families.

Clearly, with records missing and with ongoing concerns about data reliability it will be hard for many workers to quantitatively prove that their cancers are a direct result of their years working

at Rocky Flats. That is one of the central reasons why the EEOIPCA shifted the burden of proof – so that workers would not need to prove a connection based upon data that was not in their control and otherwise unreliable. The inability of the federal government and its contractors to maintain reliable data undermines the integrity of the process. The cost of these problems should not be borne by the workers.

Therefore, consistent with the positions being advocated by our federal representatives, we strongly recommend that until you resolve these issues regarding missing records and data reliability that you do not deny the Rocky Flats workers' special cohort petition. We also strongly request that should the Advisory Board not be able to resolve these questions then at your May 2007 meeting you approve the workers' petition.

Sincerely,

A handwritten signature in black ink that reads "Lori R. Cox". The signature is written in a cursive style with a large initial "L" and "C".

Lori Cox
Chairman

Cc: Senator Wayne Allard
Senator Ken Salazar
Representative Mark Udall
Representative Ed Perlmutter
Michael Owen, DOE

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May 8, 2007

Honorable George Miller, Chairman
Honorable Howard P. "Buck" McKeon, Ranking Member
Committee on Education and Labor
2181 Rayburn House Office Building
Washington, D.C. 20515

Re: H.R. 904, "The Rocky Flats Special Exposure Cohort Act"

Dear Chairman Miller and Ranking Member McKeon,

As the Board of Directors of the Rocky Flats Stewardship Council, we strongly support "The Rocky Flats Special Exposure Cohort Act" (H.R. 904). We ask that you schedule a hearing on this important and time-sensitive legislation and we urge its swift passage.

The Stewardship Council remains extremely concerned about ongoing delays former Rocky Flats workers have encountered in achieving just compensation under the Energy Employees Occupational Illness Compensation Program Act (EEOIPCA). The EEOIPCA is critical to ensuring that workers who have suffered as a result of exposures to radioactive and hazardous materials while working at Rocky Flats be compensated for their illnesses. The problems workers have faced throughout the DOE complex are particularly acute at Rocky Flats.

At Rocky Flats critical records are missing and data is unreliable. Yet, under the current rules governing implementation of the EEOIPCA, workers need to prove a causal connection between their cancers and exposures suffered while working at Rocky Flats – and to do so they are required to prove such a link using data that was beyond their control. The inability of the federal government and its contractors to maintain reliable data undermines the integrity of the process. The costs, however, continue to be borne by the Rocky Flats workers.

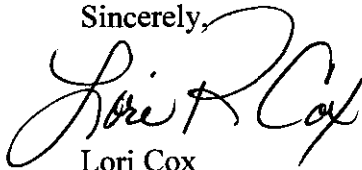
The Advisory Board on Radiation and Worker Health's recent recommendation to deny special exposure cohort status to all workers except those who worked at Rocky Flats between 1952 and 1958 reinforces the need for this legislation. This delineation is not based in science but rather

reflects policy decisions that on their face conflict with Congressional intent under the EEOIPCA.

As Congress is keenly aware, the EEOIPCA has been fraught with problems. Special exposure cohort status under H.R. 904 would rectify problems Rocky Flats workers face by simplifying the process and altering the causal links necessary to achieve compensation under the EEOIPCA. For workers who were on the front line of the Cold War and who were later instrumental in completing the \$6.9 billion cleanup below cost and ahead of schedule, it is due time they received compensation under the EEOIPCA.

We therefore respectfully request that the Committee provide a hearing on this legislation and we urge swift passage of H.R. 904.

Sincerely,



Lori Cox
City and County of Broomfield
Chairman



Jeannette Hillery
League of Women Voters
Vice Chairman



Karen Imbierowicz
Town of Superior
Secretary/Treasurer

Jim Congrove
Jefferson County

Ben Pearlman
Boulder County

Lorraine Anderson
City of Arvada

Shaun McGrath
City of Boulder

Chuck Baroch
City of Golden

Sheri Paiz
City of Northglenn

JoAnn Price
City of Westminster

Kim Grant
Rocky Flats Cold
War Museum

Roman Kohler
Rocky Flats Homesteaders

Ken Foelske
Citizen

Cc: Senator Ken Salazar
Senator Wayne Allard
Representative Mark Udall
Representative Ed Perlmutter
Samuel Bodman, Secretary of Energy
Elaine Chao, Secretary of Labor
Michael Levitt, Secretary of Health and Human Services
Paul L. Ziemer, Advisory Board on Radiation and Worker Health

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May 23, 2007

Mr. Paul L. Ziemer, Ph.D., Chairman
Advisory Board on Radiation and Worker Health
920 Southview Drive North
Lafayette, IN 47909

Dear Dr. Ziemer,

I am writing in follow up to our February 5, 2007, letter to you regarding the Rocky Flats workers' special exposure cohort petition. We are disappointed with the Advisory Board's handling of this petition and the strong possibility that special exposure cohort status will be limited to a small class of Rocky Flats workers. Carving small groups of Rocky Flats workers out of a specific class is an injustice to the remaining former workers.

Congress' intent under the Energy Employees Occupational Illness Compensation Program Act (EEOIPCA) was to compensate all former defense workers who have suffered as a result of exposures to radioactive and hazardous materials while working at Rocky Flats and other defense facilities. Yet, based on numerous claims Congress and government investigators have raised, it appears the Administration is seeking to limit worker claims based on public policy and fiscal grounds, not scientific grounds. As stated in the Colorado Congressional delegation's May 2, 2007, letter to you, "numerous reports have accused the Department of Energy and the Department of Labor of mismanaging the Energy Employees Occupational Illness Compensation Program, delaying and wrongfully denying benefits due to Rocky Flats and other nuclear energy workers." These delays and denial of benefits, the letter states, are "a result of conscious administrative policies." Part of their criticism is levied at Advisory Board on Radiation and Worker Health.

The Rocky Flats Stewardship Council finds the Colorado Congressional delegation's claims discouraging, and knows they did not reach their position easily. Like our Congressional delegation, the Stewardship Council is equally troubled by the Advisory Board's continued faith in NIOSH's dose reconstruction methodology and apparent dismissal of questions raised by the Advisory Board's own contractor, Sanford Cohen & Associates. Our Congressional delegation also understands Sanford Cohen "has documented areas of inadequate data and unreliable methodologies", yet the Board's initial decision regarding the Rocky Flats petition appears to

discount these critical questions. The Advisory Board also appears to disregard the testimony provided by sick workers and survivors of deceased workers about their exposures and resulting illnesses.

Rocky Flats is unlike nearly all other facilities in the DOE complex. Rocky Flats housed five of the 10 most dangerous buildings in the federal complex, including Building 771, the most contaminated building. There were two major fires at Rocky Flats, an unknown number of worker exposures, and questions so serious about worker and environmental health that in 1989 one federal agency raided another, leading to an \$18 million fine of the lead contractor. Yet, workers at less contaminated sites have received cohort status.

We hope that when the Advisory Board reconvenes in June that you and your colleagues challenge NIOSH's methodologies and conclusions. We also urge, as we did in February, that should legitimate issues regarding missing records and data reliability remain, as we believe they do, the Advisory Board should not recommend denial of the Rocky Flats workers' special cohort petition. Furthermore, should the Advisory Board not be able to resolve these questions, we again urge you and your colleagues to recommend approval of the whole petition.

None of us can lose sight of what is at stake. Workers are dying as families struggle to cover medical expenses. Special exposure cohort status would not solve the workers problem but would, as our delegation stated to you, "provide meaningful relief." That's what Congress had in mind in passing the EEOIPCA.

Sincerely,

Lori Cox
Chairman

Cc: Senator Wayne Allard
Senator Ken Salazar
Representative Mark Udall
Representative Ed Perlmutter
Representative Tom Tancredo
Representative Marilyn Musgrave
Samuel Bodman, Secretary of Energy
Elaine Chao, Secretary of Labor
Michael Leavitt, Secretary of Health and Human Services

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Karen Imbierowicz

August 25, 2008

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

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

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

Dear Senator Salazar, Representative Udall and Representative Perlmutter,

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

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

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

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

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

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

Regards,

[original signed]

Lorraine Anderson
Chairman

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

Triennial Review of Site Water Standards

- Cover memo

Rocky Flats Cleanup

- Cover memo
- Briefing memo: History of Rocky Flats and Cleanup of the Site
- Briefing memo: How Clean is Clean
- Briefing memo: Off-site lands
- Briefing memo: Overview of the Rocky Flats National Wildlife Refuge
- Rocky Flats Coalition of Local Governments op-ed: “Coalition Supports Rocky Flats Cleanup and Wildlife Refuge Bill”
- “Rocky Flats National Wildlife Refuge Act of 2001”
- Briefing Memo: Overview of Rocky Flats Stewardship Council
- Timeline of Rocky Flats History

Interpretative Signs for Rocky Flats

- Cover memo

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Karen Imbierowicz

MEMORANDUM

TO: Stewardship Council Board
FROM: Rik Getty
SUBJECT: Triennial Review of Site Water Quality Standards Briefing
DATE: March 20, 2009

We have scheduled 20 minutes for DOE to discuss the June 8, 2009, Colorado Water Quality Control Commission (CWQCC) triennial review of the site's water quality standards. This review is termed a rulemaking hearing by the CWQCC (see step C below). The river basins under review are the South Platte (including Rocky Flats), Laramie, Republican, and Smoky Hill. Clearly, Walnut and Woman creeks as they pass through Rocky Flats, the subject of our focus, are a small part of a larger review.

Background

In 2001 the CWQCC adopted a 3-step triennial review process for surface water quality classifications (types of water usage) and standards for various contaminants. The 3 steps are:

- A. issues scoping hearing held in October of year 1;
- B. issues formulation hearing held in November of year 2; and,
- C. rulemaking hearing held in June of year 3.

The issues scoping hearing provides:

1. a preview of potential issues that may be evaluated in the next major rulemaking hearing (e.g., review of a given regulation), and
2. an opportunity to address issues that may need to be evaluated prior to the major rulemaking.

The issues formulation hearing results in the identification of specific issues to be addressed in the next major rulemaking hearing. The rulemaking hearing is where any revisions to the water quality classifications and standards are formally adopted.

More details on the triennial review process can be found on CDPHE's website:
<http://www.cdphe.state.co.us/op/wqcc/WQClassandStandards/RMHdescription.pdf>

June 8, 2009, CWQCC Rulemaking Hearing

The Colorado Water Quality Control Division (Division; part of CDPHE) supports the appointed CWQCC as technical staff much like municipal government staff support elected officials. The Division has posted on the CDPHE website the proposed changes to the water quality classifications and standards for the river basins subject to this triennial review.

The most likely change for the site, which also affects all surface water in the other river basins under review, is the proposal to lower the water quality standard for arsenic. The site's current standard is 50 micrograms per liter (ug/l). The change proposed for the rulemaking hearing will be to adopt what is termed a "hyphenated" standard of 0.02 – 10 ug/l. The lower value of 0.02 ug/l is a calculated value from a health-based risk assessment similar to the new site standard for uranium. The upper value of 10 ug/l is derived from a maximum contaminant level (EPA term).

Arsenic is a naturally occurring element that is found throughout the state, including the site, at various background levels. The site's water, like many others in the South Platte basin, routinely has arsenic levels which exceed 0.02 ug/l, and at times 10 ug/l. Prior to the rulemaking hearing DOE will provide the Division historical and current data that they hope will lead to an ambient standard for the site. The ambient arsenic standard would allow for up to 10 ug/l. If approved, the ambient standard would be incorporated into the Rocky Flats Legacy Management Agreement (RFLMA). If arsenic results exceed 10 ug/l it would trigger more frequent investigative sampling for trend analysis just like RFLMA requires for other contaminants.

In addition to the arsenic standard change, the CWQCC may consider a proposal by the Division to change the water supply usage classification for the site since it is closed to the public. DOE has also told me that based on discussions with the Division, DOE currently will not seek to extend the temporary modification to the water quality nitrate standard due to expire in December 2009 (from temporary standard of 100 mg/l to the state-wide standard of 10 mg/l). These issues will be discussed more in depth at the meeting.

Please let me know if you have any questions.

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Karen Imbierowicz

MEMORANDUM

TO: Board
FROM: David Abelson
SUBJECT: Briefing/Discussion of Rocky Flats Cleanup
DATE: March 21, 2009

Since the Rocky Flats cleanup was completed in October 2005, there are a number of people involved in the Rocky Flats Stewardship Council whose tenure on Rocky Flats issues started following completion of remediation activities. Additionally, for those of us who worked on Rocky Flats issues during cleanup, some facts are starting to become hazy. Accordingly, at this meeting we are going to be briefed on and discuss the cleanup so that board members and others have an increased understanding of the history of the cleanup and how those actions influence and inform site activities and the Stewardship Council's focus.

In preparation for the meeting attached are a number of documents that collectively provide an overview of the history of the cleanup and other key facts and decisions.

1. Briefing memo: History of Rocky Flats and Cleanup of the Site
2. Briefing memo: How Clean is Clean
3. Briefing memo: Off-site lands
4. Briefing memo: Overview of the Rocky Flats National Wildlife Refuge
5. Rocky Flats Coalition of Local Governments op-ed: "Coalition Supports Rocky Flats Cleanup and Wildlife Refuge Bill"
6. "Rocky Flats National Wildlife Refuge Act of 2001"
7. Briefing Memo: Overview of Rocky Flats Stewardship Council
8. Timeline of Rocky Flats History

In reviewing this material, there are a number of items to bear in mind.

Cleanup Levels

One of the great questions DOE, Colorado Department of Public Health and the Environment, Environmental Protection Agency, local governments as organized under the Rocky Flats Coalition of Local Governments, the Rocky Flats Citizens Advisory Board, plus many others debated was to what level should the site be cleaned. While most wished in an ideal universe

that the site could have been cleaned to pre-production levels, federal laws require that the site be cleaned to protect the reasonably foreseeable future user. There was great debate as to who this future user would be and other critical factors that go into determining final cleanup levels.

Some argued that at a future date all controls will break down and that the future user would be a family that lives on the site in the most contaminated area who gets all of their food and water from the site. Others argued that the future user should be defined by the 2001 Rocky Flats Refuge Act and thus be geared towards a refuge worker.

In the end, for plutonium, the main contaminant of concern to the public, the soils were cleaned to protect a refuge worker. (For those who understand risk methodology, the increased cancer risk to the worker is 2×10^{-5} .) While the refuge worker was chosen, the surface soils, which were defined as the top 6", were also protective of a ranching and farming family but at a greater risk level (10^{-4} risk). To put this risk in perspective see "How Clean is Clean".

The Rocky Flats Coalition supported this approach.

Water Protection

Another important issue the aforementioned parties debated was remediation levels for water leaving the site. The main, although not exclusive concern at that time, was plutonium. The current regulatory standard for plutonium in water is 100 times more protective than the EPA's drinking water standard for plutonium. Levels were also set for hundreds of other contaminants, including uranium and nitrates. The Solar Ponds Plume Treatment System, which has been plagued by various problems, treats both uranium and nitrates.

Rocky Flats National Wildlife Refuge

A third issue widely debated was the future use of the site. When the Rocky Flats Coalition started in 1999, the vision for the future use of the site was murky. The general agreement was that the buffer zone would be protected as open space but that the core industrial area could be used for a variety of uses, including open space and/or industrial reuse.

After much debate the Rocky Flats Coalition, working with Senator Wayne Allard and then-Representative Mark Udall, agreed to support legislation designating the site as a national wildlife refuge. As discussed in the attached op-ed from the Coalition, the designation met a few key goals:

1. Protect the land for future generations by mandating the site be managed as a national wildlife refuge.
2. Ensure that the cleanup protects human health and the environment.
3. Prohibit future development of Rocky Flats and annexation of the property by any local government.
4. Require on-going federal ownership of the site, an integral component of a comprehensive long-term site stewardship program.
5. Ensure that cleanup is completed prior to the U.S. Fish and Wildlife Service assuming management of Rocky Flats.

6. Mandate the involvement of the Coalition and others in developing the refuge management plan.

Ongoing Oversight

Because Rocky Flats was not remediated to pre-production levels, ongoing local government and community oversight became an essential component of the post-closure management of the site. In 2004 Congress approved legislation creating local stakeholder organizations (LSO) for Rocky Flats and two sites in Ohio. For a variety of reasons, the Rocky Flats Stewardship Council is the sole LSO in the DOE complex.

Our mission, as it relates to our role as the LSO, is simple – provide ongoing local government and community oversight of the post-closure management of the site and to advise DOE on management issues.

Please let me know what questions you have. Thanks.

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Boulder, CO 80308-0670
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Karen Imbierowicz

Rocky Flats History, Cleanup and Ongoing Management

The History of Rocky Flats and the Cleanup (1995 – 2005)

Rocky Flats operated from 1951 until 1989 and served as the nation's primary nuclear weapons trigger production facility. Production of triggers (known as pits) and other classified work resulted in widespread contamination within the buildings and throughout portions of the 6,200-acre site, with the greatest contamination and thus hazards within the 384-acre core industrial area. Site operations and fires in the production buildings also spread contamination to off-site lands and into off-site water supplies.

Production ceased in 1989 after the FBI and Environmental Protection Agency (EPA) raid on the site, yet DOE did not announce an end to the nuclear weapons production mission until 1993. Cleanup, which began in earnest in 1995 and was closely regulated by both the EPA and the Colorado Department of Public Health and Environment (CDPHE), took 10 years and cost \$7 billion. Local governments and community organizations closely tracked site issues and engaged on numerous issues, including cleanup levels and future use determinations.

The cleanup focused on four principal activities:

1. Stabilizing materials
2. Decontaminating and demolishing buildings
3. Shipping all waste to off-site receiver sites (note: the two landfills that were used during production were capped in place)
4. Remediating contaminated soils and contaminated groundwater, and protecting surface water quality

The overarching goals for the cleanup project included:

1. Ensuring waters leaving the site are available for any and all uses – at Rocky Flats the surface water standard for plutonium is 100 times cleaner than the federal drinking water standard
2. Demolishing all buildings and removing foundations to 6' below grade
3. Remediating soils to levels that support a wildlife refuge – in fact, most of the site is clean enough to support residential and/or industrial use
4. Developing and implementing a comprehensive post-closure stewardship plan

DOE, EPA and CDPHE determined off-site lands were not contaminated to levels that warranted remediation. Cleanup activities ended in October 2005, and in late 2006 and early 2007, DOE, EPA and the CDPHE declared the cleanup complete. The former buffer zone and off-site lands were removed from the Superfund list and 4000 acres of the former buffer zone were transferred to the Department of the Interior to be protected as the Rocky Flats National Wildlife Refuge.

Ongoing Management

Cleanup, however, did not eliminate all risk. The core production areas, settling ponds and two landfills hold the greatest hazards and thus remain under DOE's jurisdiction. Contamination is found along old building foundations, in pond sediments, in old underground process waste lines, in two landfills, and in other areas. This contamination, which is at or, in nearly all cases, below all federal and state regulatory standards, includes radioactive materials, chemical solvent wastes and heavy metal wastes. DOE's responsibility is to ensure the cleanup remedies are working as designed and to protect the remedies from human intrusion.

This remaining contamination poses no immediate threat to human health and the environment, but it does require ongoing management by DOE and regulatory oversight by CDPHE and EPA. Accordingly, DOE, CDPHE and EPA entered into a post-closure regulatory agreement, the Rocky Flats Legacy Management Agreement (RFLMA). The RFLMA identifies each party's management/oversight responsibilities. DOE's responsibilities include:

1. Monitoring and maintaining the two landfills and four groundwater treatment systems.
2. Conducting environmental monitoring, including surface water and groundwater monitoring, and repairing systems as necessary.
3. Maintaining legal and physical controls, including but not limited to:
 - a. Prohibiting excavation, drilling, tilling and other such intrusive activities except for remedy-related purposes and in conjunction with plans approved by CDPHE and EPA.
 - b. Ensuring surface water and groundwater on-site is not used for drinking water or for agricultural purposes.
 - c. Maintaining groundwater wells and surface water monitoring stations.
 - d. Prohibiting activities that may damage or impair the proper functioning of any engineered control, including treatment systems, monitor wells, landfill caps and/or surveyed benchmarks.
 - e. Maintaining signs and fencing demarcating the Rocky Flats National Wildlife Refuge lands from the DOE-retained lands.

Perhaps the best barometer to gauge whether the remedies are performing as designed is water quality, both surface water and groundwater. Per the RFLMA, water leaving the site must meet stringent standards, which in the case of plutonium is 100 times below the federal standard for drinking water. The current standard for uranium is two times more stringent than the state standard, although the site specific standard will likely be changed in 2009 to conform with state standards.

To determine whether water standards are being met, DOE uses an extensive water quality monitoring network. This network, which is found throughout both the DOE lands and the Rocky Flats National Wildlife Refuge, includes approximately 20 surface water monitoring

stations and nearly 100 groundwater monitoring wells. Changes to the network require approval by the state of Colorado. Water in the terminal pond system (two terminal ponds on Walnut Creek; one on Woman Creek) is tested by both DOE and CDPHE prior to releasing the water. That data is also shared with downstream communities prior to the releases.

The RFLMA can be found at:

http://www.lm.doe.gov/documents/sites/co/rocky_flats/rflma/RFLMA_200702.pdf

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How Clean is Clean

Often one of the most pressing questions people have about Rocky Flats is “Is it safe?” The best way to answer this question is to present objective facts and let each decide whether the risks are reasonable and thus worth taking.

The cleanup of Rocky Flats was extensive. Cleanup actions included:

1. Demolishing 800+ buildings and facilities
2. Consolidating 21 metric tons of weapons-grade nuclear materials and 100 metric tons of plutonium residues
3. Excavating and/or consolidating 275,000 cubic meters of radioactive wastes
4. Analyzing and remediating as necessary 360 individual hazardous substance sites
5. Shipping these wastes and other materials to off-site locations

Following are a few benchmarks in determining “how clean is clean”:

1. Cleanup meets or exceeds federal and state standards.
2. Water leaving the site meets all applicable standards. In the case of plutonium, the standard is 100 times cleaner (more protective) than the federal drinking water standard.
3. The vast majority of the site can support residential and/or industrial use. The reason the DOE lands are not part of the Refuge and thus not open to the public is to protect the remedies from humans; access is not restricted to protect humans from residual risk.
4. One of the key drivers for designating Rocky Flats as a national wildlife refuge was to protect this important resource from future development.
5. DOE calculates the greatest risk from residual contamination is to a refuge worker with an increased cancer risk estimated to be 2×10^{-6} , or 2 in one million. These levels are also protective of wildlife.
6. A refuge worker’s annual dose would be less than 1 mrem/year. The dose visitors to the Refuge would receive would be significantly less. 1 mrem compares to other doses as follows:

Average dose to US public from all sources: 360 mrem/year
Average dose to US public from natural sources: 300 mrem/year
Average dose to US public from medical sources: 53 mrem/year
Average dose to US public from nuclear power: < 0.1 mrem/year
Average US terrestrial radiation: 28 mrem/year
Terrestrial background (Atlantic coast): 16 mrem/year

Terrestrial background (Rocky Mountains): 40 mrem/year
Cosmic radiation (Sea level): 26 mrem/year
Cosmic radiation (Denver): 50 mrem/year
Radionuclides in the body (e.g., potassium): 39 mrem/year
Building materials (concrete): 3 mrem/year
Drinking water: 5 mrem/year
Pocket watch (radium dial): 6 mrem/year
Eyeglasses (containing thorium): 6 - 11 mrem/year
Coast-to-coast airplane (roundtrip): 5 mrem
Chest x-ray: 8 mrem
Dental x-ray: 10 mrem

(source: Idaho State University, Radiation Information Network)

For more information about the cleanup and residual contamination, please go to:

http://www.lm.doe.gov/land/sites/co/rocky_flats/rocky.htm

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Off-Site Lands

To the extent people are concerned about on-site contamination they are equally if not more concerned about off-site contamination. This paper addresses the latter issue.

Contamination Spreads Off-Site

Throughout site operations, and especially during the 1950s through the early 1970s, radioactive and other hazardous materials were released into the environment which, in a few instances, migrated onto off-site lands neighboring Rocky Flats. Contamination included plutonium, tritium, organic solvents (e.g. carbon tetrachloride), and heavy metals. The greatest concentrations are east and south-east of the site, including lands within the municipal boundaries of Arvada, Broomfield and Westminster.

The two primary pathways contaminants moved off site were high winds and surface water flows. Some of the major events which led to the off-site dispersion were:

- During the 1950s and 1960s leaking drums of plutonium-contaminated liquid wastes were stored outside in an area known as the 903 pad. When the Atomic Energy Commission (AEC; a precursor to the Department of Energy) tried to remediate this area in the early 1960s, high winds dispersed the contamination eastwards. While much of it and the highest concentrations remained on-site, low levels spread beyond the site boundary.
- A fire in Building 771 in 1957 released plutonium into the air.
- A fire in Building 776 in 1969 released plutonium into the air.
- Various releases contaminated Walnut and Woman Creeks as they run through Rocky Flats. Some contaminated water moved off-site. As part of the plan to address this problem, in the mid-1970s the AEC built water settling and holding ponds.

Radioactive contamination that migrated off-site by high winds and surface water is found in surface soils, stream bed sediments (Walnut and Woman Creeks), and in lake sediments (Standley Lake, Great Western Reservoir and Mower Reservoir).

How Do We Know What Is There?

Starting in the 1970s as public interest over the extent of off-site contamination and potential threats to public health and the environment rose, the federal government, health regulators and independent scientists began exploring the extent of off-site contamination and potential health impacts.

The Colorado Department of Public Health and Environment (CDPHE) monitored the air to identify any potential airborne contamination coming from the site. CDPHE also collected soil and water samples from areas surrounding Rocky Flats. Local governments, who were likewise concerned about the extent of off-site contamination, began collecting water and soil samples. Independent citizen groups and university research scientists also played a role in determining the extent of off-site contamination. The Department of Energy (DOE) also embarked on an effort to better understand the extent of contamination on off-site lands, as did the Environmental Protection Agency (EPA).

Extent of Off-Site Radioactive Contamination and Associated Risk

In order to assess the risk to human health and the environment it is vital to know how much contamination there is. Throughout the Denver-metro area, the background level for plutonium in soils is approximately 0.06 picoCuries per gram of soil (pCi/g), a measure of radioactivity. Background is above 0.0 pCi/g as a result of radioactive fall-out from atmospheric testing of nuclear weapons; background, however, does not include a contribution from Rocky Flats contamination.

Most of the soil samples taken by CDPHE and others were either at background or slightly higher. However, a few samples were greater. The highest concentration, which was found 1,800 feet east of Indiana Street near the site's east entrance, was 6.5 pCi/g. This level of radioactivity corresponds to approximately 0.12 millirem/year, another measure of radioactive dose.

To help understand what this level means, it is helpful to compare it to other doses of radiation we experience:

- Average dose from all sources = 360 mrem/year
- Terrestrial background (Rocky Mountains) = 40 mrem/year
- Cosmic radiation (Denver) = 50 mrem/year
- Drinking water = 5 mrem/year
- Chest X-ray = 8 mrem
- Dental X-ray = 10 mrem
- Coast-to-coast airplane (roundtrip) = 5 mrem
- Eating one banana per day per year = 5 mrem/year (source is potassium)

Based on this data, in 1997 DOE, CDPHE and EPA determined that there was no need to perform environmental remediation of any off-site lands. Their findings and conclusions were subsequently submitted to the Agency for Toxic Substances and Disease Registry (ATSDR), a division within the Federal Centers for Disease Control. ATSDR evaluated whether the risk posed to residents was adequately calculated. They also evaluated whether DOE, EPA and CDPHE's determination to not remediate off-site lands was supportable. ATSDR affirmed DOE's data and conclusions – no additional cleanup activities were needed to protect public health and the environment.

Independent Analyses and an Enormous Lawsuit

From the mid-1990s onwards, Rocky Flats was the subject of many independent reviews. Some of those reviews included assessments of contamination on off-site lands and potential impacts to surrounding communities.

Health Advisory Panel – Potential Impacts to Neighboring Communities

In 1990 Governor Roy Romer directed CDPHE to conduct an in-depth study on historical public exposures from off-site contamination. Gov. Romer also appointed an independent panel, the Health Advisory Panel (HAP), to oversee CDPHE's work.

In order to determine the extent of contamination, CDPHE took extensive soil, water and air samples. CDPHE also reviewed historical information. With this data, the researchers determined that the two most prevalent types of off-site contamination are radioactive (primarily plutonium and americium) and carbon tetrachloride. CDPHE and the HAP then undertook a risk assessment to determine the effects (potential of increased cancer risk due to exposures) these two forms of contamination would have on public health. The researchers concluded, in short, the risk of developing cancer due to off-site contamination was extremely low and did not pose a significant threat to human health or the environment. The risk ranges associated with off-site exposure to plutonium and carbon tetrachloride were very similar to the risks discussed above.

For more information about this study please go to: <http://www.cdphe.state.co.us/rf/index.htm>

Community Independent Review

This aforementioned risk posed to residents living on lands adjacent to Rocky Flats also tracks an independent, community led study undertaken in the late 1990s. This study, led by Dr. John Till with the Risk Assessment Corporation, established a cleanup range that would be protective of a family with children living at Rocky Flats. Under Dr. Till's scenario, which was developed in partnership with a community oversight board, the family would live in the most contaminated part of the site and get all of its food and water from within Rocky Flats.

As a result of this work, a few years later, DOE, EPA and CDPHE adopted cleanup levels that fell within Dr. Till's cleanup range. Importantly, though, most of Rocky Flats, including all of the lands that comprise the Rocky Flats National Wildlife Refuge, are significantly cleaner than the range established by Dr. Till.

Cook vs. Rockwell—Neighbors Sue

In the early 1990's, property owners within a certain radius of Rocky Flats filed a class action lawsuit against the first two site contractors, Dow Chemical (site operator from 1952 to 1975) and Rockwell International (site operator from 1975 to 1990). The lawsuit alleged that the contractors released off-site contamination that resulted in a diminution of property values. In 2006, the jury awarded the plaintiffs \$553.9 million based on trespass and nuisance resulting from contamination spreading to off-site lands.

Importantly, Cook vs. Rockwell concerned off-site contamination and did not speak to the cleanup. The reason is that the class of property owners closed in the early 1990s so they were

compensated for their loss in property value up to the early 1990s. The case also did not address the health risks associated with off-site contamination.

Dow and Rockwell have appealed.

May 2008

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Rocky Flats National Wildlife Refuge Briefing Paper

SUMMARY

“The Rocky Flats National Wildlife Refuge Act of 2001” provides that following completion of the cleanup project, the vast majority of Rocky Flats would be protected as a national wildlife refuge. Cleanup was completed in October 2005 and on July 12, 2007, the Department of Energy transferred jurisdiction over 3953 acres of the former Rocky Flats buffer zone to the Department of the Interior to be managed as the Rocky Flats National Wildlife Refuge.

The purpose of the Rocky Flats National Wildlife Refuge is to restore and preserve native ecosystems, provide habitat for plants and wildlife, conserve threatened and endangered species, and provide opportunities for scientific research. Importantly, the Refuge Act prohibits reindustrialization of the site and annexation by local governments. The Comprehensive Conservation Plan guides site management.

National Wildlife Refuge System Mission

The first national wildlife refuge was established in 1903. The refuge system, which has grown to more than 92 million acres, now includes 500 refuges (at least one in every state) and over 3000 waterfowl production areas. The Rocky Flats National Wildlife Refuge is one of three refuges in the Denver-metro area; the other two are The Rocky Mountain Arsenal NWR (Commerce City) and Two Ponds NWR (Arvada).

The refuge system mission is:

To administer a national network of lands and waters for the conservation, management and, where appropriate, restoration of the fish, wildlife and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.

Rocky Flats National Wildlife Refuge Act of 2001

“The Rocky Flats National Wildlife Refuge Act of 2001” (Refuge Act) was championed by Senator Wayne Allard and Representative Mark Udall, and was broadly supported by local governments and community members surrounding the plant.

The Refuge Act identifies four uses for the Refuge:

1. Restore and preserve native ecosystems
2. Provide habitat for and populations management of native plants and migratory and resident wildlife
3. Conserve threatened and endangered species
4. Provide opportunities for compatible scientific research.

The Refuge Act also provides wildlife-dependent uses and environmental education and interpretation are priority public uses, and prohibits future development and annexation by local governments.

USFWS Planning and Management Goals

The U.S. Fish and Wildlife Service (USFWS), a program office within the Department of the Interior, manages the Rocky Flats Refuge. In 2004 USFWS developed the following goals to guide refuge planning and management:

1. Wildlife and Habitat Management: Provide a riparian community representative of historic flora and fauna in a high valley of the southern Rocky Mountains to provide habitat for migratory birds, mammals, and river-dependent species.
2. Public Use, Education and Interpretation: Provide visitors and students high quality recreational, educational and interpretive opportunities and foster an understanding and appreciation of the Refuge's xeric tallgrass prairie, upland shrub and wetland habitats; native wildlife; the history of the site; and the National Wildlife Refuge System (NWRS).
3. Safety: Conduct operations and manage public access in accordance with the final Rocky Flats' cleanup decision documents to ensure the safety of the Refuge visitors, staff and neighbors.
4. Effective and Open Communication: Conduct communication outreach efforts to raise public awareness about the Refuge programs, management decisions and the mission of the USFWS and the NWRS among visitors, students and nearby residents.
5. Working with Others: Foster beneficial partnerships with individuals, government agencies, non-governmental organizations, and others to promote resource conservation, compatible wildlife-related research, public use, site history and infrastructure.
6. Refuge Operations: Based on available funds, provide facilities and staff to fulfill the Refuge vision and purpose.

Comprehensive Conservation Plan (CCP)

The Rocky Flats National Wildlife Refuge Comprehensive Conservation Plan (CCP) outlines the management direction and strategies for refuge operations, habitat restoration and visitor services. The CCP "balances wildlife and habitat management needs, compatible wildlife-dependent public uses and budgetary constraints." It was approved in April 2005 and is effective for 15 years.

Habitat Management: Habitat management will include prescribed fire, mowing and grazing to simulate and maintain native grassland communities.

Wildlife Management: USFWS will work with the Colorado Division of Wildlife to manage deer and elk populations. Management options include public hunting, culling and other means. Hunting will be limited to two weekends per year and will be solely for youth and the disabled. USFWS will also evaluate the suitability of reintroducing native species, such as the sharp-tailed grouse.

Public Use: Public use programs will include environmental education programs for high-school and college students, as well as interpretative programs. Visitor use facilities will include 12.8 miles of multi-use trails, 3.8 miles of hiking-only trails, a visitor contact station, interpretative overlooks, viewing blinds, and parking facilities.

Detailed Management Plans

The CCP describes the desired future conditions of the Refuge and provides long-range guidance and management direction. In the coming years, USFWS will conduct additional, more detailed planning for vegetation and wildlife management, fire management, visitor services (which includes interpretation, environmental education, hunting and research protocols), health and safety, and historic preservation. These plans are in addition to the 2007 plan that addressed entrance signs for the Refuge.

USFWS Priorities

USFWS has identified the following funding priorities:

- Prevent habitat degradation
- Maintain law enforcement presence
- Continue Wildlife monitoring
- Maintain migration corridors for wildlife
- Develop trails

Trails Opening

The CCP anticipates the Refuge would be open for public use starting in 5 years. USFWS also planned to have the trail to the Lindsay Ranch open within the first year after the transfer. However, there are no funds available to staff the Refuge or place safety fencing around the Lindsey house to keep visitors out of an unsafe building. USFWS now says it will likely be several years before any of the trails are open to the public.

Department of Energy at Rocky Flats

The Refuge Act provides DOE shall retain jurisdiction over lands that require ongoing management to ensure the cleanup remedies remain protective of human health and the environment. Subsequent legislation addressed active mining claims. Accordingly, DOE retained jurisdiction of the vast majority of the former Industrial Area and the settling ponds (1309 acres), as well as jurisdiction over active mining claims (929 acres).

Importantly, should contamination be found on Refuge lands that requires remediation, the Refuge Act provides cleanup trumps Refuge management.

For more information about the Refuge please go to: <http://www.fws.gov/rockyflats/>

May 2008

Coalition Supports Rocky Flats Cleanup and Wildlife Refuge Bill
By: Michelle Lawrence, Paul Danish, Lorraine Anderson, Tom Brunner, Sam Dixon,
Karen Imbierowicz, Lisa Morzel

The story of Rocky Flats and the surrounding area is deeply rooted in the history of our communities and in the psyche of many of our citizens. It's a story of homesteaders and bombs, of a unique natural environment and a challenging relationship with the Atomic Energy Commission.

Now fifty years after the headlines extolled the coming of the nuclear age to our communities, we are faced with the opportunity of turning this once top-secret nuclear facility into an asset for this region. With the strong support of Colorado's congressional delegation, lead by Senator Wayne Allard and Representative Mark Udall, we have the opportunity to clean up Rocky Flats and to protect its precious natural resources.

Sen. Allard and Rep. Udall have introduced a bill in Congress to enact this change, to protect Rocky Flats for future generations, free from the encroaching development that has both shaped and reflected our robust economy. "The Rocky Flats National Wildlife Refuge Bill of 2001" would designate Rocky Flats as a national wildlife refuge once the cleanup and closure of Rocky Flats is complete.

As the Board of Directors of the Rocky Flats Coalition of Local Governments, a coalition of elected officials from Boulder County and Jefferson County, the cities of Arvada, Boulder, Broomfield, Westminster, and the Town of Superior, we unanimously applaud this legislation and call on Congress to support and secure its early passage.

The bill would accomplish a number of the Coalition's key cleanup and future use goals. Most importantly, it would protect the land for future generations by mandating the site be managed as a national wildlife refuge, while ensuring that the cleanup protects human health and the environment. Additionally, this designation would prohibit future development of Rocky Flats and annexation of the property by any local government. The legislation would also require on-going federal ownership of the site, an integral component of a comprehensive long-term site stewardship program, and also ensure that cleanup is completed prior to the U.S. Fish and Wildlife Service assuming management of Rocky Flats. Finally, the bill would mandate the involvement of the Coalition and others in developing the refuge management plan.

Not unexpectedly, the bill does have a minority of detractors. Some have suggested that the bill will lead to a "dirty" cleanup for it does not specify cleanup to a level that would allow for residential use. They claim the bill will diminish or compromise the cleanup efforts. We disagree with such claims.

A careful reading of the bill clearly suggests otherwise, for it explicitly states that cleanup must protect human health and the environment. Moreover, due to its widespread support, the prospect of the bill becoming law is helping to drive a more protective cleanup – far greater than

the cleanup agreed to in 1996 by the Department of Energy, the Colorado Department of Public Health and the Environment, and the Environmental Protection Agency. The Coalition, for its part, continues to work with Sen. Allard, Rep. Udall and these agencies to assure that the cleanup protects human health and the environment.

This legislation, if enacted, will chart a new course for Rocky Flats, one that few imagined just a few years ago. As Sen. Allard and Rep. Udall have often stated, the legislation will turn weapons into wildlife.

The Coalition applauds Sen. Allard and Rep. Udall's commitment and leadership in cleaning up and protecting Rocky Flats for future generations. We also applaud Governor Owens, Attorney General Salazar, and the entire Colorado congressional delegation for their support of this important legislation.

Together, we can clean up Rocky Flats and protect the resource, not just for ourselves but for our grandchildren and their grandchildren as well.

Word count: 611

S.1438

*One Hundred Seventh Congress
of the
United States of America
AT THE FIRST SESSION*

An Act

To authorize appropriations for fiscal year 2002 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,

Subtitle F--Rocky Flats National Wildlife Refuge

SEC. 3171. SHORT TITLE.

This subtitle may be cited as the 'Rocky Flats National Wildlife Refuge Act of 2001'.

SEC. 3172. FINDINGS AND PURPOSES.

(a) FINDINGS- Congress finds the following:

- (1) The Federal Government, through the Atomic Energy Commission, acquired the Rocky Flats site in 1951 and began operations there in 1952. The site remains a Department of Energy facility. Since 1992, the mission of the Rocky Flats site has changed from the production of nuclear weapons components to cleanup and closure in a manner that is safe, environmentally and socially responsible, physically secure, and cost-effective.
- (2) The majority of the Rocky Flats site has generally remained undisturbed since its acquisition by the Federal Government.
- (3) The State of Colorado is experiencing increasing growth and development, especially in the metropolitan Denver Front Range area in the vicinity of the Rocky Flats site. That growth and development reduces the amount of open space and thereby diminishes for many metropolitan Denver communities the vistas of the striking Front Range mountain backdrop.
- (4) Some areas of the Rocky Flats site contain contamination and will require further response action. The national interest requires that the ongoing cleanup and closure of the entire site be completed safely, effectively, and without unnecessary delay and that the site thereafter be retained by the United States and managed so as to preserve the value of the site for open space and wildlife habitat.
- (5) The Rocky Flats site provides habitat for many wildlife species, including a number of threatened and endangered species, and is marked by the presence of rare xeric tallgrass prairie plant communities. Establishing the site as a unit of the National Wildlife Refuge System will promote the preservation and enhancement of those resources for present and future generations.

(b) PURPOSES- The purposes of this subtitle are--

- (1) to provide for the establishment of the Rocky Flats site as a national wildlife refuge following cleanup and closure of the site;
- (2) to create a process for public input on the management of the refuge referred to in paragraph (1) before transfer of administrative jurisdiction to the Secretary of the Interior; and
- (3) to ensure that the Rocky Flats site is thoroughly and completely cleaned up.

SEC. 3173. DEFINITIONS.

In this subtitle:

- (1) CERCLA- The term `CERCLA' means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).
- (2) CLEANUP AND CLOSURE- The term `cleanup and closure' means the response actions for covered substances carried out at Rocky Flats, as required by any of the following:
 - (A) The RFCA.
 - (B) CERCLA.
 - (C) RCRA.
 - (D) The Colorado Hazardous Waste Act, 25-15-101 to 25-15-327, Colorado Revised Statutes.
- (3) COVERED SUBSTANCE- The term `covered substance' means any of the following:
 - (A) Any hazardous substance, as such term is defined in paragraph (14) of section 101 of CERCLA (42 U.S.C. 9601).
 - (B) Any pollutant or contaminant, as such term is defined in paragraph (33) of such section 101.
 - (C) Any petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of paragraph (14) of such section 101.
- (4) RCRA- The term `RCRA' means the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), popularly known as the Resource Conservation and Recovery Act.
- (5) REFUGE- The term `refuge' means the Rocky Flats National Wildlife Refuge established under section 3177.
- (6) RESPONSE ACTION- The term `response action' means any of the following:
 - (A) A response, as such term is defined in paragraph (25) of section 101 of CERCLA (42 U.S.C. 9601).
 - (B) A corrective action under RCRA or under the Colorado Hazardous Waste Act, 25-15-101 to 25-15-327, Colorado Revised Statutes.
 - (C) Any requirement for institutional controls imposed by any of the laws referred to in subparagraph (A) or (B).
- (7) RFCA- The term `RFCA' means the Rocky Flats Cleanup Agreement, an intergovernmental agreement, dated July 19, 1996, among--
 - (A) the Department of Energy;
 - (B) the Environmental Protection Agency; and

(C) the Department of Public Health and Environment of the State of Colorado.

(8) ROCKY FLATS-

(A) IN GENERAL- Except as provided in subparagraph (B), the term `Rocky Flats' means the Rocky Flats Environmental Technology Site, Colorado, a defense nuclear facility, as depicted on the map titled `Rocky Flats Environmental Technology Site', dated October 22, 2001, and available for inspection in the appropriate offices of the United States Fish and Wildlife Service.

(B) EXCLUSIONS- The term `Rocky Flats' does not include--

(i) the land and facilities of the Department of Energy's National Renewable Energy Laboratory, including the acres retained by the Secretary under section 3174(f); and

(ii) any land and facilities not within the boundaries depicted on the map referred to in subparagraph (A).

(9) SECRETARY- The term `Secretary' means the Secretary of Energy.

SEC. 3174. FUTURE OWNERSHIP AND MANAGEMENT.

(a) FEDERAL OWNERSHIP- Except as expressly provided in this subtitle, all right, title, and interest of the United States, held on or acquired after the date of the enactment of this Act, to land or interest therein, including minerals, within the boundaries of Rocky Flats shall be retained by the United States.

(b) LINDSAY RANCH- The structures that comprise the former Lindsay Ranch homestead site in the Rock Creek Reserve area of the buffer zone, as depicted on the map referred to in section 3173(8)(A), shall be permanently preserved and maintained in accordance with the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(c) PROHIBITION ON ANNEXATION- Neither the Secretary nor the Secretary of the Interior shall allow the annexation of land within the refuge by any unit of local government.

(d) PROHIBITION ON THROUGH ROADS- Except as provided in subsection (e), no public road shall be constructed through Rocky Flats.

(e) TRANSPORTATION RIGHT-OF-WAY-

(1) IN GENERAL-

(A) AVAILABILITY OF LAND- On submission of an application meeting each of the conditions specified in paragraph (2), the Secretary, in consultation with the Secretary of the Interior, shall make available land along the eastern boundary of Rocky Flats for the sole purpose of transportation improvements along Indiana Street.

(B) BOUNDARIES- Land made available under this paragraph may not extend more than 300 feet from the west edge of the Indiana Street right-of-way, as that right-of-way exists as of the date of the enactment of this Act.

(C) EASEMENT OR SALE- Land may be made available under this paragraph by easement or sale to one or more appropriate entities.

(D) COMPLIANCE WITH APPLICABLE LAW- Any action under this paragraph shall be taken in compliance with applicable law.

(2) CONDITIONS- An application referred to in paragraph (1) meets the conditions specified in this paragraph if the application--

(A) is submitted by any county, city, or other political subdivision of the State of Colorado; and

(B) includes documentation demonstrating that the transportation improvements for which the land is to be made available--

(i) are carried out so as to minimize adverse effects on the management of Rocky Flats as a wildlife refuge; and

(ii) are included in the regional transportation plan of the metropolitan planning organization designated for the Denver metropolitan area under section 5303 of title 49, United States Code.

(f) WIND TECHNOLOGY EXPANSION AREA- The Secretary shall retain, for the use of the National Renewable Energy Laboratory, the approximately 25 acres identified on the map referred to in section 3173(8)(A) as the 'Wind Technology Expansion Area'.

SEC. 3175. TRANSFER OF MANAGEMENT RESPONSIBILITIES AND JURISDICTION OVER ROCKY FLATS.

(a) TRANSFER REQUIRED-

(1) IN GENERAL- Subject to the other provisions of this section, the Secretary shall transfer administrative jurisdiction over the property that is to comprise the refuge to the Secretary of the Interior.

(2) DATE OF TRANSFER- The transfer shall be carried out not earlier than the completion certification date, and not later than 30 business days after that date.

(3) COMPLETION CERTIFICATION DATE- For purposes of paragraph (2), the completion certification date is the date on which the Administrator of the Environmental Protection Agency certifies to the Secretary and to the Secretary of the Interior that cleanup and closure at Rocky Flats has been completed, except for the operation and maintenance associated with response actions, and that all response actions are operating properly and successfully.

(b) MEMORANDUM OF UNDERSTANDING-

(1) REQUIRED ELEMENTS- The transfer required by subsection (a) shall be carried out pursuant to a memorandum of understanding between the Secretary and the Secretary of the Interior. The memorandum of understanding shall--

(A) provide for the division of responsibilities between the Secretary and the Secretary of the Interior necessary to carry out such transfer;

(B) address the impacts that any property rights referred to in section 3179(a) may have on the management of the refuge, and provide strategies for resolving or mitigating these impacts;

(C) identify the land the administrative jurisdiction of which is to be transferred to the Secretary of the Interior; and

(D) specify the allocation of the Federal costs incurred at the refuge after the date of such transfer for any site investigations, response actions, and related activities for covered substances.

(2) PUBLICATION OF DRAFT- Not later than one year after the date of the enactment of this Act, the Secretary and the Secretary of the Interior shall publish in the Federal Register a draft of the memorandum of understanding.

(3) FINALIZATION AND IMPLEMENTATION-

(A) Not later than 18 months after the date of the enactment of this Act, the Secretary and Secretary of the Interior shall finalize and implement the memorandum of understanding.

(B) In finalizing the memorandum of understanding, the Secretary and Secretary of the Interior shall specifically identify the land the administrative jurisdiction of which is to be transferred to the Secretary of the Interior and provide for a determination of the exact acreage and legal description of such land by a survey mutually satisfactory to the Secretary and the Secretary of the Interior.

(c) TRANSFER OF IMPROVEMENTS- The transfer required by subsection (a) may include such buildings or other improvements as the Secretary of the Interior has requested in writing for purposes of managing the refuge.

(d) PROPERTY RETAINED FOR RESPONSE ACTIONS-

(1) IN GENERAL- The transfer required by subsection (a) shall not include, and the Secretary shall retain jurisdiction, authority, and control over, the following real property and facilities at Rocky Flats:

(A) Any engineered structure, including caps, barrier walls, and monitoring or treatment wells, to be used in carrying out a response action for covered substances.

(B) Any real property or facility to be used for any other purpose relating to a response action or any other action that is required to be carried out by the Secretary at Rocky Flats.

(2) CONSULTATION- The Secretary shall consult with the Secretary of the Interior, the Administrator of the Environmental Protection Agency, and the Governor of the State of Colorado on the identification of all real property and facilities to be retained under this subsection.

(e) COST- The transfer required by subsection (a) shall be completed without cost to the Secretary of the Interior.

(f) NO REDUCTION IN FUNDS- The transfer required by subsection (a), and the memorandum of understanding required by subsection (b), shall not result in any reduction in funds available to the Secretary for cleanup and closure of Rocky Flats.

SEC. 3176. ADMINISTRATION OF RETAINED PROPERTY; CONTINUATION OF CLEANUP AND CLOSURE.

(a) ADMINISTRATION OF RETAINED PROPERTY-

(1) IN GENERAL- In administering the property retained under section 3175(d), the Secretary shall consult with the Secretary of the Interior to minimize any conflict between--

(A) the administration by the Secretary of such property for a purpose relating to a response action; and

(B) the administration by the Secretary of the Interior of land the administrative jurisdiction of which is transferred under section 3175(a).

(2) PRIORITY IN CASE OF CONFLICT- In the case of any such conflict, the Secretary and the Secretary of the Interior shall ensure that the administration for a purpose relating to a response action, as described in paragraph (1)(A), shall take priority.

(3) ACCESS- The Secretary of the Interior shall provide to the Secretary such access and cooperation with respect to the refuge as the Secretary requires to carry out operation and maintenance, future response actions, natural resources restoration, or any other obligations.

(b) ONGOING CLEANUP AND CLOSURE-

(1) IN GENERAL- The Secretary shall carry out to completion cleanup and closure at Rocky Flats.

(2) CLEANUP LEVELS- The Secretary shall carry out such cleanup and closure to the levels established for soil, water, and other media, following a thorough review by the parties to the RFCA and the public (including the United States Fish and Wildlife Service and other interested government agencies) of the appropriateness of the interim levels in the RFCA.

(3) NO RESTRICTION ON USE OF NEW TECHNOLOGIES- Nothing in this subtitle, and no action taken under this subtitle, restricts the Secretary from using at Rocky Flats any new technology that may become available for remediation of contamination.

(c) OPPORTUNITY TO COMMENT- The Secretary of the Interior shall have the opportunity to comment with respect to any proposed response action as to the impacts, if any, of such proposed response action on the refuge.

(d) RULES OF CONSTRUCTION-

(1) NO RELIEF FROM OBLIGATIONS UNDER OTHER LAW- Nothing in this subtitle, and no action taken under this subtitle--

(A) relieves the Secretary, the Administrator of the Environmental Protection Agency, the Secretary of the Interior, or any other person from any obligation or other liability with respect to Rocky Flats under the RFCA or any Federal or State law;

(B) impairs or alters any provision of the RFCA; or

(C) alters any authority of the Administrator of the Environmental Protection Agency under section 120(e) of CERCLA (42 U.S.C. 9620(e)), or any authority of the State of Colorado.

(2) CLEANUP LEVELS- Nothing in this subtitle shall reduce the level of cleanup and closure at Rocky Flats required under the RFCA or any Federal or State law.

(3) PAYMENT OF RESPONSE ACTION COSTS- Nothing in this subtitle affects the obligation of a Federal department or agency that had or has operations at Rocky Flats resulting in the release or threatened release of a covered substance to pay the costs of response actions carried out to abate the release of, or clean up, the covered substance.

SEC. 3177. ROCKY FLATS NATIONAL WILDLIFE REFUGE.

(a) IN GENERAL- On completion of the transfer required by section 3175(a), and subject to section 3176(a), the Secretary of the Interior shall commence administration of the real property comprising the refuge in accordance with this subtitle.

(b) ESTABLISHMENT OF REFUGE- Not later than 30 days after the transfer required by section 3175(a), the Secretary of the Interior shall establish at Rocky Flats a national wildlife refuge to be known as the Rocky Flats National Wildlife Refuge.

(c) COMPOSITION- The refuge shall be comprised of the property the administrative jurisdiction of which was transferred as required by section 3175(a).

(d) NOTICE- The Secretary of the Interior shall publish in the Federal Register a notice of the establishment of the refuge.

(e) ADMINISTRATION AND PURPOSES-

(1) IN GENERAL- The Secretary of the Interior shall manage the refuge in accordance with applicable law, including this subtitle, the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.), and the purposes specified in that Act.

(2) REFUGE PURPOSES- The refuge shall be managed for the purposes of--

(A) restoring and preserving native ecosystems;

(B) providing habitat for, and population management of, native plants and migratory and resident wildlife;

(C) conserving threatened and endangered species (including species that are candidates for listing under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)); and

(D) providing opportunities for compatible scientific research.

(3) MANAGEMENT- In managing the refuge, the Secretary of the Interior shall--

(A) ensure that wildlife-dependent recreation and environmental education and interpretation are the priority public uses of the refuge; and

(B) comply with all response actions.

SEC. 3178. COMPREHENSIVE PLANNING PROCESS.

(a) IN GENERAL- Not later than 180 days after the date of the enactment of this Act, in developing a comprehensive conservation plan for the refuge in accordance with section 4(e) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(e)), the Secretary of the Interior shall establish a comprehensive planning process that involves the public and local communities. The Secretary of the Interior shall establish such process in consultation with the Secretary, the members of the Coalition, the Governor of the State of Colorado, and the Federal and State of Colorado officials who have been designated as trustees for Rocky Flats under section 107(f)(2) of CERCLA (42 U.S.C. 9607(f)(2)).

(b) OTHER PARTICIPANTS- In addition to the entities specified in subsection (a), the comprehensive planning process required by subsection (a) shall include the opportunity for direct involvement of entities that are not members of the Coalition as of the date of the enactment of this Act, including the Rocky Flats Citizens' Advisory Board and the cities of Thornton, Northglenn, Golden, Louisville, and Lafayette, Colorado.

(c) DISSOLUTION OF COALITION- If the Coalition dissolves, or if any Coalition member elects to leave the Coalition during the comprehensive planning process required by subsection (a)--

(1) such comprehensive planning process shall continue; and

(2) an opportunity shall be provided to each entity that is a member of the Coalition as of September 1, 2000, for direct involvement in such comprehensive planning process.

(d) CONTENTS- In addition to the requirements of section 4(e) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(e)), the comprehensive conservation plan referred to in subsection (a) shall address and make recommendations on the following:

(1) The identification of any land referred to in subsection (e) of section 3174 that could be made available under that subsection.

(2) The characteristics and configuration of any perimeter fencing that may be appropriate or compatible for cleanup and closure purposes, refuge purposes, or other purposes.

(3) The feasibility of locating, and the potential location for, a visitor and education center at the refuge.

(4) Any other issues relating to Rocky Flats.

(e) COALITION DEFINED- In this section, the term `Coalition' means the Rocky Flats Coalition of Local Governments established by the Intergovernmental Agreement, dated February 16, 1999, among--

(1) the city of Arvada, Colorado;

(2) the city of Boulder, Colorado;

(3) the city of Broomfield, Colorado;

(4) the city of Westminster, Colorado;

(5) the town of Superior, Colorado;

(6) Boulder County, Colorado; and

(7) Jefferson County, Colorado.

(f) REPORT- Not later than three years after the date of the enactment of this Act, the Secretary of the Interior shall submit to Congress--

(1) the comprehensive conservation plan referred to in subsection (a); and

(2) a report that contains--

(A) an outline of the involvement of the public and local communities in the comprehensive planning process, as required by subsection (a);

(B) to the extent that any input or recommendation from the comprehensive planning process is not accepted, a clear statement of the reasons why such input or recommendation is not accepted; and

(C) a discussion of the impacts of any property rights referred to in section 3179(a) on management of the refuge, and an identification of strategies for resolving and mitigating these impacts.

SEC. 3179. PROPERTY RIGHTS.

(a) IN GENERAL- Except as provided in subsections (c) and (d), nothing in this subtitle limits any valid, existing property right at Rocky Flats that is owned by any person or entity, including, but not limited to--

(1) any mineral right;

(2) any water right or related easement; and

(3) any facility or right-of-way for a utility.

(b) ACCESS- Except as provided in subsection (c), nothing in this subtitle affects any right of an owner of a property right referred to in subsection (a) to access the owner's property.

(c) REASONABLE CONDITIONS-

(1) IN GENERAL- The Secretary or the Secretary of the Interior may impose such reasonable conditions on access to property rights referred to in subsection (a) as are appropriate for the cleanup and closure of Rocky Flats and for the management of the refuge.

(2) NO EFFECT ON OTHER LAW- Nothing in this subtitle affects any Federal, State, or local law (including any regulation) relating to the use, development, and management of property rights referred to in subsection (a).

(3) NO EFFECT ON ACCESS RIGHTS- Nothing in this subsection precludes the exercise of any access right, in existence on the date of the enactment of this Act, that is necessary to perfect or maintain a water right in existence on that date.

(d) UTILITY EXTENSION-

(1) IN GENERAL- The Secretary or the Secretary of the Interior may allow not more than one extension from an existing utility right-of-way on Rocky Flats, if necessary.

(2) CONDITIONS- An extension under paragraph (1) shall be subject to the conditions specified in subsection (c).

(e) EASEMENT SURVEYS- Subject to subsection (c), until the date that is 180 days after the date of the enactment of this Act, an entity that possesses a decreed water right or prescriptive easement relating to land at Rocky Flats may carry out such surveys at Rocky Flats as the entity determines are necessary to perfect the right or easement.

SEC. 3180. LIABILITIES AND OTHER OBLIGATIONS.

(a) IN GENERAL- Nothing in this subtitle shall relieve, and no action may be taken under this subtitle to relieve, the Secretary, the Secretary of the Interior, or any other person from any liability or other obligation at Rocky Flats under CERCLA, RCRA, or any other Federal or State law.

(b) COST RECOVERY, CONTRIBUTION, AND OTHER ACTION- Nothing in this subtitle is intended to prevent the United States from bringing a cost recovery, contribution, or other action that would otherwise be available under Federal or State law.

SEC. 3181. ROCKY FLATS MUSEUM.

(a) MUSEUM- To commemorate the contribution that Rocky Flats and its worker force provided to winning the Cold War and the impact that such contribution has had on the nearby communities and the State of Colorado, the Secretary may establish a Rocky Flats Museum.

(b) LOCATION- The Rocky Flats Museum shall be located in the city of Arvada, Colorado, unless, after consultation under subsection (c), the Secretary determines otherwise.

(c) CONSULTATION- The Secretary shall consult with the city of Arvada, other local communities, and the Colorado State Historical Society on--

(1) the development of the museum;

(2) the siting of the museum; and

(3) any other issues relating to the development and construction of the museum.

(d) REPORT- Not later than three years after the date of the enactment of this Act, the Secretary, in coordination with the city of Arvada, shall submit to Congress a report on the costs associated with the construction of the museum and any other issues relating to the development and construction of the museum.

SEC. 3182. ANNUAL REPORT ON FUNDING.

For each of fiscal years 2003 through 2007, at the time of submission of the budget of the President under section 1105(a) of title 31, United States Code, for such fiscal year, the Secretary and the Secretary of the Interior shall jointly submit to Congress a report on the costs of implementation of this subtitle. The report shall include--

- (1) the costs incurred by each Secretary in implementing this subtitle during the preceding fiscal year; and
- (2) the funds required by each Secretary to implement this subtitle during the current and subsequent fiscal years.

ROCKY FLATS STEWARDSHIP COUNCIL

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

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(303) 412-1211 (f)

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

ORGANIZATIONAL OVERVIEW

Background

The Rocky Flats Stewardship Council formed in February 2006 to provide ongoing local government and community oversight of the post-closure management of Rocky Flats, the former nuclear weapons plant northwest of Denver.

The nearly \$7 billion cleanup project was completed in October 2005 and represents an important legacy for our communities. Cleanup significantly reduced the many risks posed by the former weapons site. There are, however, ongoing management needs that remain vital to ensuring long-term protection of human health and the environment. Those responsibilities lie with the Department of Energy (DOE). In June 2007, DOE transferred 3953 acres of the former site buffer zone to the Department of the Interior to manage as the Rocky Flats National Wildlife Refuge.

The Stewardship Council's mandate is found in federal law. In late 2004, the United States Congress, working with the Department of Energy and our predecessor organization, the Rocky Flats Coalition of Local Governments, approved legislation creating a new organization to focus on the post-closure care and management of Rocky Flats. This organization, the Rocky Flats Stewardship Council, includes elected officials from nine municipal governments neighboring Rocky Flats, three community organizations and one individual.

In addition to working with DOE, the Environmental Protection Agency and the Colorado Department of Public Health and Environment, the Stewardship Council also works with the United States Fish and Wildlife Service on issues related to the management of the Rocky Flats National Wildlife Refuge.

Mission

The mission of the Rocky Flats Stewardship Council is:

1. To provide continuing local oversight of activities occurring at the Rocky Flats site, to ensure that local government and community interests are met with regards to long-term stewardship of residual contamination and refuge management;
2. To provide a forum to track issues related to former site employees, including but not limited to long-term health benefits and pension programs;

3. To provide an ongoing mechanism to maintain public knowledge of Rocky Flats and to educate successive generations of ongoing needs and responsibilities regarding contaminant management and refuge management; and
4. To provide an ongoing forum to address all other issues pertinent to Rocky Flats, as determined by the Stewardship Council Board of Directors.

Meetings

The Board of Directors meets no less than four times per year, with regular meeting scheduled for the first Monday in February, May, August and November. Additional meetings are scheduled on an as needed basis.

Board meetings are open to the public. Meetings are held at the Rocky Mountain Metropolitan Airport (formerly the Jefferson County Airport), 11755 Airport Way, Broomfield, Colorado, in the Mount Evans Room in the airport terminal building. Meetings start at 8:30 am and generally last 3 hours. Each meeting includes an opportunity for the public to address the Board and to comment on all matters affecting the management of Rocky Flats and former site workers.

If you would like to be added to the meeting information email distribution list, please email us at: info@rockyflatssc.org

For additional information about prior Board meetings, including Board membership, meeting packets, meeting minutes and Board policies, please go to: http://www.rockyflatssc.org/rocky_flats_stewardship_council.html

May 2008

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Rocky Flats History – Timeline of Key events

(adapted from The Politics of Cleanup, Energy Communities Alliance, 2007)

- 1951 On March 23rd, *The Denver Post* reports “There Is Good News Today: U.S. To Build \$45 Million A-Plant Near Denver.” Dow Chemical becomes the initial operating contractor.
- 1957 A major fire occurs in Building 771, later deemed the most dangerous building in the complex. Community is not told about fire until 1970 despite the spread of contamination to off-site lands.
- 1969 A major fire in a glove box in Building 776 – later declared the second-most dangerous building in the complex – results in the costliest industrial accident in the nation at the time; cleanup took two years.
- 1970 After independent scientists find plutonium on off-site lands, the Atomic Energy Commission (AEC) announces the contamination is the result of the 1957 fire, the first the community had heard about the fire, and leaking waste drums containing radioactive and hazardous materials.
- 1972 AEC determines it needs to expand the buffer zone around the production buildings; Congress agrees to spend \$6 million to buy an additional 4,600 acres, bringing the total site acreage to approximately 6400 acres.
- 1973 In April, the Colorado Health Department finds tritium in downstream drinking water supplies but does not alert local officials for five months; the AEC initially denies the presence of tritium at Rocky Flats but later admits to its presence.
- 1974 Gov. Richard Lamm and Rep. Timothy Wirth establish the Lamm-Wirth Task Force on Rocky Flats. The group, which includes site workers and anti-nuclear activists, is charged with making recommendations regarding the future of the site.
- 1975 Rockwell International replaces Dow Chemical as managing contractor.
- 1978 In April, large-scale protests begin at Rocky Flats when 5,000 people turn out for a rally at the west gate; protestors begin camping on railroad tracks leading into the Plant site and occupy the tracks until January 1979 when plans are made for a large-scale protest.

- 1979 In April, 9,000 protestors rally outside of Rocky Flats; 300 are arrested, including Pentagon Papers whistle-blower Daniel Ellsberg; in August the United Steelworkers of America, the main site union, holds a counter demonstration that draws 16,000.
- 1983 On October 15, 15,000 protestors nearly encircle the 17-mile perimeter of the Rocky Flats site.
- 1986 DOE, the Colorado Department of Health, and the Environmental Protection Agency sign an agreement to allow regulation of radioactive/hazardous waste at Rocky Flats.
- 1987 Rocky Flats Environmental Monitoring Council forms, a community oversight organization. It is replaced in 1993 by the Rocky Flats Citizens Advisory Board.
- 1989 On June 6, as part of Operation Desert Glow, 80 armed federal agents raid the site to investigate allegations of environmental violations; contractor Rockwell International later agrees to pay an \$18.5 million fine, the largest in the nation as of that date.
- 1990 EG&G takes over operation of Rocky Flats from Rockwell International.
- 1991 An interagency agreement among DOE, the Colorado Department of Health and EPA is signed, outlining multiyear schedules for environmental restoration studies and remediation activities fully integrated with anticipated National Environmental Policy Act documentation requirements. The approach stymies progress leading the parties five years later to sign the Rocky Flats Cleanup Agreement, which provides the regulatory basis to accelerate cleanup.
- 1992 In the State of the Union address, President George H.W. Bush announces the end of the W-88 warhead program, effectively ending the mission at Rocky Flats.
- 1993 Gov. Roy Romer and Rep. David Skaggs form a 29-member Citizens Advisory Board to provide advice on technical and policy decisions related to cleanup and waste management activities at Rocky Flats.
- 1995 In July, Kaiser-Hill LLC signs contract to clean up site with a target completion date of 2010 for an estimated cost of \$7.3 billion.
- 1995 In July, the Future Site Use Working Group issues a comprehensive report of the future use of the site, which includes protecting the 6,000-acre buffer zone as open space, but leaving open the questions regarding the future use of the 384-acre core production area (the Industrial Area).
- 1997 DOE and the regulatory agencies agree to no on-site burial of Rocky Flats waste.
- 1998 The Industrial Area Transition Task Force issues a report listing six alternatives for use of the Industrial Area. Final determinations about use of the Industrial Area are made in 2001 with the passage of “The Rocky Flats National Wildlife Refuge Act of 2001.”
- 1999 In February, seven surrounding local government form the Rocky Flats Coalition of Local Governments (RFCLOG) to give affected governments greater leverage over cleanup and future use decisions.
- 2001 Rocky Flats National Wildlife Refuge Act signed into law, as part of the 2002 National Defense Authorization Act (P.L. 107-107); it directs protection of the entire site as

national wildlife refuge following completion of cleanup activities and expressly prohibits reindustrialization of the site or local government annexation of the property.

- 2003 DOE, EPA and CDPHE agree to site-wide cleanup levels for soils contaminated with radioactive materials.
- 2005 On October 13, Kaiser-Hill announces physical completion of Rocky Flats cleanup, more than 14 months ahead of schedule.
- 2006 In September, EPA and CDPHE grant regulatory approval of the cleanup.
- 2007 Rocky Flats buffer zone and off-site lands are deleted from superfund list.
- 2007 On July 12th jurisdiction over 4000 acres of the former buffer zone is transferred to the Department of the Interior to be managed as the Rocky Flats National Wildlife Refuge. DOE retains jurisdiction of the vast majority of the former core production area and settling ponds (1309 acres), as well as jurisdiction over active mining claims (929 acres).

May 2008

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Karen Imbierowicz

MEMORANDUM

TO: Board
FROM: David Abelson
SUBJECT: Rocky Flats Signage – Continuation of Discussion from February 2009 meeting
DATE: March 25, 2009

I've scheduled 30 minutes for the Board to continue discussing signage for Rocky Flats. At the February meeting the Board focused on the reasons the organization was undertaking this effort and began outlining the types of information that should be provided to visitors. A few Board members expressed some trepidation about wading into this discussion, questioning the timing of the conversation and the role of the Stewardship Council in what is ultimately the responsibility of the US Fish and Wildlife Service. Mindful of these concerns, the Board agreed to continue discussing signs at this meeting.

The briefing memos presented for the discussion of the history of the cleanup will provide helpful background information. The signage discussion will immediately follow that discussion and thus should help inform this conversation.

Background

The USFWS' Comprehensive Conservation Plan (CCP), which was approved in April 2005, provides a clear commitment to include as part of the interpretative signage for Rocky Flats information about the history of the site as a nuclear weapons facility. Specifically, as discussed at the February meeting, the conservation plan (CCP) provides interpretative signage will include information about "DOE's development and management of a nuclear weapons production site and the cold war history.... to tell the story of the site as a nuclear production site."

Focus for this Meeting

As the Board discussed at the February meeting, it will offer to USFWS ideas for the type of information that the agency to provide to visitors. The Board will not (at least until USFWS starts to develop specific language for signs) offer or comment on specific language.

Further, as also presented in February, potential topics for the signs include:

1. History of the cleanup

2. Ongoing management
3. Monitoring activities
4. Groundwater treatment

At this meeting I recommend focusing on item #1, history of the cleanup.

In framing this topic I believe there are a few key facts you might want to highlight:

1. Rocky Flats operated as a nuclear weapons facility from 1951 until 1992.
2. Remediation activities began in earnest in 1995 and continued until 2005.
3. The site included both a production area – approximately 385 acres in total – and a buffer zone. The initial site spanned 2560 acres. Additional land was purchased in mid-1970s to expand the site to 6400 acres.
4. Rocky Flats was one of the major nuclear weapons facilities in the nation.
5. Activities included producing pits, which serve as the triggers for nuclear weapons. At one point all of the nuclear weapons in the US arsenal passed through Rocky Flats.
6. In 2001 Congress approved legislation protecting Rocky Flats as a national wildlife refuge. Local governments supported this decision as a means to both protect the site from future development and the habitat it harbors.

Clearly, these ideas are not exhaustive. They are presented as a framework for the types of information the Board might ultimately recommend that USFWS communicate to visitors.

Please let me know what questions you have.