

ROCKY FLATS STEWARDSHIP COUNCIL

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

Board of Directors Meeting – Agenda

Monday, January 8, 2007, 8:30 – 11:00 AM
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
 - Approval of Meeting Minutes and Checks
 - Resolution Regarding 2007 Meeting Schedule and Notice Provisions
2. Executive Director's Report

8:45 AM Public Comment

- 8:50 AM Approve Fiscal Year 2007 Work Plan (briefing memo attached)
- Draft work plan was initially reviewed by the Board at the November meeting.
 - A few non-substantive minor changes were made following the meeting.

Action Item: Approve 2007 Work Plan

- 9:00 AM Letter to State Legislators (briefing memo attached)
- In May following the Stewardship Council's decision to oppose Rep. McKinley's bill, the Board identified the need to communicate with the state legislature prior to the 2007 session.
 - The plan the Board identified was write state legislators who sponsored Rep. McKinley's bill in 2006 and update them on the status of the cleanup and the ongoing discussions regarding signage for Rocky Flats.
 - The letter was sent on December 15, 2006. The Board needs to ratify that decision at this meeting.

Action Item: Ratify and approve letter to state legislators

9:10 AM USFWS and DOE Update on Minerals Acquisition and Entrance Signage for Rocky Flats (briefing memo attached)

- Negotiations over acquisition of certain minerals rights underlying the western portion of Rocky Flats are progressing.
- USFWS and DOE will update the Board on the negotiations.
- USFWS will also update the Board on the agency's work on entrance signs for Rocky Flats.

- 9:45 AM Discuss and Approve Comments on the Rocky Flats Legacy Management Agreement (RFLMA) (briefing memo attached)
- The RFLMA will be the post-closure regulatory agreement for Rocky Flats.
 - The Stewardship Council was briefed on the document at the October and November meetings.
 - The discussion will focus on addressing Board members' questions and approving comments on the document.

Action Item: Approve comments on RFLMA

10:45 AM Public comment

- 10:50 AM Updates/Big Picture Review
1. Executive Director
 2. Member Updates
 3. Review Big Picture

Adjourn

Next Meetings: February 5, 2007
May 7, 2007

Business Items

Consent Agenda

- Cover memo
- November 6, 2006 draft board meeting minutes
- List of Stewardship Council checks
- Resolution regarding 2007 meeting schedule and notice provisions

Fiscal Year 2007 Work Plan

- Cover memo
- Draft Fiscal Year 2007 work plan

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MEMORANDUM

TO: Board

FROM: David Abelson

SUBJECT: Consent Agenda

DATE: December 22, 2006

In addition to approving the November meeting minutes and list of Stewardship Council checks, the Board will also need to approve a resolution regarding 2007 meeting dates and notice provisions.

Regarding the meeting dates, I am proposing the Board continue to meet the second month of each quarter (February, May, August and November) and supplement meetings as needed. The notice provisions track the Stewardship Council's bylaws.

The draft resolution is attached. Thanks.

Action item: Approve consent agenda

Rocky Flats Stewardship Council Board Meeting Minutes
Monday, November 7, 2006
8:30 a.m. – 11:30 a.m.
Jefferson County Airport, Broomfield

Board members in attendance: Clark Johnson (Alternate, Arvada), Matt Jones (Alternate, Boulder), Jane Uitti (Alternate, Boulder County), Lori Cox (Director, Broomfield), Mike Bartleson (Alternate, Broomfield), Chuck Baroch (Director, Golden), Kate Newman (Alternate, Jefferson County), David Allen (Alternate, Northglenn), Karen Imbierowicz (Director, Superior), Martin Toth (Alternate, Superior), Jo Ann Price (Director, Westminster), Ron Hellbusch (Alternate, Westminster), Ken Foelske (Director), Jeannette Hillery (Director, League of Women Voters), Marjory Beal (Alternate, League of Women Voters), Kim Grant (Director, Rocky Flats Cold War Museum), Roman Kohler (Director, Rocky Flats Homesteaders).

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

Attendees: Marion Galant (CDPHE), Carl Spreng (CDPHE), Mark Aguilar (EPA), Rob Henneke (EPA), Larry Kimmel (EPA), Dean Rundle (USFWS), Mark Sattleberg (USFWS), Amy Thornburgh (USFWS), Susan Vaughan (League of Women Voters), Shirley Garcia (Broomfield/Westminster), Jane Greenfield (Westminster), Ann Lockhart (Rocky Flats Cold War Museum), Linda Kaiser (Stoller), John Rampe (DOE), Frazer Lockhart (DOE), Scott Surovchak (DOE-LM), Bob Darr (Stoller/DOE-LM), Jennifer Bohn (Stewardship Council accountant).

Convene/Agenda Review

Vice Chair Karen Imbierowicz convened the meeting at 8:40 a.m. and announced that the agenda needed to be modified. Since some of the Board may have to leave the meeting early, they decided to move all items requiring a Board vote to the beginning of the meeting. Therefore, the first item was a brief Executive Session.

At 8:45 a.m. Jeannette Hillery made a motion to move into Executive Session for the purpose of discussing personnel issues, and to receive legal advice on such issues, as authorized under Sections 24-6-402(4)(b) and (f), C.R.S. Lori Cox seconded the motion. The motion passed 11-0. (Golden was not in attendance.)

The Board reconvened from Executive Session at 8:50 a.m. and affirmed that no actions had been taken during Executive Session. Jeannette Hillery moved to approve the personnel contract with Crescent Strategies, LLC. The motion was seconded by Roman Kohler. The motion passed 11-0. (Golden was not in attendance.)

Business Items

- 1) **Consent Agenda** – Prior to approving the consent agenda, a few minor changes to the minutes from last month’s meeting were mentioned. Also, Barb Vander Wall reported that at the end of the last meeting, the Board reconvened following an Executive Session. She offered the following language for inclusion in the final meeting minutes:

Following discussion, the Board determined not to do an RFP for Executive Director services for 2007, and to proceed with a new contract with David Abelson and his company, Crescent Strategies, subject to approval of a new agreement to be drafted by legal counsel.

Mr. Getty announced that the airport board meeting room would be available for a special meeting scheduled for December 11, 2006.

Lori Cox moved to approve the consent agenda including the suggested changes to the October 2nd minutes. The motion was seconded by Jeannette Hillery. The motion passed 11-0. (Golden was not in attendance.)

- 2) **Executive Director’s Report** - David Abelson reported on the following items:

- In order to simplify the distribution process, David emailed the Stewardship Council’s quarterly financial reports to Board members instead of bringing hard copies to the meeting. He is available to answer any questions on the reports.
- David was invited to present at an annual intergovernmental meeting after Thanksgiving, which includes ECA and other organizations. David and Lorraine have attended this meeting in the past. ECA will cover the hotel and air costs. The Executive Committee approved David’s request to attend this event. The topic on the panel David will serve on is long-term stewardship.
- David received an email from Jane Uitti asking for a status report on the USFWS plans to post entrance signs at Rocky Flats. The Stewardship Council provided comments on this issue in June. David reported that the USFWS in the process of making some changes to the proposed sign language. This should be available in a few weeks. David has also talked with Dean Rundle regarding interpretive signs at the perimeter of the DOE-retained lands, and how to communicate the history and ongoing management needs at site. David noted that it is time to start collaboratively looking at how to best use the signs for this purpose. He also mentioned to Dean that the planned Rocky Flats Cold War Museum and the Stewardship Council can participate and help facilitate community dialogue.
- At the last meeting, Karen Imbierowicz raised the question of how the Stewardship Council could support the interests of downstream communities. Following the meeting, David sent an email to Shirley Garcia on this topic in order to identify issues and needs. They narrowed the list down to four main issues. David drafted a letter incorporating these issues that is to be sent from the Stewardship Council to DOE and the regulators. He circulated it to the Stewardship Council’s mailing list. The four issues are already established Board policy, so the letter is just reinforcing the Stewardship Council’s positions. David prefaced the Board’s discussion of the letter by noting that some

changes have been made in a draft #2. David believes the agencies are committed to engaging the Board on a number of the unresolved issues. He opened this topic for Board discussion.

Lori Cox first thanked Karen for her offer to assist the downstream communities with their concerns. She noted that while all Stewardship Council members have an interest in site issues and activities, none more so than the downstream communities. These members have unique concerns because water coming off the site ends up in their water supplies. Therefore, they have concerns that some others might not have. She said she appreciated the Board's support on this letter. She added that she understood the reluctance of some members of the Board to specify that this letter is being sent on behalf of the downstream communities, but pointed out that that was reason for this letter. Lori shared a matrix that Broomfield has developed concerning their recommended post-closure communication process. The intent is to inform DOE of the method of communication Broomfield would like to see, such as notification of releases, discharges, and weed treatment. She concluded by saying that they were not asking for anything new, just a commitment that these processes continue.

Karen Imbierowicz asked Lori if she was requesting that the Board to approve this letter as written. Lori responded that ideally, she would like to remove the paragraph on page 5 which lists the actions requiring notification and instead provide Broomfield's matrix. The matrix also provides the rationale for the notifications, which she believes DOE-LM will request eventually anyway.

Clark Johnson asked Lori if this draft was acceptable to her with that one change. Lori said it was not. Her preference would be draft 2 of the letter, but with changes that Shirley Garcia submitted. She reiterated that this letter was intended to create a mechanism of support for the downstream communities specifically, and that without the Stewardship Council's help, they have difficulty getting responses from the agencies. They need the Stewardship Council's clout to address these concerns. She acknowledged that everyone has concerns, and she did not want to minimize any other concerns while pressing for this letter. Clark noted that he thought that the letter as written created a strong position by putting the entire Stewardship Council behind the concerns, and not singling out the downstream communities. He added that he thinks most of the Stewardship Council members are developing more of a focus on water quality issues since so many of the other issues have been addressed. He said the Stewardship Council is supporting the downstream communities by taking this position.

Jo Ann Price also stated that the downstream communities do appreciate the support, and do not want to minimize the issues concerning other entities. She asked other members to imagine how they would react if their staff was forced to work through another organization to communicate with the agencies, and whether they would like to be able to directly communicate about important issues.

Karen Imbierowicz noted that the draft letter does call out downstream communities, and suggested that before the group added something cumbersome like a 3-page grid, they should look at what the draft letter does say.

David Abelson pointed out that all four of the issues the Stewardship Council was asked to discuss are in letter. The intention was to reinforce that the Stewardship Council supports direct communication with downstream communities and to provide examples of what the Board means by this. These communities are noted by city name, not grouped as 'downstream communities'.

Jeannette Hillery noted that one of the big issues that she decided to focus on when she started working with this group was ensuring long-term water quality. She referenced an underlined paragraph on page five and pointed out that this section asks the agencies to provide information about what they see their roles are in the communication process. It does not downplay the concerns of downstream communities. She said she has not seen Broomfield's communication matrix, so she was not sure about including it, but that perhaps it could be used as an addendum. She concluded by saying that the League of Women Voters is very concerned about water quality monitoring.

Jane Uitti stated that she did not understand what the problem was with the letter. She proposed changing the subhead of that portion of the letter to 'Communication with the Rocky Flats Stewardship Council Regarding Downstream Water Issues'. She also suggested changing 'nevertheless' to 'additionally' in the fourth paragraph on page five. She added that if the group did decide to attach Broomfield's communication matrix, it would be supporting the adoption of the notification process.

Ken Foelske noted that this matrix might be too limiting. He pointed to possible new discoveries or technologies in the future. There may be issues that require ongoing communication that are not covered by this matrix.

Clark Johnson stated that he did not mean to complicate the discussion by bringing up the matrix earlier, and added that the Stewardship Council may want to discuss it separately at future time.

Karen Imbierowicz said she had not yet reviewed the matrix and could not comment on it. However, in the draft letter, the Stewardship Council is requesting that the agencies explain how they intend to communicate in the future. She suggested that the Stewardship Council see how the agencies respond and then look at what kind of follow-up may be required. She said the Stewardship Council needed a motion to move forward.

David Abelson pointed out that Jane's suggested subhead change would serve to limit the overall point of that paragraph, which was to bring up communication needs outside of the Stewardship Council.

Clark Johnson moved that the Stewardship Council approve the letter, incorporating Jane's one change which replaces 'additionally' with 'nevertheless' on page five. The motion was seconded by Jeannette Hillery. The motion passed 11-0. (Golden was not in attendance.)

Public Comment

There were no comments.

Fiscal Year 2007 Budget Hearing

The Stewardship Council's draft 2007 budget was initially reviewed at the October meeting. Prior to finalizing the budget, the Stewardship Council is required to hold budget hearings and allow public comment. Following the public hearing, the Board must approve a budget resolution.

There was no public comment on budget so the public hearing was officially closed. Jane Uitti asked about the travel budget on page one. She said she believed that David was planning on two trips to Washington, D.C. during the year and asked why four trips were budgeted. David responded that other meetings or conferences may come up during the year that the Stewardship Council would like to attend, and this budget allowed for that.

Barb Vander Wall noted that budget approval is required by the end of year. Lori Cox moved that the Stewardship Council approve this budget. The motion was seconded by Roman Kohler. The motion passed 11-0. (Golden was not in attendance.)

Initial Review of 2007 Work Plan

David Abelson introduced this review of the Stewardship Council's 2007 work plan by pointing out that the biggest changes from the earlier draft can be found under 'DOE Management Responsibilities'. Also, the mineral rights topic on page 4 could also have been put in the DOE category, but David said he hopes this issue will be settled by the time the work plan goes into effect. He also pointed out that the reference to post-closure public communication in the 'Background' section was amended because all communication now is 'post-closure'.

The work plan is scheduled for formal approval at the December 11 meeting. Karen Imbierowicz asked if the Board would be able approve it at this time, since there were no changes suggested. Barb Vander Wall advised the Board to wait because they had already advertised the December date for finalizing the work plan.

DOE Briefing on Rocky Flats Legacy Management Agreement (RFLMA)

David Abelson set the stage for this presentation by noting that long-term stewardship is a critical issue. In the board packet is a list of issues that the Rocky Flats Coalition of Local Governments (Coalition) asked DOE to resolve during the cleanup process. It is important to understand how many issues have already been resolved. The Coalition strongly supported State oversight, and this has been secured. It also wanted to ensure adequate funding for stewardship, which now has line-item in the budget, making funding much more secure. The Coalition requested that DOE assign personnel to the site after closure. This is being done now, although we cannot know if it will always continue that way. The group also asked DOE to explain how access to DOE-retained lands would be restricted, which is being worked out currently. The Coalition asked for enduring public oversight, which is ensured by the existence of the Stewardship Council. Another request was that controls be layered. David thinks this is being addressed, however in some areas they could go further. The group wanted a prohibition on

residential development and that is in place. There is also the issue of post-closure DOE communication, which is being addressed right now through a productive dialogue. Finally, David pointed out that an overwhelming majority of the post-closure monitoring plans came about through public dialogue.

Scott Surovchak updated the Stewardship Council on the status of the RFLMA, which is the post-closure regulatory agreement for Rocky Flats. The Stewardship Council was briefed on the body of the document at the October meeting. At this meeting, the focus will be on Attachment 2, which contains the detailed surveillance and maintenance requirements.

Scott noted that the agencies worked very hard and long on this agreement, and they are very close to completing it. Attachment 2 is really the meat of the agreement. It contains the ‘what, where and when’, but leaves the decisions about ‘how’ to accomplish the requirements to DOE in order to allow for flexibility.

Throughout the closure process, each document has been feeding into and flowing down from the one before it.

- RI/FS – investigate and evaluate conditions, identify remedial options and recommend and alternative.
- CAD/ROD – specify requirements for the remedy.
- RFLMA – specify actions to implement remedy; monitoring, operation and maintenance; review and termination processes; public involvement.
- Site Operations Guide – Site specific plans and procedures (health and safety, pond operations, ecology, notifications, records management).

The signatories on the RFLMA will be DOE-LM, CDPHE and EPA. Like the Rocky Flats Cleanup Agreement, this document will be a CERCLA/RCRA/CHWA agreement. Once signed, it will supersede RFCA.

Scott presented a slide showing the Table of Contents of the document. The RFLMA contains 17 Parts, 3 Attachments and 2 Appendices.

The next slide was a site map, showing the post-closure water monitoring locations. Only a few of the monitoring sites are outside of the DOE-retained Central OU. Ron Hellbusch asked if the south boundary line has been re-aligned. Scott said that it had been changed in order to have less impact on wetlands in the area. DOE personnel walked the area with USFWS and determined that this would be a wise change. Ron asked where the south boundary is located in relation to Woman Creek. Scott said it crosses the creek just downstream of GS5.

Table 2 in the document contains ‘Water Monitoring Locations and Sampling Criteria’. It is several pages long. It shows the ‘what, where and when’. Rik Getty said he had been looking in the document for surface water monitoring at the Solar Ponds discharge gallery and that he could not find it. Scott responded that it is not a regulatory point, so it is not there. DOE uses that monitoring location for performance evaluation.

Institutional controls are also included in the RFLMA and are the same as have been previously discussed. The signs should be completed soon. Some issues have been encountered with regard to easements on the McKay ditch. DOE is trying to avoid institutional control issues related to fence line placement and ditch maintenance.

The next step will be for the agencies to reach agreement on the draft, which will then be released for preliminary review. This will be followed by a formal public comment process. The agencies will most likely not sign the document until mid- to late-January 2007 at the earliest. Agencies representatives are meeting tomorrow and will try to come up with a schedule for these activities. As it stands, there will be a longer informal review period than previously anticipated.

Scott added, in reference to the Board's earlier discussion of the letter regarding communication issues, that he does not understand why some believe that communication problems exist. He said he has told people many times that they can contact him directly, but that has not happened. He reiterated that he is available if anyone has any questions or concerns.

Jane Uitti asked how long the formal comment period will be. Scott said it will be 45 days, and it will probably start in about a week.

Scott shared with the group that the agencies are having some problems working on this document within their own organizations primarily from people that have not been involved at Rocky Flats before. These people are not used to the collaborative process that has been in place at the site and are not aware that it is not a confrontational environment here. Rik Getty pointed out that he does communicate with Scott and DOE a lot and has not had problems with accessibility.

Matt Jones asked for clarification of the reporting requirements in Attachment 2. Scott said annual and quarterly reports are required, as well as a 5-year CERCLA report. Matt asked about the statement that reports "may be" combined. Scott said that one of the quarterly reports may be combined with the annual report. This is mostly a logistics issue so that there is one annual report and only three quarterly reports, instead of having to print both an annual and quarterly report simultaneously.

David Abelson said that the Board will look at wells and monitoring locations. The group is already addressing the communication process as it relates to surface water issues. They will also be looking at the communication process regarding groundwater and public involvement in general. He said the interface between Attachment 2 and Appendix 2 is very important. David also raised the issue of the need for dialogue in between the quarterly meetings. Staff is planning to thoroughly discuss these issues with the agencies as soon as the public draft is released. David also reviewed the necessary timetable for ensuring that the Board is able to approve RFLMA comments at the December 11 meeting.

Scott noted that he tried to steer away from too much content in his presentation. Pre-discharge notification was not a requirement in RFCA, but it is in this agreement. He asked the group to make sure they reviewed the flow charts, as many hours were spent on them. He said to call him if there are questions. The flow charts came out of the IMP, and were combined by like issues,

which resulted in fewer, and hopefully less complex, flow charts. Rik Getty agreed that they are more readable, but noted that it is still hard to put this kind of content into flow diagram. Scott said they are open for suggestions, as they want to make them as user-friendly if possible.

Briefing on Rocky Flats Cold War Museum

Kim Grant thanked the group for the opportunity to update them on the status of the Rocky Flats Cold War Museum. He said he would speak about the mission and vision, and what is happening around the complex regarding heritage preservation.

The Museum project was initiated by the City of Arvada in 1999, and the Board was incorporated as a nonprofit in 2003. Feasibility and scoping were also completed in 2003. To date, the Museum has raised about \$300,000 in grants and donations for the planning effort. None of this funding, however, is for construction or operations. So far, about 90 oral histories with plant workers and officials have been filmed, transcribed and archived. 60 of these histories are accessible online through Boulder Public Library. Also, four cargo containers of site artifacts have been collected and stored. Recently, the Museum received a 1.4 acre conditional donation of land.

The Museum's mission is to document the historical, environmental and scientific legacy of Rocky Flats. The vision is a 15,000 square foot facility with exhibits, programs, interpretive signage, a possible trailhead and future refuge tours. They also hope to include interactive hands-on displays. There are plans for a 'technology trail' including the Museum with NOAA, NIST, NREL, NCAR, and the Colorado School of Mines. The museum plans a balanced approach to Rocky Flats history and its local, national and international significance.

Some of the issues facing the Museum as it moves forward include rezoning (they are currently working with Jefferson County and do not expect any problems), water and sewer, fire protection, building parking and access.

Kim showed some photos of what the Museum building could look like, including photos of similar museums in Las Vegas and Albuquerque. Some museums are patterned after their subject or their location. Kim also showed 10 models developed by students at CU-Boulder representing possible museum designs. The Museum board would like to incorporate outdoor elements, such as kiosks, as well.

Kim noted that there is a lot of activity going on around complex regarding the development of museums. Some are operated by DOE and some are nonprofit. Recently DOE convened a meeting which resulted in the formation of Museum, Science and Visitor Center Network to advise DOE on heritage preservation issues.

The Museum has acquired some pro bono architectural services. They are currently estimating construction costs at approximately \$3-4 million. For this, they need the help of the community and government entities.

Ken Foelske noted that the Museum received good press coverage of their recent teepee donation event and encouraged them to continue using the press. Kim said that the Museum had been lacking artifacts from the protester side, which led to this event last week and the acquisition of the teepee used during site protests. Karen Imbierowicz asked if they knew what their operating costs will be. Kim said they are not able to estimate those costs yet, but they envision minimal staffing, with many volunteers. She also asked if they are conducting active fundraising at this point. Kim said they are first working to pin down costs and designs, and then they will begin to actively seek capital costs. He added that this should happen pretty soon.

Jeannette Hillery asked about water service on this parcel. Kim said it is on a private water system.

David Abelson raised the issue of the ways in which the Stewardship Council can help support these efforts. He said the Museum can serve an important role in ongoing legacy management communication and that there is a strong connection between the work of the Stewardship Council and that of the Museum. Some possibilities could include information distribution, support for grants, or help with legislative contacts.

Chuck Baroch said he thought that the construction costs were being underestimated. He made a comparison to the American Mountaineering Center in Golden, which cost \$12 million for upgrades and additions to an existing building. He said that interactive displays alone cost \$3 million. He said that he fully supports the Museum and he did not want to discourage their work, but simply felt the need to caution the Board about potential under-estimation of costs.

David Abelson will work with the Kim to decide how and when to add relevant discussions to future Stewardship Council agendas.

Begin Discussing Outreach Plan

The 2006 Stewardship Council work plan identifies the need to develop and implement mechanisms to keep the general public informed about the Stewardship Council's work and site activities. Options identified in the work plan include periodic newsletters and/or annual reports and email updates.

David reported that the Stewardship Council currently has in place various mechanisms to communicate organizational policies and Rocky Flats issues, including:

- Board meeting packets
- Monthly reports
- Staff communication
- Members' communication with membership/constituencies
- Email list
- Website

The Stewardship Council's email list currently includes 54 recipients, such as DOE, EPA, CDPHE, Congress, press, and community groups. The website includes links to information produced by the Coalition and the Rocky Flats Citizens Advisory Board, current Stewardship

Council information, and also links to agency sites. David asked the Stewardship Council for input on whether these activities constitute an appropriate level of communication with the public.

David and Jeannette Hillery met to discuss these issues and came up with some conclusions. They identified needs for both high-level information (fact sheets) and more detailed information (board policy and technical information). They believe that the Stewardship Council has plenty of the detailed information available, but needs to develop more of the high-level, general information.

Some of this higher-level information might include a fact sheet to post on the web and make available to members/constituents. This would identify what the Stewardship Council is, what its priorities are, what has happened at Rocky Flats, and what will happen in the future. The Stewardship Council could also produce an annual update (approximately 2-4 pages long), which would supplement the longer monthly updates. At this time, David and Jeannette do not recommend a speakers bureau.

David and Jeannette would like to know if there are other ideas for outreach and how the Stewardship Council can help facilitate communication with membership groups and their constituencies. They also asked if any changes should be made to the website.

In conclusion, David said that they did not want to presume that anything else must be done, but that now is the time to start a dialogue on these issues. Jeannette said she would like to hear input from the Board. She thinks it is important to identify the audience and to make it comfortable for them to get the information they need. She is also interested in identifying the kind of information that people are accessing on the Stewardship Council's website so that this can help inform future efforts.

Ken Foelske said that he thinks that developing a fact sheet is very important and that it would also be helpful in addressing the press. This type of information could be distributed at notable events at the site.

Jeannette asked if it would be helpful to send out periodic updates that member groups could print in newsletters or other communication pieces. Karen Imbierowicz said she would like to see a sample of such an update and that she was also interested in website tracking.

Kim Grant said that he reports monthly to the Museum Board on Rocky Flats issues and that the Museum speaker's bureau could use a fact sheet if developed.

Chuck Baroch said an update approximately 3-4 paragraphs in length could be run in the *Golden Informer*, maybe twice a year.

Public Comment

Sue Vaughan encouraged the Stewardship Council to really look at their audience. She suggested a FAQ section on the website that posed questions that average citizen might ask. She also said that the many acronyms used in Rocky Flats issues will bog down many readers.

Dean Rundle announced that USFWS has some personnel changes coming up soon. He and Mark Sattleberg will be moving on to other jobs in next couple of months. Mark will be relocating to Arkansas at the end of the month. Dean will be moving to the regional office to supervise refuges a number of states. Amy Thornburg will continue to be the onsite refuge manager for Rocky Flats. Dean offered his appreciation to this group and noted that he will still be around. He looks forward to continuing to work with the Rocky Flats community. David Abelson stated that Dean, Mark and Amy exemplify what good government is all about, and that they have always been committed to really engaging community. He thanked them for their work on behalf of the Stewardship Council.

Updates/Big Picture

Upcoming meeting topics for the Stewardship Council include:

December 11 - Comments on the RFLMA will be the primary focus. There may be a draft fact sheet for review. The Stewardship Council will also approve the 2007 Work Plan. There may be discussion regarding communication with state legislators, depending on the results of the election. David will have a draft letter ready for review if Representative McKinley is re-elected, since he would likely revisit the issue of signage at Rocky Flats.

February 5, 2007 – As planned, this will be a pretty full meeting. These following topics are currently scheduled:

- Annual review of Stewardship Council activities
- Host DOE-LM quarterly public meeting
- Briefing on EPA delisting
- USFWS update on Rocky Flats refuge
- DC briefing packets

David suggested moving the USFWS briefing up to the December meeting.

The meeting was adjourned at 11:10 a.m.

Respectfully submitted by Erin Rogers.

6:57 PM
12/19/06

Rocky Flats Stewardship Council Check Detail October 23 through December 19, 2006

Type	Num	Date	Name	Account	Paid Amount	Original Amount
Check		10/31/2006		CASH-Wells Fargo-Operating		-2.00
				Admin Services-Misc Services	-2.00	2.00
TOTAL					-2.00	2.00
Check	1098	10/31/2006	Seter & Vander Wall, P.C.	CASH-Wells Fargo-Operating		-885.97
				Attorney Fees	-885.97	885.97
TOTAL					-885.97	885.97
Check	1099	10/31/2006	Mason Russell West LLC	CASH-Wells Fargo-Operating		-255.00
				Annual Audit	-255.00	255.00
TOTAL					-255.00	255.00
Check	1100	10/31/2006	Erin Rogers	CASH-Wells Fargo-Operating		-625.00
				Personnel - Contract	-625.00	625.00
TOTAL					-625.00	625.00
Check	1101	11/3/2006	Excel Micro	CASH-Wells Fargo-Operating		-8.75
				Telecommunications	-8.75	8.75
TOTAL					-8.75	8.75
Check	1102	11/3/2006	Crescent Strategies, LLC	CASH-Wells Fargo-Operating		-9,846.66
				Personnel - Contract	-8,900.00	8,900.00
				TRAVEL-Local	-67.66	67.66
				Telecommunications	-124.47	124.47
				Subscriptions/Memberships	-572.00	572.00
				Misc Expense-Local Government	-43.04	43.04
				Printing	-139.49	139.49
TOTAL					-9,846.66	9,846.66
Check	1103	11/3/2006	Mountain Marsh Web Design	CASH-Wells Fargo-Operating		-240.00
				Website	-240.00	240.00
TOTAL					-240.00	240.00
Check	1104	11/3/2006	Blue Sky Catering, Inc.	CASH-Wells Fargo-Operating		-225.00
				Misc Expense-Local Government	-225.00	225.00
TOTAL					-225.00	225.00
Check	1105	11/3/2006	UCN	CASH-Wells Fargo-Operating		-8.05
				Telecommunications	-8.05	8.05
TOTAL					-8.05	8.05
Check	1106	11/3/2006	Jennifer A. Bohn	CASH-Wells Fargo-Operating		-765.00
				Accounting Fees	-765.00	765.00
TOTAL					-765.00	765.00
Check	1107	11/4/2006	VOID	CASH-Wells Fargo-Operating		

6:57 PM
12/19/06

Rocky Flats Stewardship Council
Check Detail
October 23 through December 19, 2006

Type	Num	Date	Name	Account	Paid Amount	Original Amount
TOTAL					0.00	0.00
Check	1108	11/4/2006	VOID	CASH-Wells Fargo-Operating		
TOTAL					0.00	0.00
Check	1109	11/4/2006	Qwest	CASH-Wells Fargo-Operating		-26.14
				Telecommunications	-26.14	26.14
TOTAL					-26.14	26.14
Check	1110	11/4/2006	Qwest	CASH-Wells Fargo-Operating		0.00
TOTAL					0.00	0.00
Check	1111	11/4/2006	Simplified Computer Solutions, I...	CASH-Wells Fargo-Operating		-192.15
				Consultants	-192.15	192.15
TOTAL					-192.15	192.15
Check	1112	11/4/2006	Qwest	CASH-Wells Fargo-Operating		-76.76
				Telecommunications	-76.76	76.76
TOTAL					-76.76	76.76
Check	1113	11/19/2006	Office Depot Credit Plan	CASH-Wells Fargo-Operating		-286.53
				Supplies	-286.53	286.53
TOTAL					-286.53	286.53
Check	1114	11/19/2006	Seter & Vander Wall, P.C.	CASH-Wells Fargo-Operating		-2,010.07
				Attorney Fees	-2,010.07	2,010.07
TOTAL					-2,010.07	2,010.07
Check	1115	11/19/2006	Blue Sky Catering, Inc.	CASH-Wells Fargo-Operating		-225.00
				Misc Expense-Local Government	-225.00	225.00
TOTAL					-225.00	225.00
Check	1116	12/5/2006	UCN	CASH-Wells Fargo-Operating		-7.35
				Telecommunications	-7.35	7.35
TOTAL					-7.35	7.35
Check	1117	12/5/2006	Crescent Strategies, LLC	CASH-Wells Fargo-Operating		-10,522.54
				Personnel - Contract	-8,900.00	8,900.00
				TRAVEL-Local	-116.15	116.15
				Telecommunications	-128.71	128.71
				TRAVEL-Out of State	-1,294.15	1,294.15
				Misc Expense-Local Government	-55.53	55.53
				Printing	-28.00	28.00
TOTAL					-10,522.54	10,522.54

6:57 PM
12/19/06

Rocky Flats Stewardship Council
Check Detail
October 23 through December 19, 2006

<u>Type</u>	<u>Num</u>	<u>Date</u>	<u>Name</u>	<u>Account</u>	<u>Paid Amount</u>	<u>Original Amount</u>
Check	1118	12/5/2006	Qwest	CASH-Wells Fargo-Operating		-76.34
				Telecommunications	-76.34	76.34
TOTAL					-76.34	76.34
Check	1119	12/5/2006	Qwest	CASH-Wells Fargo-Operating		-26.36
				Telecommunications	-26.36	26.36
TOTAL					-26.36	26.36
Check	1120	12/5/2006	Erin Rogers	CASH-Wells Fargo-Operating		-550.00
				Personnel - Contract	-550.00	550.00
TOTAL					-550.00	550.00
Check	1121	12/5/2006	Excel Micro	CASH-Wells Fargo-Operating		-8.75
				Telecommunications	-8.75	8.75
TOTAL					-8.75	8.75
Check	1122	12/5/2006	Jennifer A. Bohn	CASH-Wells Fargo-Operating		-652.50
				Accounting Fees	-652.50	652.50
TOTAL					-652.50	652.50

**RESOLUTION
OF THE
BOARD OF DIRECTORS
OF
ROCKY FLATS STEWARDSHIP COUNCIL**

regarding

2007 MEETING SCHEDULE AND NOTICE PROVISIONS

WHEREAS, pursuant to an Intergovernmental Agreement dated as of February 13, 2006 (the "IGA"), the Rocky Flats Stewardship Council ("Stewardship Council") was established; and

WHEREAS, the Stewardship Council was created to allow local governments to work together on the continuing local oversight of the activities occurring on the Rocky Flats site to ensure that government and community interests are met with regards to long term stewardship of residual contamination and refuge management; and

WHEREAS, the Board of Directors of the Stewardship Council has a duty to perform certain obligations in order to assure the efficient operation of the Stewardship Council; and

WHEREAS, on March 6, 2006, the Board of Directors of the Stewardship Council adopted Bylaws regarding the operations of the Stewardship Council, governing, *inter alia*, meeting and notice requirements; and

WHEREAS, § 24-6-402, C.R.S., of the Colorado Sunshine Law, specifies the duty of the Board of Directors at its first regular meeting of the calendar year to designate a public posting place within the boundaries of the Stewardship Council for notices of meetings, in addition to any other means of notice; and

WHEREAS, pursuant to its Bylaws and Colorado laws, the Stewardship Council desires to establish its regular meeting schedule and location, and to designate its public posting place(s) for 2007.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE ROCKY FLATS STEWARDSHIP COUNCIL THAT:

1. Meeting Schedule/Location. The Board of Directors determines to hold regular meetings the **first Monday of February, May, August and November at 8:30 AM** at the Jefferson County Airport Terminal Building, 11755 Airport Way, Broomfield, Colorado; and to hold special meetings as may be necessary, in accordance with the Bylaws of the Stewardship Council.

2. Regular Meeting Notice. The Board of Directors determines to annually post its regular meeting schedule at the Clerk and Recorder's office of the following counties: Jefferson, Boulder, Broomfield, Adams and Weld; and at the City or Town Clerk's Office of the following cities and/or towns: Arvada, Boulder, Broomfield, Westminster, Golden, Superior and Northglenn, for posting in a public place. In addition, the Board shall post its regular meeting schedule on the website established for the Stewardship Council. These notices shall remain posted throughout the year. At least seven (7) days advance notice of the regular meeting time, place and date shall be provided to the directors and alternate directors, and to those members of the public who so request. The general nature of the business proposed to be transacted or the purpose of any meeting of the Board of Directors shall be

specified in the notices of such meeting where possible.

3. Special Meeting Notice. In the event of a special meeting, a notice of such special meeting shall be posted at least seventy-two hours in advance at the clerks' offices of the counties, cities and towns indicated above, for posting in a public place. At least 72 hours advance notice of the special meeting time, place and date shall be provided to the directors and alternate directors, and to those members of the public who so request. The general nature of the business proposed to be transacted at or the purpose of any meeting of the Board of Directors shall be specified in the notices of such meeting where possible. The Board of Directors' ability to act on matters brought before it at a special meeting is restricted to those items specified in the notice.

4. Emergency Meeting Notice. Should the Board of Directors determine an emergency special meeting necessary, a notice of such emergency meeting shall be posted at least twenty-four hours in advance at the clerks' offices of the counties, cities and towns indicated above in accordance with the Colorado Open Meetings Act. The general nature of the business proposed to be transacted at, or the purpose of, any meeting of the Board of Directors shall be specified in the notices of such meeting where possible. The Board of Directors' ability to act on matters brought before it at a special meeting is restricted to those items specified in the notice.

5. Written Notice Requirements. Written notice of each meeting of the Board of Directors shall be given by telefax or electronic mail; provided, however, that in the instance of any Director who in writing requests that such notice not be given by telefax or electronic mail, the notice shall be by hand delivery to an address within the boundaries of the Parties designated in writing.

6. Additional Notification. The Stewardship Council shall maintain a list of persons who, within the previous two years, have requested notification of all meetings, or of meetings with discussions of certain specified policies, and shall provide reasonable advance notification of such meetings to the individuals.

APPROVED AND ADOPTED THIS 8TH DAY OF JANUARY, 2007.

(SEAL)

ROCKY FLATS STEWARDSHIP COUNCIL

By: _____
Chair

ATTEST:

By: _____

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 -- Ken Foelske

MEMORANDUM

TO: Board

FROM: David Abelson

SUBJECT: Draft 2007 Work Plan

DATE: December 22, 2006

I have scheduled 10 minutes for the Board to review and approve the attached draft 2007 work plan. The plan is essentially the same one the Board approved at the November 6th meeting. The minor changes I have made since that meeting are in redline.

My reason for the changes was to better clarify which issues relate to DOE and which to USFWS. One of the conditions of the Stewardship Council's grant with DOE is that we separate the time and thus funds expended on LSO-related activities and non-LSO activities. The changes I have made, which do not alter the scope of work for 2007, help clarify this important distinction.

Please let me know what questions you have.

Action Item: Approve 2007 Work Plan

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2007 Work Plan

Draft #2 – November 21, 2006

Mission:

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

Preface: 2007 Challenges and Opportunities

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

Towards this end, the Stewardship Council is uniquely situated as the first Local Stakeholder Organization (LSO) in the DOE complex. The organization thus has the opportunity to establish the framework for how a successful LSO is formed and functions. In this vein, the involvement of the four non-governmental entities on the Stewardship Council provides important ideas and opportunities for engaging potential new audiences on issues and histories related to the site. These members coupled with the experience of the local government members provides for a broad perspective on the Stewardship Council.

Some of the challenges to address in 2007 will likely include:

- Continuing to expand and strengthening the organization's relationship with DOE's Office of Legacy Management (LM);
- Implementing an effective public outreach program that not only reaches the current Rocky Flats audience but identifies new opportunities to educate others about the ongoing management needs at Rocky Flats; and

- Modifying organizational systems to ensure members remain engaged and the Stewardship Council functions efficiently.

Background:

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

Local Stakeholder Organization

Legacy Management approved the LSO Plan for Rocky Flats on December 21, 2005. This Plan identifies how the main responsibilities Congress identified in the legislation authorizing the creation of LSO (Section 3118 of the Fiscal Year 2005 Defense Authorization bill) will be carried out at Rocky Flats. These responsibilities are summarized as follows:

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

In fulfilling these responsibilities, the Stewardship Council has been tasked with helping DOE meet its public involvement obligations identified in the Post-Closure Public Involvement Plan (PCPIP) for Rocky Flats. An important component of the PCPIP is public communication, which in 2007 will involve those activities identified as “post-closure” activities under the PCPIP.

Rocky Flats National Wildlife Refuge

“The Rocky Flats National Wildlife Refuge Act of 2001” established that Rocky Flats shall become a national wildlife refuge following EPA certification that the site has been cleaned to the agreed-upon regulatory standards. With this certification, which is expected in late 2006 or early 2007, DOE shall convey to the Department of the Interior all Rocky Flats lands, with the exception of those lands DOE shall retain as part of its ongoing management responsibilities.

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

1. Vegetation and Wildlife Management Plan
2. Integrated Pest Management Plan
3. Fire Management Plan
4. Visitors Services Plan

5. Health and Safety Plan
 6. Historic Preservation Plan
-

Work Plan Elements

The Work Plan is divided into the following five sections:

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

DOE Management Responsibilities

Overview:

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

2007 Activities:

1. Track and, as appropriate, comment on issues related to EPA certification of site cleanup and issues related to delisting of site from CERCLA, as well as other regulatory closure documents that are not finalized in 2006.
2. Review information regarding the long-term stewardship and management of the Rocky Flats site, including but not limited to the results of the operational and performance monitoring data of site operations and DOE status reports.
3. Participate in CERCLA five-year review.
4. Work with DOE on implementing its Post-Closure Public Involvement Plan (PCPIP), including the meetings DOE identified in the PCPIP.
5. Review DOE budgets for implementation of DOE responsibilities.
6. Participate in DOE, CDPHE and/or EPA assessment(s) of remedy operations and effectiveness.
7. Evaluate legal and regulatory issues regarding implementation of site-wide long-term stewardship plans and provide information to the Stewardship Council and to the community.
8. Work with DOE and the regulators to understand technical data regarding implementation and effectiveness of cleanup remedies and long-term controls, and provide information to the Stewardship Council and to the community.
9. Transmit to appropriate officers and employees of the DOE questions and concerns of governments, persons and entities regarding Rocky Flats.

10. Work with USFWS and DOE on access restrictions to DOE-retained lands.

← --- Formatted: Bullets and Numbering

- 11. Work with USFWS and DOE on interpretative signage on refuge lands that includes history of Rocky Flats and cleanup, and ongoing DOE monitoring and surveillance program.
- 12. As necessary, track issues related to acquisition of mineral rights.

Rocky Flats National Wildlife Refuge

Overview:

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

2007 Activities:

- 1. As necessary, work with USFWS on access restrictions to refuge lands.
- 2. As necessary, work with USFWS on signage for refuge lands.
- 3. Track Congressional action affecting funding for USFWS.
- 4. Provide a forum for the community to raise issues related to development of management plans and other issues affecting USFWS responsibilities at the Rocky Flats National Wildlife Refuge.

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Deleted: <#>As necessary, track issues related to acquisition of mineral rights.¶

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Deleted: aforementioned issues; forward comments to appropriate agency

Former Rocky Flats Workforce

Overview:

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

2007 Activities:

- 1. Track issues related to the implementation of the Energy Employee Compensation Act (EEOIPCA). Act as needed.
- 2. Track issues related to DOE’s development and implementation of health and pension benefit programs for former Rocky Flats workers.

Outreach

Overview:

As the LSO for Rocky Flats, a core responsibility for the Stewardship Council is reaching out to the community and providing a mechanism to educate people about Rocky Flats and the ongoing

management needs. As part of this mission it remains essential that the Stewardship Council maintain close communications with DOE, EPA, CDPHE, USFWS and Congress.

The local communities have developed over the period of many years a very good working relationship with the two primary regulatory agencies that oversee the site, EPA and CDPHE. It is imperative that the Stewardship Council continue this tradition of partnership with these agencies. As the site transitions, CDPHE will take on more of a lead regulatory role, while the EPA will assume more of an advisory role. Nevertheless, both agencies will still provide a layered protection of site regulatory oversight so communication with both remains essential.

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

2007 Activities:

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

Business Operations

Overview:

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

2007 Activities:

1. Operate Stewardship Council in compliance with state and federal regulations.
 2. Conduct financial audit.
 3. Prepare and adopt the annual work plan and the annual budget.
 4. Submit financial reports to DOE, as appropriate.
-

Success Measurement Criteria

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

Letter to State Legislators

- Cover memo
- Letter
- Representative Udall press release
- Senator Allard press release
- Stewardship Council June 2006 letter to USFWS re: entrance signs
- Peace Center proposed changes to USFWS entrance signs

USFWS-DOE Briefing

- Cover memo

Rocky Flats Legacy Management Agreement Briefing

- Cover memo
- Draft Letter

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City of Golden -- City of Northglenn -- City of Westminster -- Town of Superior
League of Women Voters -- Rocky Flats Cold War Museum -- Rocky Flats Homesteaders -- Ken Foelske

MEMORANDUM

TO: Board

FROM: David Abelson

SUBJECT: Ratify and Approve Letter to State Legislators

DATE: December 22, 2006

At the meeting the Board will need to ratify and approve the attached letter to the state legislators who sponsored H.B. 1389 during the 2006 Colorado General Assembly. This letter, which the Board agreed to send in May, was thoroughly vetted with Board members and reflects all of the changes Board members requested I make.

The letter, which was signed by the executive committee, was mailed December 15, 2006.

Action item: Ratify and approve letter to state legislators

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League of Women Voters -- Rocky Flats Cold War Museum -- Rocky Flats Homesteaders -- Ken Foelske

December 15, 2006

Honorable [see recipient list]
Colorado State Capitol
200 East Colfax
Denver, CO 80203

Re: Rocky Flats Cleanup and Future Signage

Representative [see recipient list],

As you were a sponsor of H.B. 1389 (“Concerning Information to be Provided to Visitors to Rocky Flats”), sponsored by Rep. McKinley during the 2006 session of the Colorado General Assembly, we are writing to update you on the cleanup and closure of Rocky Flats. The Rocky Flats Stewardship Council had significant concerns with the legislation and opposed the bill, which failed passage in 2006.

On September 30, 2006, the Department of Energy (DOE), the Environmental Protection Agency (EPA) and the Colorado Department of Public Health and Environment (CDPHE) formally certified the cleanup of Rocky Flats, a momentous step for the cleanup project and for our state. As Representative Mark Udall noted in October 2005 when the cleanup activities were completed, “The cleanup of Rocky Flats is a major achievement for which we can all be proud. The success here at Rocky Flats stands as a hopeful symbol that we can tackle the challenges at those facilities and turn bombs to birds, weapons to wildlife, and liabilities into community assets.” Senator Wayne Allard voiced similar support, commenting “Rocky Flats is the best example of a nuclear cleanup success story ever. Words can not completely describe the transformation that has taken place at Rocky Flats.”

How clean is Rocky Flats? The majority of the site, including the refuge lands, is clean enough to support residential development. That’s one of the central reasons why Congress passed “The Rocky Flats National Wildlife Refuge Act of 2001” – to protect Rocky Flats from future development. The rest of the site, which will be managed by DOE and thus will not be part of the refuge, can also host future visitors. However, in order to protect the remedies – landfill caps, groundwater treatment systems and most of the surface water monitoring stations – public access will be restricted.

Nevertheless, because residual contamination remains, DOE, working in close collaboration with the EPA, CDPHE, the U.S. Fish and Wildlife Service (USFWS), and the Board of Directors of the Rocky Flats Stewardship Council, is developing physical and legal mechanisms to protect the treatment systems. These systems are critical to ensuring Rocky Flats remains an asset for our communities – and these systems include signage for Rocky Flats.

USFWS, as the agency charged with managing the vast majority of the 6200-acre site, has also begun taking steps to meet their management responsibilities, which likewise includes informing refuge visitors of the history of Rocky Flats as a nuclear weapons plant and the ongoing wildlife and contaminant management needs. USFWS plans on posting signs at the refuge boundaries (demarcating the federal lands), at all access points, and at the boundary between the refuge and lands retained by DOE, as well as installing information kiosks and interpretative signage.

USFWS is not taking these steps in a vacuum. The agency has been engaged in a public dialogue about the appropriate language for these signs.

As noted in our June 15, 2006, letter to USFWS, we share your desire to inform visitors to the refuge of the history of Rocky Flats. However, we objected to the central notion of H.B. 1389 that signs should serve to warn visitors of the residual hazards posed by visiting Rocky Flats. Visitors should be informed of the history of the site as a nuclear weapons plant (including materials used and released into the environment) and other relevant information regarding residual wastes that may exist, the history of the cleanup, and the long-term stewardship controls to manage these wastes. Warnings, the core message of H.B. 1389, are not necessary and send an inaccurate message about current site conditions. If warnings were necessary, as local elected officials and community leaders closest to Rocky Flats, we would not rely on signs to protect future visitors. Instead, we would work to take our case to the Colorado Congressional delegation and push for a protective cleanup.

As governments and organizations most closely involved in Rocky Flats, we believe legislation mandating signage is unwarranted, because the process to identify and implement all of the post-closure controls continues to move forward. Should you have any questions about the cleanup, closure, long-term protection and future use of Rocky Flats please feel to contact us. If there are issues that warrant further attention, issues that might compel the state legislature to intercede, we welcome discussing those issues with you and your colleagues.

In the meantime enclosed are Senator Allard and Representative Udall's statements on the cleanup of Rocky Flats and the Stewardship Council's June 2006 letter to USFWS on refuge signs. We have also included the Rocky Mountain Peace and Justice Center's proposed revisions to USFWS' draft signs, revisions that track the Stewardship Council's proposed amendments and thus stand in sharp contrast to H.B. 1389. USFWS anticipates finalizing language for their entrance signs in January 2007.

Sincerely,

/s/
Lorraine Anderson
City of Arvada
Chairman

/s/
Karen Imbierowicz
Town of Superior
Vice Chairman

/s/
Jeannette Hillery
League of Women Voters
Secretary/Treasurer

Jim Congrove
Jefferson County

Ben Pearlman
Boulder County

Lori Cox
City and County of Broomfield

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: Representative Wes McKinley
Representative Andrew Romanoff
Representative Mike May
Senator Wayne Allard
Senator Ken Salazar
Representative Mark Udall
Representative-elect Ed Perlmutter
Governor-elect Bill Ritter
Scott Surovchak, DOE
Mark Aguilar, EPA
Carl Spreng, CDPHE

Recipient List

Representative Michael Cerbo
Representative Jerry Frangas
Representative Jack Pommer
Representative Paul Weissmann
Representative Mike Merrifield
Representative Gwyn Green
Representative Cheri Jahn
Representative Debbie Benefield
Representative Mary Hodge
Representative Val Vigil
Representative John Soper
Representative Morgan Carroll
Representative Dorothy Butcher
Representative Buffie McFadyen
Representative Rafael Gallegos



10/13/2005

UDALL APPLAUDS FINAL CLEANUP OF ROCKY FLATS

Westminster, CO—Congressman Mark Udall (D-Eldorado Springs) released the following statement regarding Kaiser Hill's announcement that it has completed the physical work to clean up and close Rocky Flats:

"The cleanup of Rocky Flats is a major achievement for which we can all be proud. I want to especially note the efforts of the workers and their dedication not only the security of this country, but their dedication to performing a safe and extensive demolition and decommissioning. This was very complicated and difficult work involving dangerous and toxic materials. The fact that it was done decades ahead of predictions and at a cost vastly less than expected is a testament to all those involved.

"Getting to this day has been long and fraught with obstacles. But the Colorado congressional delegation worked hand-in-glove with the local communities, DOE and the contractors to work through those obstacles. This nation continues to face daunting cleanup challenges at other sites in South Carolina, Tennessee, and Washington. The success here at Rocky Flats stands as a hopeful symbol that we can tackle the challenges at those facilities and turn bombs to birds, weapons to wildlife, and liabilities into community assets.

"There is still more to do here at Rocky Flats and we must remain vigilant to make sure this site is secure and that any residual contamination is contained and controlled. We have an obligation to make sure that workers' benefits are carried forward and that they are compensated for any work-related health problems. Although that is not insignificant, the fact that all buildings, wastes and infrastructure are down means that we can return this landscape to the wildlife of the open, high prairie environment and how it might have appeared to our ancestors and Native Americans.

"Walking through this site provides a remarkable view. You have the feeling of big, western skies. This is where the prairie meets the mountains.

"I look forward to the next major chapter--the future opening of the Rocky Flats National Wildlife Refuge--so that people can enjoy the open spaces and abundant wildlife at this site."



U . S . S E N A T O R ★ C O L O R A D O

WAYNE ALLARD

<http://allard.senate.gov>

CONTACT: Laura Condeluci 202-224-5944

October 13th, 2005

Contact: Phone:

Contact: Steve Wymer Phone: 202-224-6207

SENATOR ALLARD PRAISES OUTSTANDING PERFORMANCE OF WORKERS AS ROCKY FLATS CLEANUP PROJECT DECLARED COMPLETE

WASHINGTON, D.C. — U.S. Senator Wayne Allard (R-Colorado) on Wednesday had words of praise for workers at the U.S. Department of Energy's Rocky Flats cleanup project following notification from the contractor, CH2MHill, that remediation of all contamination at the site, including the hot spots discovered last summer, has been completed.

"Rocky Flats is the best example of a nuclear cleanup success story ever," Senator Allard said.

"Words can not completely describe the transformation that has taken place at Rocky Flats. The workers at Rocky Flats have gone far above and beyond their assignment, and accomplished this cleanup under budget and ahead of schedule," Senator Allard continued. "I also want to commend the contractor, CH2MHill, for their painstaking, efficient management of this massive project."

"Eight years ago when we began this journey, I was one of only a few individuals who believed it would be possible to accomplish so much so fast, and stay within budget as well," Senator Allard added. "These workers labored tirelessly to cleanup and close one of the most dangerous sites in America, demonstrating that the impossible is possible when people cooperate in order to meet a common goal."

According to the cleanup contract, the Department of Energy (DOE) has 90 days to formally accept the cleanup work. If necessary, DOE can provide a list of items that must be addressed by the contractor during this time to help ensure DOE's acceptance of the cleanup declaration. After DOE accepts the cleanup, the EPA and the State of Colorado begin the process of verifying that the cleanup is in accordance with federal cleanup laws and the Rocky Flats Cleanup Agreement.

Since his election to the U.S. Senate in 1996, Senator Allard has worked successfully to roll back the target date for the cleanup to be completed from 2070 to 2005. In 2001, Congress passed legislation by Senator Allard to make Rocky Flats upon cleanup and closure a National Wildlife Refuge. The legislation requires the Department of Energy to transfer most of the Rocky Flats Environmental Technology Site to the Department of Interior for the purpose of creating a wildlife refuge to preserve Colorado's unique Front Range habitat once cleanup of the site is complete.

Rocky Flats manufactured components for nuclear weapons for the nation's defense until 1992. The mission of the plant was to complete the environmental and waste management cleanup, and decommissioning by December 2006. The industrial complex of more than 100 buildings was located in the center of about nine square miles of undeveloped land 16 miles northwest of downtown Denver.

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League of Women Voters -- Rocky Flats Cold War Museum -- Rocky Flats Homesteaders -- Ken Foelske

June 15, 2006

Mr. Dean Rundle
Rocky Mountain Arsenal National Wildlife Refuge
Building 111
Commerce City, Colorado 80022-1748

Re: Step Down Plan for Site History/Safety Signs

Dear Mr. Rundle,

Thank you for the opportunity to review United States Fish and Wildlife Services' proposed language for entrance signs to the Rocky Flats National Wildlife Refuge. The Board of Directors of the Rocky Flats Stewardship Council remains committed to helping ensure that future visitors to the refuge understand the history of the Site as a nuclear weapons plant and the ongoing wildlife and contaminant management needs.

The Stewardship Council recognizes USFWS does not typically develop this type of step-down plan at this point in the planning process but rather reserves such decisions for the visitor step-down plan. Given the history of Rocky Flats we support USFWS' decision to take this additional step.

Without doubt, USFWS, working in close collaboration with the Department of Energy, must provide objective information to interested community members. Such information should include a summary of the hazardous materials that were used and released at the site when it was in operation, the history of the cleanup, and any relevant information regarding residual wastes, including information on the long-term stewardship controls that will be utilized to manage those residual wastes. A critical step in meeting this obligation is through signage at the Rocky Flats National Wildlife Refuge.

We understand the visitor step-down plan will include interpretative signage for both wildlife resources and additional information about the history of Rocky Flats. The Stewardship Council supports such additional signage but in order for such signage to be effective it must be layered and, at times, redundant. Signs should be posted at the refuge boundaries (demarcating the

boundary), at all access points, along trails, and at the boundary between refuge lands and lands retained by DOE.

While USFWS and DOE are charged with different management responsibilities at Rocky Flats, as federal agencies jointly charged with managing Rocky Flats, your efforts must be compatible and complementary. The Rocky Flats Cleanup Agreement parties' decision to clean up Rocky Flats to a level that is protective of future users and to off-site interests was predicated on, among other things, the development and implementation of a comprehensive long-term stewardship plan. Signs for Rocky Flats, which are integral to this plan, serve two purposes: (1) to inform visitors of the history of the site, and (2) to inform visitors of the ongoing management needs (both wildlife and contaminant management).

One of the benefits of allowing people onto the refuge (as opposed to cordoning it off) is that visitors are a captive audience and thus present an important opportunity by which the federal government can continue to educate the community about the long-term stewardship needs and related responsibilities. While that onus is the primary responsibility of DOE, any signage USFWS will place on the refuge is critical in ensuring the federal government meets this long-term responsibility. The signs USFWS plans to utilize at the access points should not be the primary means to inform visitors; however, when coupled with additional signage UFSWS and DOE are intending to utilize these signs become very important. In meeting this obligation it is important that any signage utilized or information provided to future visitors serves to discourage (and not encourage) visitors from entering the lands DOE will retain.

This idea of USFWS helping DOE meet its obligations is consistent with USFWS' request of DOE that any fence DOE uses to demarcate its boundary allow for the safe passage of wildlife. So it is therefore not unprecedented for one agency to assist the other agency in meeting its long-term management responsibilities. For that reason, we encourage USFWS and DOE to continue to partner so that a consistent and comprehensive message is conveyed.

The language USFWS has proposed is a good start but changes are needed. Attached is language the Stewardship Council Board of Directors unanimously supports. Member governments might also provide additional proposed language. We ask that you likewise give their proposal due credence.

Towards this end, in your letter to the community dated May 5, 2006, you note one of the purposes of the proposed signs is to "address site history, cleanup and restrictions." USFWS' draft language addresses the history of the site and cleanup, but is virtually silent on access restrictions to DOE lands other than to say please observe "Area Closed" signs. We anticipate one of the regulatory restrictions DOE, the Environmental Protection Agency, and the Colorado Department of Public Health and the Environment will require for Rocky Flats is for lands DOE will retain to remain off-limits to the general public. In such a case we believe visitors to the refuge should be first informed of the access restrictions at all access points to the refuge and not simply at the interior refuge boundary. Asking visitors to observe "Area Closed" signs does not rise to the level of informing visitors about the reason for access restrictions. Consistent with the aforementioned idea of layering signs, the bulk of the message/information should be reserved

for visitor kiosks and interpretative signage, but the foundation is established in these entrance signs.

Finally, in recent months when debating Colorado House Bill 1389 sponsored by Rep. Wes McKinley two camps have emerged: those who believe the purpose of any signage should be to inform and those who believe signage should serve to warn visitors of the residual risks. As a body charged with overseeing the long-term protection of Rocky Flats, we believe warnings are not simply unnecessary but would, importantly, send the wrong message about the cleanup. If the cleanup is certified as meeting or exceeding the regulatory standards – and we expect such a certification to be forthcoming – then there is no need to issue warnings.

Nevertheless, while the Stewardship Council represents a broad segment of the community, there are various perspectives in the community regarding appropriate signage. As the DOE-designated Local Stakeholder Organization for Rocky Flats, the Stewardship Council encourages USFWS to continue to consider all points of view and to discuss as appropriate such issues with DOE, EPA, and CDPHE.

Thank you for your continued commitment to work with the Stewardship Council and others on this important issue.

Sincerely,

/s/

Lorraine Anderson
Chairman

Cc: Senator Wayne Allard
Senator Ken Salazar
Representative Mark Udall
Representative Bob Beauprez
Frazer Lockhart, DOE
Scott Surovchak, DOE
State Representative Wes McKinley
State Representative Paul Weissmann
State Representative Debbie Benefield
State Representative Dorothy Butcher
State Representative Morgan Carroll
State Representative Mike Cerbo
State Representative Jerry Frangras
State Representative Rafael Gallegos
State Representative Gwyn Green
State Representative Mary Hodge
State Representative Cheri Jahn
State Representative Gary Lindstorm
State Representative Liane McFadyen

State Representative Michael Merrifield
State Representative Jack Pommer
State Representative Ann Ragsdale
State Representative John Soper
State Representative Val Vigil
State Senator Lois Tochtrop

USFWS DRAFT LANGUAGE FOR ENTRANCE SIGNS TO THE ROCKY FLATS NATIONAL WILDLIFE REFUGE

REVISED LANGUAGE PROPOSED BY THE ROCKY FLATS STEWARDSHIP COUNCIL

June 5, 2006

What Happened Here?

The land you are about to enter, Rocky Flats National Wildlife Refuge, is an historic Cold War site. Refuge lands are part of the buffer zone of the old Rocky Flats Plant that operated from 1951 until 1989, when it was closed. For nearly four decades, thousands of women and men worked here, building nuclear components for the United States' weapons arsenal. In 2001, Congress approved legislation establishing The Rocky Flats National Wildlife Refuge, thus preserving the land and preventing development or other intensive uses.

Deleted: deterrent

Deleted: that held the former Soviet Union at bay

Weapons production at the plant involved plutonium and other radioactive and hazardous materials. Over the decades, some materials were spilled, dumped, and buried in accordance with the accepted waste handling practices of the time. These actions resulted in releases of plutonium and other contaminants into the air and water on and adjacent to Rocky Flats.

Deleted: The work was dangerous and secret.

Deleted: there were accidents

Deleted: Those accidents and some of the accepted waste handling practices of the early decades

Beginning in 1995, the United States Department of Energy contracted with private cleanup firms and conducted an unprecedented and enormously complex cleanup project to remove virtually all of the contaminated buildings and soil from the landscape. The project was completed in 2005.

Deleted: many of the same Cold War veterans who had built America's deterrent arsenal,

Deleted: They accomplished that difficult job in 2005, leaving the land as an asset for future generations of Americans.

Is the Refuge Safe for Public Recreation?

We believe it is. An extensive evaluation of contamination at Rocky Flats was conducted by the U. S. Environmental Protection Agency (EPA) and the Colorado Department of Public Health and Environment (CDPHE). The levels of contamination detected on the Refuge were low and met conservative state and federal cleanup standards. EPA, CDPHE, and independent studies have determined the Refuge is safe for public recreation, refuge workers, and resident wildlife.

Deleted: Yes.

Deleted: land

Deleted: Both

Deleted: and

Deleted: and

The refuge is open daily during daylight hours. Unless otherwise posted, please stay on trails. Please observe "Area "Closed" signs. Pets are not allowed on the Refuge. The interior portion of the site remains under the jurisdiction of the Department of Energy and is closed to the public. For more information about their ongoing contaminant management program please see the visitor kiosks or go to www.xxx.gov

Deleted: ¶
There are hazards involved in any form of wildland recreation. Hazards at Rocky Flats include inclement or extreme weather conditions, the potential for trips, slips and falls; poisonous snakes; and unreasonable or illegal acts by other persons. ¶

Still have questions? For more information about the history, contamination, cleanup, or site safety issues at Rocky Flats, please call EPA at (XXX) XXX-XXXX or CDPHE at (XXX) XXX-XXXX. For more information about the refuge contact (XXX) XXX-XXXX.

Rocky Mountain Peace and Justice Center
Proposed Amendments to USFWS Signs

Words and phrases within parentheses should be omitted, and words and phrases in all CAPS and underlined should be added.

“What Happened Here?”

The land you are about to enter, Rocky Flats National Wildlife Refuge, is an historic Cold War site. Refuge lands are part of the buffer zone of the (old) FORMER Rocky Flats NUCLEAR WEAPONS Plant that operated from 1951 until 1989. For nearly four decades, thousands of women and men worked here, building nuclear components for the United States’ (deterrent) NUCLEAR weapons ARSENAL (that held the former Soviet Union at bay).

Weapons production at the plant involved plutonium and other radioactive and hazardous materials. The work was dangerous and secret. Over the course of decades, there were accidents AND MAJOR FIRES. Those accidents and some of the accepted waste handling practices of the early decades resulted in releases of plutonium and other contaminants TO THE EXTERNAL ENVIRONMENT.

Beginning in 1995, THE DEPARTMENT OF ENERGY UNDERTOOK (many of the same Cold War veterans who had built America’s deterrent arsenal, conducted an unprecedented and) AN enormously complex cleanup project to remove THE MOST contaminated buildings and soil from the landscape. They accomplished that difficult job in 2005, leaving A PORTION OF THE LANDS TO BE MANAGED for future generations of Americans AS A WILDLIFE REFUGE.

(Is the Refuge Safe?) WHAT IS THE RISK TO A REFUGE VISITOR

(Yes. An e) Extensive evaluation of contamination at Rocky Flats was conducted by the U. S. Environmental Protection Agency (EPA) and the Colorado Department of Public Health and Environment (CDPHE). The levels of contamination on refuge land were low and met conservative state and federal cleanup standards. Both EPA and CDPHE have determined that the (land is safe) LOW LEVEL OF RISK IS ACCEPTABLE for public recreation and refuge workers. There are hazards involved in any form of wildland recreation. Hazards at Rocky Flats include inclement or extreme weather conditions, the potential for trips, slips and falls; poisonous snakes; and unreasonable or illegal acts by other persons.

The refuge is open daily during daylight hours. Unless otherwise posted, stay on trails. Please observe “Area Closed” and other regulatory signs. Pets are not allowed on the refuge.

Still have questions?

For more information about the history, contamination, cleanup, or site safety issues at Rocky Flats, please call EPA at (XXX) XXX-XXXX or CDPHE at (XXX) XXX-XXXX.” For information about the refuge contact (XXX) XXX-XXXX.

(Note: Appropriate phone numbers will be determined when signs are fabricated.)

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MEMORANDUM

TO: Board

FROM: David Abelson

SUBJECT: USFWS/DOE Briefing on Minerals Acquisition and Entrance Signs for Rocky Flats

DATE: December 22, 2006

I have scheduled 35 minutes for USFWS and DOE to update the Board on (1) acquisition of certain mineral rights underlying the western portion of Rocky Flats and (2) entrance signs for Rocky Flats.

Minerals Acquisition

For most of 2006 DOE, through its agent Trust for Public Land, has been negotiating with three mineral rights owners for acquisition of four parcels on the western portion of Rocky Flats. Per legislation authored by Senators Allard and Salazar, acquisition must be for fair market value (there are extensive federal guidelines the parties must follow) and from a willing seller. DOE tells me negotiations are progressing well and three of the four parcels DOE and USFWS identified will be acquired.

I have also been told that acquisition will be for less than the \$10 million that Congress appropriated, which means the Natural Resource Trustees will have some amount of money (perhaps as great as \$5 million) for other projects in Colorado.

Entrance Signs for Rocky Flats

As you will recall, in June 2006 the Board approved comments on USFWS' entrance signs for the Rocky Flats National Wildlife Refuge. USFWS will update the Board on the status of finalizing language for these signs and others issues.

Please let me know what questions you have. Thanks.

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MEMORANDUM

TO: Stewardship Council Board
FROM: David Abelson and Rik Getty
SUBJECT: Draft Stewardship Council Comments on Rocky Flats Legacy Management Agreement (RFLMA)
DATE: December 22, 2006

We have scheduled one hour for the Stewardship Council to discuss and approve comments on the draft Rocky Flats Legacy Management Agreement (RFLMA) (draft letter attached). As you will recall the Board discussed early drafts of the RFLMA at the October and November meetings. In addition, many of the items included in the draft RFLMA have been discussed extensively in numerous public forums, including but not limited to Rocky Flats Coalition of Local Governments meetings, the Rocky Flats Stewardship Working Group meetings plus more. With a few exceptions, we believe the issues have been appropriately and thoroughly addressed and thus therefore urge the Board to support the RFLMA.

Nevertheless, with minor changes the document can be improved. We therefore urge the Stewardship Council to offer comments on the draft document. Should the Board agree, you will need to approve the draft letter (with any amendments) at the January meeting as the comment period closes prior to the February meeting. The draft letter is the same one we emailed to the Board on December 15, 2006, with slight changes made on page 5, paragraph 5.

One of the reasons we feel comfortable with the draft document is that following the November Board meeting we participated in a meeting Broomfield hosted with DOE, CDPHE, EPA Westminster, Northglenn, and the Woman Creek Reservoir Authority. That meeting, which focused on Attachment 2, helped clarify numerous issues. Topics discussed included but were not limited to:

- Specific provisions of the groundwater and surface water monitoring program, including
 - surface water standards listed in Table 1
 - water monitoring locations and sampling criteria in Table 2 and Figure 1
 - flowcharts found in Figures 5 through 13 which describe how monitoring will continue or be discontinued at water monitoring locations
 - notification process for the regulators and communities when issues arise

- Provisions regarding communications with the Stewardship Council and local communities, including why some forms of communication are not regulatory requirements
- Policy rationale for not making the boundary fence between DOE and United States Fish and Wildlife Service (USFWS) lands a regulatory requirement
- Omissions and typos

This briefing memo, which builds on these three meetings, provides an overview of the topics that we believe warrant comments. As part of our analysis we discuss Broomfield's post-closure communications matrix (attached) that was discussed at the November Board meeting. As noted in our discussion of that document, many of the issues included in their matrix have been addressed through the RFLMA or, alternatively, the water lease between Broomfield and DOE (also discussed below).

Due to the size of the RFLMA we have not included a copy in this briefing packet. The document can be found at:

http://www.lm.doe.gov/documents/sites/co/rocky_flats/rflma_dec2006.pdf

Key Issues

The following issues have been included in the draft letter.

1. Regulatory oversight of post-closure activities

Ongoing EPA and CDPHE oversight of DOE through regulatory enforcement authority is critical in helping to ensure the numerous legal and physical systems are maintained and that the cleanup remains protective of human health and the environment. The RFLMA codifies ongoing enforcement authority for both agencies, and thus the draft letter voices support for this provision.

2. Explain how access to DOE-retained lands will be restricted

As we have discussed at numerous Board meetings, DOE has committed to placing signs demarcating the boundary between DOE and USFWS lands. DOE has also committed to establishing and maintaining a fence, but as you know, the fence is not a regulatory requirement. These controls, when coupled with the signs USFWS intends on placing on Refuge lands, provide the type of layering of controls that is necessary to help ensure long-term protection of the remedies and help inform future Refuge visitors of permissible and prohibited activities.

In the draft letter we reinforce the idea that while in regulatory terms the fence is not part of the remedy, and thus is not required by the CAD/ROD, this physical barrier is nevertheless important. We state that the requirement that DOE maintain the fence should be added to the RFLMA under the same basis that DOE, EPA and CDPHE included other non-CAD/ROD issues in Attachment 2 "Operational Monitoring" (Section 5.4). As we note in the draft letter, the provisions captured in the Section 5.4 are not required by the CAD/ROD but have been added to the RFLMA and are enforceable by EPA and CDPHE.

We assume the agencies will deny this request. However, Dan Miller (CO Attorney General's Office) has assured me that should the signs prove inadequate, CDPHE and EPA, through their

regulatory enforcement authority, can require DOE to adopt additional controls. Such controls could include making maintenance of the fence a regulatory requirement.

3. Surface Water and Groundwater Monitoring

The surface water and groundwater monitoring provisions are some of the most critical elements of the RFLMA. As noted in the Stewardship Council's September 12, 2006, letter on the Proposed Plan, the Board "feels confident the process DOE, EPA and CDPHE utilized in developing the monitoring program and the decisions made (e.g., the siting of the approximately 120 groundwater wells and approximately 30 surface water monitoring stations) is comprehensive based on the existing data. There was substantive local government and community involvement and the decisions reflect important technical and policy considerations."

We are, however, concerned about the legal status of three surface water monitoring locations – SW18 (located in the drainage between former buildings 771 and 371 and which is upstream from North Walnut Creek), Solar Ponds Discharge Gallery, and GS51 (which is located down slope from the old 903 pad). In both the 2005 and 2006 Integrated Monitoring Plan these stations were identified as part of the monitoring network, and were either considered investigative (GS51, SW18 for plutonium) or performance monitoring locations (Solar Ponds Discharge Gallery, SW18 for VOCs). DOE and contractor staff tell us that DOE intends to continue periodic monitoring at these locations as ongoing monitoring at these locations will help DOE evaluate remedy effectiveness and, in turn, help DOE evaluate whether changes to the monitoring system or additional remediation are needed. We support this decision.

Unfortunately, these monitoring stations and related requirements will not be captured in the RFLMA but instead will be part of DOE's site operations guide, a document that is beyond the regulatory reach of EPA and CDPHE. We therefore request in the draft letter that these stations be included in Attachment 2 along with the other surface water and groundwater requirements. Our reasoning is spelled out in detail in the draft letter.

4. Stakeholder Communication

As the Stewardship Council noted in its November 6, 2006, letter to DOE, EPA and CDPHE communication with the Rocky Flats Stewardship Council and its members remains vitally important. In the draft letter on the RFLMA we raise five issues. For the purposes of this memo, our discussion of these issues is included in the discussion below under "Other issues – Broomfield's post-closure communications matrix".

5. Reach of Institutional Controls

In the draft letter we again raise the fact that a few of the monitoring stations DOE will be charged with managing will be on Refuge lands. The RFLMA limits EPA and CDPHE oversight to ensuring the standards are met but does not include regulating the physical and/or institutional controls necessary to protect these stations. Once the Refuge is open to the public it will be critical to protect these stations from unintentional damage, so it remains imperative that DOE decide how these stations will be protected.

As noted in the draft letter, DOE's assurance that it will work with USFWS to address this question leaves an important issue unresolved. For years DOE and USFWS resisted signing a Memorandum of Understanding regarding post-closure management of Rocky Flats, a document that could provide the steps the two agencies will take to address this issue. The agencies' inability to reach agreement on this document raises concerns. Even though this issue is beyond the bounds of the RFLMA, we urge DOE to begin negotiations with USFWS on this issue.

6. Funding for post-closure activities must be assured

A second issue that is beyond the bounds of the RFLMA but is essential to ensuring successful implementation of the RFLMA is funding for post-closure activities. In order to issue a comprehensive letter, we included a short discussion of the importance of ensuring that site requirements drive site funding and that required actions cannot be scaled back as a result of inadequate budget requests by DOE to Congress or under funding by Congress.

Other issues – Broomfield's post-closure communications matrix

Although the Board did not include Broomfield's communication matrix as an attachment to its November 6, 2006, letter, in reviewing the RFLMA we reviewed the matrix to gauge the extent to which matrix issues are addressed in the RFLMA. We also reviewed the Broomfield-DOE water lease agreement (discussed below). The following is a summary of the nine issues identified in the matrix and whether Attachment 2 or the Broomfield-DOE lease agreement addresses the given issue.

1. Pre-discharge notification fax of analytical data for surface water discharge into Walnut Creek or to Woman Creek Reservoir.

Attachment 2, Section 5.4.2 and Figure 13, provides that when DOE determines it will discharge the terminal ponds, the Department will notify EPA, CDPHE, the Stewardship Council and the downstream communities of its intent to discharge. DOE will then sample the pond(s), notify the aforementioned parties of the results, and, assuming no problems are discovered, also provide a discharge schedule. In addition the Broomfield-DOE lease agreement provides for notification of pond releases in the Walnut Creek basin.

2. Notification via telephone in the event of elevated levels of contamination at Points-of-Evaluations, Points-of-Compliance, or treatment unit effluent

Attachment 2, Section 5.1 and Figures 5 and 6, provides DOE will notify EPA, CDPHE, the Stewardship Council and downstream communities when surface water standards are exceeded at points of compliance and/or points of evaluations. Attachment 2 is silent on public notification for elevated levels of groundwater treatment effluent. However, should groundwater effluent trigger a surface water quality exceedance at a point of evaluation, DOE will notify the aforementioned parties and begin an evaluation which should include discussing any problems with the groundwater treatment system.

3. Notification via telephone or email of elevated levels of contamination in groundwater wells or seeps.

Attachment 2 provides DOE will notify EPA and CDPHE within 15 days of receiving validated data that there are elevated levels in groundwater; within 30 days DOE will submit a mitigation plan and enter into the consultative process with EPA and CDPHE. Unlike surface water when

the Stewardship Council and the downstream communities are notified at the same time that DOE notifies EPA and CDPHE, when it comes to groundwater issues, the Stewardship Council and downstream communities will be formally notified quarterly. Appendix 2 (public involvement plan) further provides DOE will post on its website community contact records and/or letters between the agencies. These documents will identify the nature of the problem, and depending on whether a course of action has been identified, will also include a summation of the action.

The reason for this different treatment towards the community is that with groundwater there is no pressing risk. The more immediate risk would be from contaminated surface water. For that reason the agencies do not believe DOE should, as a regulatory matter, be compelled to notify the community. If simultaneous notification was a regulatory requirement as it is with surface water, should DOE fail to notify the community they could be fined. DOE, EPA and CDPHE do not believe the risks associated with contaminated groundwater warrant elevating community notification to that level; thus the provision about notifying the community quarterly.

While we agree with this reasoning, it remains important that DOE engage the community as problems are addressed and solutions are identified and implemented. Moreover, as discussed in the draft letter, should the Stewardship Council learn about issues after solutions are identified, then we would be challenged to fulfill our legislatively-created role as the Local Stakeholder Organization (LSO) for Rocky Flats. In the draft letter we ask DOE, EPA and CDPHE to revisit this issue to ensure we are involved early in the process.

4. Notification via telephone in the event an action level for air quality is triggered. Notification of scheduled removal of remaining air monitoring stations at the site.

Attachment 2 is silent on air monitoring since the site is no longer required by regulation to perform air monitoring. In October, one of the three remaining air monitors was removed, leaving two monitors on Indiana Street. DOE plans on collecting air samples monthly from these stations but does not plan to analyze the filters, choosing instead to archive them.

We believe this issue is moot and thus have not included a provision in the draft letter.

5. Notification via telephone of any implementation of a contingency plan or occurrence such as fire or flooding.

Appendix 2 (public involvement plan) includes a provision regarding emergency response notification for local fire districts and communities. DOE contacted the local communities who identified a lead contact. This process is noted in the draft letter.

6. Notification via telephone or email of the use of herbicides, controlled burns, culling of deer, or failure of Institutional Control or Engineered Control. Also request an annual list of herbicides that will be used at the site.

The RFLMA does not address the use of herbicides, controlled burns or the culling of deer as they are beyond the bounds of the CAD/ROD and thus the RFLMA. Stated another way, these issues have nothing to do with the cleanup or ongoing contaminant management needs. In addition, it is likely that DOE will enter into a management agreement with USFWS. These

issues will therefore need to be raised at a later point, including in the appropriate USFWS refuge decision documents.

Regarding the failure of an institutional or engineered control, although Attachment 2 requires DOE to report an institutional control failure within two days of discovery to the regulators, the community notification will be quarterly. This issue is similar to the aforementioned groundwater issue and thus is similarly addressed in the draft letter.

7. Notification of the status of the pond levels for A-, B-, C-series and the Present Landfill Ponds.

The RFLMA is silent on this issue. The Broomfield-DOE water lease agreement provides DOE will notify Broomfield regarding pond levels in the A-series, B-series and Present Landfill ponds. The C-series ponds are not covered under the terms of the lease agreement since the agreement only covers Walnut Creek. DOE has verbally committed to continuing to provide similar information about C-2 but without a written commitment we have to assume such notification will cease at some point. We however do not raise this issue in the draft letter as the RFLMA has strong provisions regarding sampling and discharge requirement for the terminal ponds (including C-2).

8. Notification of any post-closure documents shall be provided to downstream asset holders and any other interested LSO members. In addition, any post-closure document should be provided as a hard copy to downstream communities and any other interested LSO members.

Appendix 2 (public participation plan) provides DOE will provide the community with documents as required by CERCLA regulations. The RFLMA states documents will be posted on the DOE- Legacy Management website but is silent on the issue of providing hard copies to downstream communities and the Stewardship Council (as the LSO for Rocky Flats). The draft letter is likewise silent on the issue of providing hard copies.

9. Quarterly Data Exchange meetings

In the draft letter we propose a solution to the two quarterly meeting format that the Stewardship Council requested in its November 6, 2006 letter to DOE, EPA and CDPHE. (The November 2006 letter is included at the end of this meeting packet under “Newclips, Letters, Etc.”) Based on conversations with DOE and Broomfield, we propose the Stewardship Council not request that the technical staff briefings be specified in Appendix 2 (public involvement plan), a step DOE would not have accepted. Instead, under our proposal, the cities of Broomfield, Northglenn and Westminster would host technical staff briefings (as they have previously volunteered to do), during which time DOE would discuss the quarterly monitoring results. The technical meetings would take place approximately one week prior to the Stewardship Council’s quarterly meetings. DOE would then formally present the quarterly monitoring results at the Stewardship Council’s quarterly meeting.

With this plan we would have the two requested meetings – the technical staff briefing and the more general public briefing.

Water lease agreement between Broomfield and DOE

On September 26, 2006, Broomfield and DOE signed a 30-year lease agreement that addresses stream depletions resulting from out-of-priority storage in holding ponds on Rocky Flats. In addition, water held in the ponds evaporates, thereby affecting how much water is released from the site. As part of the agreement, Broomfield and DOE agreed to a set of reporting requirements for the A- and B-series ponds and the Present Landfill Pond that includes pond volume, pool levels, and evaporative loss estimates.

This agreement is an important supplement to the RFLMA and goes to issues Broomfield raised in its communication matrix. If you have any questions about the agreement please call Mike Bartleson, Deputy Director, Broomfield Department of Public Works, at (303) 438-6366.

Please contact us with any questions.

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City of Golden -- City of Northglenn -- City of Westminster -- Town of Superior
League of Women Voters -- Rocky Flats Cold War Museum -- Rocky Flats Homesteaders -- Ken Foelske

January ____, 2006

RFLMA Comments
Rocky Flats Site
U.S. Department of Energy Office of Legacy Management
11025 Dover Street, Suite 1000
Westminster, CO 80021

Re: Rocky Flats Legacy Management Agreement

To The RFLMA Parties,

On behalf of the Board of Directors of the Rocky Flats Stewardship Council, I am pleased to offer comments on the draft Rocky Flats Legacy Management Agreement (RFLMA). Post-closure management of Rocky Flats remains vitally important and the Stewardship Council is grateful for the Department of Energy (DOE), the Environmental Protection Agency (EPA) and Colorado Department of Public Health and Environment's (CDPHE) commitment to this issue.

Long-term stewardship of Rocky Flats is multi-pronged – it includes legal controls, physical controls, communication strategies, Congressional appropriations, regulatory and community oversight plus much more. In past years the Rocky Flats Coalition of Local Governments (Coalition) and the Rocky Flats Citizens Advisory Board (CAB) hosted a productive dialogue and offered a number of recommendations that addressed issues central to long-term stewardship at Rocky Flats. We are pleased to note that many of the key issues identified during this dialogue are captured in the RFLMA.

The Stewardship Council believes the RFLMA is comprehensive and thus supports its approval. A few issues remain that we believe DOE, EPA and CDPE must address. The Stewardship Council thus offers the following comments.

1. Regulatory oversight of post-closure activities

As the Coalition and CAB advocated, ongoing EPA and CDPHE oversight of DOE through regulatory enforcement authority is critical in helping to ensure the numerous legal and physical systems are maintained and that the cleanup remains protective of human health and the

environment. In summer 2003, EPA and CDPHE's roles post-closure were unclear and there was some suggestion that their enforcement role may be limited. We are therefore pleased that the RFLMA codifies ongoing enforcement authority for both agencies. We support these provisions.

2. Explain how access to DOE-retained lands will be restricted

Consistent with the work of the Coalition and CAB, the Stewardship Council places great importance in DOE, EPA and CDPHE defining in specific terms the physical and legal controls that will be used to restrict access to the DOE-retained lands. One important control is a fence demarcating the boundary between the Refuge and DOE-retained lands.

The Stewardship Council supports the agencies decision to post signs on a fence demarcating the boundary between DOE and United States Fish and Wildlife Service (USFWS) lands. We also support the decision to adopt institutional controls designed to restrict unauthorized access. These controls, when coupled with the signs USFWS intends on placing on Refuge lands, provide the type of layering that is necessary to help ensure long-term protection of the remedies and help inform future Refuge visitors of permissible and prohibited activities.

We understand based on conversations with DOE that the reason for the fence is to protect the remedies should USFWS opt to use ungulates as part of its weed management program. The fence is designed to keep those animals from wandering onto DOE lands and potentially disturbing the remedies. We agree with this reasoning and believe another compelling reason to maintain the fence must be further evaluated – keeping people who would unintentionally wander onto DOE lands from disturbing the remedies and monitoring stations. As the Stewardship Council noted in its September 12, 2006, comments on the Proposed Plan,

The Stewardship Council strongly supports the decision to prohibit access to DOE-retained lands. . . .The Stewardship Council believes a fence is warranted and DOE must agree to maintain the fence. . . .Taken together, the fence and signs will not deter those intent on disturbing the remedies and the monitoring systems, but should protect the remedies from those who would otherwise unintentionally wander into DOE lands.

The Stewardship Council recognizes that in regulatory terms the fence is not part of the remedy and thus is not required by the CAD/ROD. This physical barrier is nevertheless important, and regardless of whether a fence is part of the remedy or whether it is a best management practice (as DOE notes it is), it must be maintained.

The existing regulatory structure that by implication specifies the fence is not part of the remedy need not be altered to ensure it is maintained. Rather, the requirement that DOE maintain the fence should be added to the RFLMA under the same basis that DOE, EPA and CDPHE included other important provisions in Attachment 2 “Operational Monitoring” (Section 5.4). The provisions captured in the Section 5.4 are not required by the CAD/ROD but as the agencies have noted, regulatory requirements beyond those mandated by the CAD/ROD are a necessary part of a comprehensive post-closure management program.

Consistent with the approach taken in Section 5.4, we request the agencies add a provision to Attachment 2 specifying that a fence shall be maintained until such time that DOE, EPA and CDPHE, through the consultative process, collectively determine that it is no longer warranted.

3. Surface Water and Groundwater Monitoring

Clearly the provisions regarding surface water and groundwater monitoring are some of the most critical elements of the RFLMA. As noted in our September 12, 2006, letter on the Proposed Plan,

The Stewardship Council feels confident the process DOE, EPA and CDPHE utilized in developing the monitoring program and the decisions made (e.g., the siting of the approximately 120 groundwater wells and approximately 30 surface water monitoring stations) is comprehensive based on the existing data. There was substantive local government and community involvement and the decisions reflect important technical and policy considerations.

We are, however, concerned about the legal status of three surface water monitoring locations – SW18, Solar Ponds Discharge Gallery and GS51. In both the 2005 and 2006 Integrated Monitoring Plan these stations were identified as part of the monitoring network and were either considered investigative (GS51, SW18 for plutonium) or performance monitoring locations (Solar Ponds Discharge Gallery, SW18 for VOCs). We understand based on conversations with DOE and contractor staff that DOE intends to continue periodic monitoring at these locations. We support this decision.

According to DOE and CDPHE staff, ongoing monitoring at these locations will help DOE evaluate remedy effectiveness and, in turn, help DOE evaluate whether changes to the monitoring system or additional remediation are needed. Unfortunately, though, these monitoring stations and related requirements will not be captured in the RFLMA but instead will be part of DOE's site operations guide, a document that is beyond the regulatory reach of EPA and CDPHE. The Stewardship Council strongly believes that these stations should be included in Attachment 2 along with the other surface water and groundwater requirements. While these locations are not regulatory points of compliance, like the points of evaluation these monitoring locations help provide valuable data to evaluate remedy effectiveness.

DOE understands the ongoing value of these locations. So too do EPA and CDPHE. Yet, under the regulatory structure of the RFLMA DOE would be solely responsible for determining whether continued monitoring at these locations is warranted. The consultative process that is critical to all other water quality issues would be no longer applicable. Similarly, according to CDPHE, it is an open question as to whether DOE would be required to share data collected at these locations with EPA or CDPHE; it is likewise unclear whether DOE will have to include this information in CERCLA five-year reviews.

If DOE, EPA and CDPHE determine that monitoring at these three locations is no longer necessary then they should enter into the consultative process and remove these stations. So long as the agencies determine that these stations continue to provide valuable data – and clearly DOE does by its decision to continue to periodically monitor at these locations – then the full force of

the RFLMA should apply. After all, any data that helps determine remedy effectiveness is central to a comprehensive long-term stewardship program and thus should be part of the RFLMA and enforceable by EPA and CDPHE.

We therefore request that these three monitoring locations be added to the suite of locations identified in Attachment 2.

Alternatively, if DOE, EPA and CDPHE determine that the CAD/ROD prohibits including these stations in Attachment 2 along with the others surface water monitoring stations, then the Stewardship Council requests that these three stations be added to “Operational Monitoring” (Section 5.4).

4. Stakeholder Communication

As the Stewardship Council noted in its November 6, 2006, letter to DOE, EPA and CDPHE communication with the Rocky Flats Stewardship Council and its members remains vitally important. There are a few changes to the RFLMA that we would like DOE, EPA and CDPHE to make.

Quarterly meetings:

As the Stewardship Council communicated to DOE, EPA and CDPHE in its letters on the Proposed Plan (September 12, 2006) and in its letter to the three agencies on communication needs (November 6, 2006), we remain committed to ensuring that technical dialogues outside of Legacy Management’s quarterly meetings continue. Legacy Management’s quarterly meetings are important forums and the Stewardship Council looks forward to partnering with Legacy Management on these meetings. However, as we have stated in the past, these meetings should not become the sole forum to address important issues.

The Stewardship Council appreciates DOE’s commitment, through both its actions and provisions the Department included in the post-closure public involvement plan (Appendix 2), to support discussions outside of the formal public meetings. The Stewardship Council does not believe all joint meetings between DOE and the Stewardship Council must be specified in the public involvement plan – but we had hoped that DOE would include in that plan quarterly technical meetings with local government staff and others.

The quarterly technical meetings with staff provide an additional forum to review monitoring data and other information that quantifies and qualifies the ongoing effectiveness of the cleanup remedies. Based on conversations Stewardship Council staff has had with DOE, we understand that as necessary (which includes at the Stewardship Council’s request or the request of its members) DOE will participate in such meetings. The Stewardship Council therefore will not request that these technical meetings be specified in the public involvement plan.

Instead, the Stewardship Council will ask the cities of Broomfield, Northglenn and Westminster to schedule and host these meetings. Our plan is that these technical meetings take place approximately one week prior to the Stewardship Council’s quarterly meetings. DOE would then formally present the quarterly data during the Stewardship Council’s meeting. This proposal meets our members’ needs while, we trust, not unduly burdening DOE.

Surface Water Compliance Reporting:

As noted in the Stewardship Council's November 6, 2006, letter to DOE, EPA and CDPHE, direct communication with the cities of Broomfield, Northglenn and Westminster on issues affecting water quality remains important. We believe the three agencies have taken important steps to address issues the Stewardship Council and these member governments have raised.

The Stewardship Council supports the numerous steps DOE, EPA and CDPHE have taken to meet this important request. Specifically, the Stewardship Council supports the provisions in Attachment 2 specifying that if DOE receives validated sample results that indicate an exceedance at a point of compliance or a point of evaluation of any surface water quality standards listed in Table 1, DOE has 15 days to notify CDPHE, EPA, the Stewardship Council, Broomfield, Northglenn, Westminster and Thornton. That means DOE will continue to notify our organization and these cities at the same time it notifies EPA and CDPHE.

Similarly, as DOE prepares to discharge water from the three terminal ponds (A-4, B-5 and C-2) the Department will notify the Stewardship Council and the four aforementioned cities at the same time it notifies EPA and CDPHE of its intent to discharge, pre-sampling results and the proposed discharge schedule. This provision, while not required by the CAD/ROD, was added to Attachment 2, Section 5.4. (This provision is, importantly, consistent with the September 26, 2006, water lease agreement for Walnut Creek between Broomfield and DOE which covers discharges from A-4 and B-5). The Stewardship Council supports this provision.

Groundwater Compliance Reporting:

The Stewardship Council supports many of the groundwater monitoring and reporting requirements specified in Attachment 2, including the provisions regarding regulator oversight. We are, however, concerned about the ongoing role of the Stewardship Council and its members as the groundwater monitoring program and treatment systems are evaluated and, as necessary, modified. In our comments on the Proposed Plan, the Stewardship Council recommended DOE, EPA and CDPHE continue the important dialogue with the community regarding development of, maintenance of and changes to the groundwater monitoring program.

Clearly DOE, EPA and CDPHE must be able to consult to identify solutions to any problems encountered. Yet, the consultative process as captured in the RFLMA swings the pendulum too far by potentially and unnecessarily limiting community engagement in this process. Specifically, unlike surface water, if problems with the groundwater monitoring and treatment systems are discovered, DOE only needs to formally notify the community quarterly. DOE has committed in Appendix 2 (public involvement plan) to make contact records between DOE, EPA and CDPHE publicly available once they are signed and to maintain an open door policy with the community. Importantly, though, depending on the nature of the problem and media at issue, contact records might only be signed once a decision amongst the RFLMA parties has been made. If we are notified once a decision has been made then we will have likely been excluded from the process.

This regulatory delineation regarding community involvement between surface water and groundwater makes sense as impacts to surface water can pose an immediate risk, whereas impacts to groundwater present a lesser risk due to the relative slow-moving nature of groundwater. Nevertheless, it is important that should problems be identified the Stewardship Council and its members should be notified in a timely manner, which may be more frequent than quarterly and may be prior to contact records being signed and issued. More importantly, should changes to the monitoring or treatment system be required, it remains important that our organization and our members be notified of the problems and likely solutions before DOE, EPA and CDPHE settle on a course of action.

Due to the slow-moving nature of groundwater the Stewardship Council will not press to make it a regulatory requirement that when DOE notifies EPA and CDPHE of issues with groundwater we also be notified. (Making it a regulatory requirement would put DOE at risk of being fined should they fail to provide simultaneous notice to the Stewardship Council and its members.) Yet, the Stewardship Council strongly objects to the three agencies making changes to the monitoring system and treatment systems without first discussing the problems and solutions with the Stewardship Council and its members.

Notifying us after the fact and/or making important decisions without our input would not be acceptable. One of the roles of the Local Stakeholder Organization (LSO) for Rocky Flats is “To discuss with federal, state, and local elected officials and agencies issues related to the long-term stewardship and management of the Rocky Flats site...and [to] solicit and transmit to DOE comments on long-term surveillance and maintenance issues as other issue as necessary.” If the Stewardship Council learns of problems with or changes to these systems after DOE, EPA and CDPHE have decided on a course of action then it becomes exceedingly difficult for the Stewardship Council, as the LSO for Rocky Flats, to serve this important role.

We therefore request the provisions regarding the role of the community be broadened so to ensure our input early in the decision-making process.

Emergency Response:

The Stewardship Council also supports the provisions regarding emergency management. One of the lessons we learned from the April 2006 grassland fire at Rocky Flats was that communication with local emergency responders was important. We also learned that communication between DOE and emergency responders within the municipal and county governments potentially affected by the fire was critical. The communication mechanisms captured in the RFLMA are important and thus the Stewardship Council supports these provisions.

Should any member government’s emergency response point of contact change our members will communicate those changes directly with DOE.

Violations of Institutional Controls:

The Stewardship Council also supports the provisions regarding a violation of an institutional control. We believe that once a violation is discovered initiating the consultative process is warranted. As noted above in the discussion on groundwater, it is important for DOE

to provide the Stewardship Council, as the LSO for Rocky Flats, with timely notice of the violation.

We therefore request that the RFLMA be amended to clarify the Stewardship Council and its members will be informed in a timely manner of any violations of institutional controls and be able to engage DOE, EPA and CDPHE prior to the agencies deciding on a course of action.

5. Reach of Institutional Controls

As the Stewardship Council noted in its September 2006 letter on the proposed plan, a few of the monitoring stations DOE will be charged with managing will be on Refuge lands. The RFLMA limits EPA and CDPHE oversight to ensuring the standards are met but does not include regulating the physical and/or institutional controls necessary to protect these stations. Once the Refuge is open to the public it will be critical to protect these stations from unintentional damage. It therefore remains imperative that DOE decide how these stations will be protected.

DOE's assurance that the Department will work with USFWS to address this question leaves an important issue unresolved. For years DOE and USFWS have resisted signing a Memorandum of Understanding regarding post-closure management of Rocky Flats, a document that could provide the steps the two agencies will take to address this issue. The agencies' inability to reach agreement on this document raises concerns.

Even though this issue is beyond the bounds of the RFLMA, we urge DOE to begin negotiations with USFWS on this issue.

6. Funding for post-closure activities must be assured

A second issue that is beyond the bounds of the RFLMA but is essential to ensuring successful implementation of the RFLMA is funding for post-closure activities. By establishing DOE's Office of Legacy Management, Congress created an appropriations line-item that helps ensure DOE will receive adequate funding for all post-closure activities affecting Rocky Flats.

It remains important that DOE funding is driven by site-specific needs and obligations. Required actions cannot be scaled back as a result of inadequate budget requests by DOE to Congress or under funding by Congress.

Thank you for your continued commitment to work with the Stewardship Council and its members. An ongoing and active dialogue remains imperative to the long-term success of the cleanup of Rocky Flats. We look forward to reviewing your responses to these comments.

Sincerely,

Lorraine Anderson
Chairman

Cc: Senator Wayne Allard
Senator Ken Salazar
Representative Mark Udall
Representative-elect Ed Perlmutter
Mike Owen, DOE
Mark Aguilar, EPA
Carl Spreng, CDPHE
Dean Rundle, USFWS

Broomfield Communication Process Post-Closure

Notification	Broomfield's Rationale	Schedule timeframe
<p>1. Pre-discharge notification fax of analytical data for surface water discharge into Walnut Creek</p>	<ul style="list-style-type: none"> • Needed to determine surface water quality leaving the site that could impact Great Western Reservoir (this is the valuable storage component of Broomfield's reuse irrigation system) • Needed to schedule our surface water sampling team that takes independent samples • Needed to determine if water should be diverted, and allow for time to physically set up diversion if necessary. 	<p>48 hours prior to discharge. In addition analytical data and trending should be provided at the Quarterly Data Exchange Meetings.</p>
<p>2. Notification via telephone in the event of elevated levels of contamination at Points-of-Evaluations or Points-of-Compliance</p>	<ul style="list-style-type: none"> • Needed to determine impacts to Walnut Creek and to A- and B-Series Ponds and potential for off-site release to Great Western Reservoir. • RFCA states one of the goals of the RFCA Parties is to develop and maintain an effective and efficient monitoring system for RFETS. The monitoring system should include the cities of Broomfield and Westminster. Part 23 #266. We have been and will remain active in post-closure activities. 	<p>Same day courtesy call once DOE is aware of the elevated levels. Currently DOE formally notifies us of such exceedances along with the regulators within 15 days of gaining knowledge of the exceedances. DOE within 30 days of gaining knowledge of the exceedances will submit a plan to the regulators and cc Broomfield of a preliminary plan and schedule for mitigating action. In addition information and trending should be provided at the Quarterly Data Exchange Meetings.</p>

Notification	Broomfield's Rationale	Schedule timeframe
3. Notification via telephone or email of elevated levels of contamination in groundwater wells or seeps	<ul style="list-style-type: none"> • Needed to determine impacts to Walnut Creek and to A- and B-Series Ponds and potential to migrate off-site. • Needed to provide insight to any anomalies we could have in our analytical data on-site and off-site. 	<p>Within 15 days of gaining knowledge of the elevated levels, or if a boundary well, notification should be as soon as DOE is aware of the elevated levels.</p> <p>In addition information should be provided at the Quarterly Data Exchange Meetings.</p>
4. Notification via telephone in the event an action level for air quality is triggered	<ul style="list-style-type: none"> • Our community is downwind of the site and any elevated levels may impact our community as well as surface water quality downstream 	<p>Same day courtesy call once DOE is aware of the elevated levels. DOE will formally inform us along with the regulators of such elevated levels within 15 days of gaining knowledge of the elevated levels. In addition information should be provided at the Quarterly Data Exchange Meetings.</p>
5. Notification via telephone of any implementation of a contingency plan or occurrence such as fire or flooding	<ul style="list-style-type: none"> • Any occurrence may have the potential to impact surface water quality and we need to be aware of these occurrences based on the above previously mentioned justifications for other notifications 	<p>We should be notified immediately of such occurrences once DOE gains knowledge of the incident.</p>

Notification	Broomfield's Rationale	Schedule timeframe
<p>6. Notification via telephone or email of the use of herbicides, controlled burns, culling of deer, or failure of Institutional Control or Engineered Control. Also request an annual list of herbicides that will be used at the site.</p>	<ul style="list-style-type: none"> • Needed to notify us in the event an analyte is detected in our analytical data downstream of Rocky Flats • Other information is needed to respond to our citizens in the event we receive calls about unusual events • Needed to know about controlled burns in the event TSS is elevated in surface water 	<p>48 hour prior notification for planned events. We should be notified immediately of any IC or EC failures once DOE gains knowledge of the incident. Annual updated list of herbicides should be provided in April.</p>
<p>7. Notification of the status of pond levels for A-, B-, and the Present Landfill ponds</p>	<ul style="list-style-type: none"> • Needed to determine impacts to Walnut Creek especially during major storm events that can trigger a discharge off-site 	<p>Pond level at 30% or greater notification should be weekly. Any time the ponds are at a discharge level we should be notified. If the 2 above mentioned conditions have not been met, we should receive the information at least quarterly. Data should contain pond capacity remaining, current water level, piezometer levels & dam evaluation and action level, dates of anticipated discharge, gallons to be discharged, date of completion of discharge, and any additional information relevant to that particular discharge.</p>
<p>8. Notification of any post-closure documents shall be provided to downstream asset holders and any other interested LSO members. In addition, any post-closure document should be provided as a hard copy to downstream communities and any other interested LSO members.</p>	<ul style="list-style-type: none"> • Needed to evaluate impacts to downstream communities. We need the capabilities to download data and maps. This information allows for the evaluation of data trends and is the foundation for drafting and revising DQOs as needed for the IMP. 	<p>Receipt should be the same time the regulators receive the documents, data, or any post-closure document.</p>

Letters and News Clips

- Stewardship Council 11/6/06 letter to DOE, EPA and CDPHE re: post-closure communication
- CDPHE response to Stewardship Council 11/6/06 letter
- News clip re: Salazar stalling DOL appointment
- Allard press release re: Salazar stalling DOL appointment
- News clip re: Salazar and Udall statement on Special Cohort Status
- News clip re: Rocky Flats Special Cohort Status
- News clip re: OIG investigation into alleged Kaiser-Hill waste
- OIG report into alleged Kaiser-Hill waste
- News clip re: Jim Stone appeal
- News clip re: Rocky Flats Cold War Museum

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City of Golden -- City of Northglenn -- City of Westminster -- Town of Superior
League of Women Voters -- Rocky Flats Cold War Museum -- Rocky Flats Homesteaders -- Ken Foelske

November 6, 2006

Mr. Michael Owen
Director, Office of Legacy Management
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Mr. Robert Roberts
Regional Administrator
Environmental Protection Agency
999 18th Street, Suite 500
Denver, CO 80202

Mr. Dennis E. Ellis
Executive Director
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, CO 80246

Dear Messers. Owen, Roberts and Ellis,

On behalf of the Board of Directors of the Rocky Flats Stewardship Council I am writing to update you on important issues affecting the working relationship between your agencies and the Rocky Flats Stewardship Council and its members, and to raise one important issue that we believe was improperly addressed in the CAD/ROD.

There were many reasons why the Department of Energy, Kaiser-Hill, the Environmental Protection Agency and the Colorado Department of Public Health and Environment were successful in remediating Rocky Flats. One of the critical elements that is often overlooked or not understood by some is the collaborative relationship that developed between these parties and local communities in addressing and solving complex technical and policy issues. While collaboration is not always an easy process, DOE and the regulators' commitment to view local communities as partners was instrumental in ensuring the final cleanup was not simply regulatory compliant but also met important community interests and goals. One of the critical reasons productive relationships developed was a result of your agencies' understanding that

regulatory requirements regarding community engagement were starting points, not regulatory maximums. With the cleanup project now approved, we are starting to see signs that community involvement will be more limited and in turn increasingly reactionary, a situation that neither benefits your agencies nor the Stewardship Council and its members.

The nature of the decisions that will be made post-closure will be fewer and less complex. For that reason the multi-layered public involvement processes that were followed during cleanup should change. Nevertheless, it remains imperative that the Stewardship Council and its members maintain a productive and proactive working relationship with DOE, EPA and CDPHE. We are concerned that the three agencies talk about the importance of maintaining productive relationships with the local community, but that the agencies' actions fall short.

Following are two examples. First, for many years the Rocky Flats Coalition of Local Governments, the Rocky Flats Citizens Advisory Board, local governments and others pressed DOE, EPA and CDPHE to specify the long-term controls the agencies would use to manage residual contamination. One of the agencies' mantras was that we needed to wait for the CAD/ROD. To specify such controls prior to the signing of the CAD/ROD, the agencies argued, would be pre-decisional and thus in violation of applicable federal and state regulations. We had been led to believe that at the time the CAD/ROD would be signed local communities would be afforded the opportunity to discuss and address their issues with DOE and the regulators. Our experience was mixed. While conversations on the Proposed Plan were many and were productive, the agencies allowed no time to discuss the CAD/ROD or how our issues would be addressed and resolved in this important regulatory document.

In fact, as you know, because the EPA-Headquarters wanted to meet an arbitrary goal of approving a certain number of remedial actions in fiscal year 2006, the agencies approved and signed the CAD/ROD sixteen days (including weekends) following the close of the Proposed Plan comment period. Prior to approval of the CAD/ROD, there was no discussion of how the issues the Stewardship Council and others raised in their comments on the Proposed Plan would be addressed – and in nearly all cases the issues we and others raised were rejected by your agencies. In one instance a key legal issue the Stewardship Council raised was not addressed in the agencies' response to comments. DOE did address the issue at our board meeting following the issuance of the CAD/ROD, but in the rush to finalize the CAD/ROD this important issue was overlooked.

Second, some of our member governments are increasingly worried that they will no longer have adequate access to information or be afforded the opportunity to continue to proactively address surveillance and maintenance issues directly with your agencies. As the Stewardship Council has noted previously and reiterates in this letter, the existence of the Stewardship Council should not become the sole forum for governments and others in the local community to address issues with your agencies. Direct communication remains important.

We believe Mike Owen shares this position. As he stated in his December 21, 2005, letter to the Rocky Flats Coalition of Local Governments in which he approved the Local Stakeholder Organization (LSO) plan for Rocky Flats, "it was never intended that the LSO would be the only forum for stakeholders to communicate with DOE." Similarly, the LSO plan Mr. Owen

approved provides “not all communication between LM and Rocky Flats constituencies will flow through the LSO.” The types of direct communication we would like your agencies to support are addressed in this letter.

With this background, we ask that you revisit the following issues. For ease of communication we have addressed this letter to the three agencies. However, in responding to these issues we request your agencies respond individually.

Collaborative Approaches to Water Quality Issues

As you know, monitoring, particularly water quality monitoring, is a critical post-closure stewardship responsibility and a high priority issue for the Stewardship Council and its members. We are concerned that the changes the agencies are making to the current Integrated Monitoring Program (IMP) process will hamper the ability of the community to substantively engage DOE, EPA and CDPHE as data is evaluated and changes to the monitoring network are made.

The process DOE, EPA and CDPHE utilized in developing the monitoring program included substantive dialogue with local governments and other community members – identifying and discussing the technical needs of the monitoring program, discussing and, in large part, agreeing to the specific locations of the surface water monitoring stations and groundwater well locations, and other issues central to the establishment and management of the current water quality monitoring program. The decisions, importantly, reflect technical and policy considerations. This process, which was part of the IMP, included collaborating with local governments and others on the establishment of the post-closure monitoring network. The Stewardship Council wants to ensure this important dialogue continues post-closure.

The Stewardship Council has been informed by DOE, EPA and CPDHE that post-closure the IMP will be replaced by the standards and protocols captured in the Rocky Flats Legacy Management Agreement. We recognize that with closure changes to the regulatory framework will and should be made, and we are not asking that the IMP process (or whatever name the agencies apply post-closure) be maintained without change. However, we remain concerned that one of the cornerstones of the IMP – proactively addressing issues with local governments and others – will be replaced by a more traditional, limited regulatory approach to decision making, namely the agencies reaching agreement on changes and then notifying the Stewardship Council and others of the changes.

Among others steps, we request DOE and the agencies work with the Stewardship Council and its members as issues are being debated, options to addressing issues are identified and actions are designed and implemented. We do not want to be brought to the table at the end of the process when decisions have been made, regardless of whether there is ultimately a public comment period. To bring the Stewardship Council and its members in at the end of the dialogue would set in motion a decision making framework that resembles the often maligned “announce-and-defend” policies that, while regulatory compliant, frequently lead to lack of community acceptance and support of agency actions.

To be clear, we are not asking to serve as a *de facto* regulator, nor are we asking that the agencies not alter the existing IMP. Rather, we are asking that the collaborative approach that

characterized community involvement under the IMP issues be maintained post-closure – and importantly, we are asking that conversations take place at Stewardship Council meetings, during agency working group meetings in which our staff and members can attend, and, as necessary, with individual governments and other members of the community.

DOE, more so than EPA or CDPHE, reminds the Stewardship Council that Congress established and provided funding for our organization and that the role of the Stewardship Council, as the DOE-designated Local Stakeholder Organization (LSO) for Rocky Flats, is to be the primary community forum for addressing site issues. While we agree with DOE's understanding of the role and purpose of the LSO, it is also important to bear in mind that as the LSO for Rocky Flats we have consistently stated that dialogue outside of the periodic LSO meetings remains essential. We have also indicated that the partnerships that were established during cleanup must be maintained. One of the most fruitful dialogues was IMP meetings.

We understand based on conversations with your staff that DOE, EPA and CDPHE have different understandings of the utilitarian value of this request. We would therefore request that each agency clarify its position on proactively addressing water quality issues with the community, including working with us as (a) issues are being debated, (b) options to addressing such issues are identified, and (c) actions are designed and implemented.

Quarterly Data Meetings

One area where conversations with DOE, EPA and CDPHE have proven fruitful concerns DOE's quarterly community briefing during which time they evaluate monitoring data from the prior quarter. As the Stewardship Council has stated publicly, and as we have discussed with your staffs, we continue to support these important meetings. These conversations, however, must continue to include two related but separate meetings – high-level public briefings (briefings that will likely continue to take place at Stewardship Council board meetings) and more technical briefings as requested by the community. This format allows the Stewardship Council to be briefed on the monitoring results while continuing to allow technical staff to more freely engage DOE, EPA and CDPHE on the detailed technical issues that are beyond the depth of conversation that occurs at the board level. The cities of Westminster and Broomfield have offered to host the technical briefings, and along with the city of Northglenn, these governments are the prime beneficiaries of these meetings.

We are pleased to report that for now DOE has agreed to this format and EPA and CDPHE have supported DOE's decision. While this format requires additional work on behalf of DOE, EPA and CDPHE, we believe this approach of two meetings meets the interests and needs of our membership. As we move forward, and as DOE revises the Post-Closure Public Involvement Plan in the coming months, we want to reiterate the importance of these meetings for the Stewardship Council and its members.

As the LSO for Rocky Flats, one of our goals is to work with DOE to ensure that the communication systems DOE and the agencies adopt meet the needs of the Rocky Flats community. For now it is clear that DOE should continue to host two quarterly meetings. If this request becomes overly burdensome then the solution lies in providing additional monies for

Rocky Flats, not in limiting community interaction on important issues that go to the heart of evaluating the long-term protectiveness of the cleanup.

In order to ensure we understand each agency's position on these meetings, we request that each agency clarify its position on the data exchanges, including, as requested by the community, holding two meetings.

Communication with Downstream Communities

One of the unforeseen reactions stemming from the legislation authorizing the creation of the LSO for Rocky Flats is differences of opinion regarding the role of the LSO relative to the role of individual governments and community organizations. The Stewardship Council believes strongly in its mandate to serve as the LSO, but as stated repeatedly, while the Stewardship Council is the central forum for community engagement, the organization should not be the exclusive forum.

The cities of Westminster, Broomfield and Northglenn remain concerned that DOE, in particular, is trying to limit working with them on a government-to-government basis. These governments actively participate in the Stewardship Council and strongly believe in the vision and role of the Stewardship Council as the LSO. Additionally, historically these governments have put great emphasis on direct dialogue with DOE, EPA and CDPHE. The Stewardship Council supports its members' request that your agencies maintain direct communication with these governments (and for that matter, direct interaction with any other local government or community group that so requests such interaction).

In past years, agency communication with these governments included pre-discharge notification of the terminal ponds, notification of elevated levels of contamination at the surface water points of compliance and points of evaluation, notification of elevated levels of contamination in groundwater wells, and notification of the use of herbicides or other constituents that could be detected at downstream water monitoring locations prior to their application.

At this time we do not know the extent to which DOE, EPA and CDPHE will maintain these avenues of direct communication. We therefore request your agencies let us know its intentions for post-closure communication. Specifically, we would like you to identify your commitment to communicate directly with both the Stewardship Council and with its members, and your commitment to notify communities of actions or monitoring results that could affect their communities.

Annual Sampling of Terminal Ponds

The sole non-process issue we ask you to address at this time concerns an issue the Stewardship Council and some of its members raised in comments on the Proposed Plan – annual sampling of the terminal ponds (A-4, B-5, C-2). Our letter on the Proposed Plan included the following provision:

A related issue concerns testing water in years where there are no discharges. Specifically, water in the terminal ponds is only tested prior to releases – and yet, in some years there will be no discharges. Thus, in those years, water in the

terminal ponds will not be tested. The Stewardship Council strongly recommends that in the event water is not discharged in a given year, DOE should nevertheless test water in the terminal ponds no less than one time per year to measure water quality and thus help determine remedy effectiveness.

Like other issues the Stewardship Council and its members raised – identifying the controls DOE will use to protect monitoring stations located on Refuge lands, additional layering of controls, to name two – the agencies rejected this request for annual sampling of the terminal ponds with little explanation. We ask you to revisit this issue. Specifically, as CDPHE noted in recent conversations with our staff, if five years pass in which the terminal ponds are not discharged, there will be a data gap when the agencies undertake their CERCLA five-year review. Without data indicating changes in concentrations of contaminants in the terminal ponds, there will be little regulatory basis for determining whether changes to the ponds to address either human or ecological risk issues are warranted. We support the monitoring system that has been established. However, we do not agree with DOE's conclusion that upstream monitoring stations will alone provide the qualitative information the agencies will need to determine remedy effectiveness and thus regulatory compliance.

Again, we request you review this decision.

The Stewardship Council commends DOE, EPA and CDPHE for achieving a cleanup that meets or exceeds stringent regulatory requirements and that meets critical community interests. As we move forward we remain committed to objectively reviewing site activities and collaborating on future decisions. The communication mechanisms developed and implemented during cleanup activities established an important model that others should appropriate when addressing complex environmental remediations. What we are seeking is to continue these types of dialogues and establish a framework for how governments can collaborate following the completion of cleanup activities to ensure the cleanup remains protective.

Should you have any questions about the issues raised in this letter, please contact me or our Executive Director, David Abelson.

Sincerely,



Lorraine Anderson
Chairman

Cc: Senator Wayne Allard
Senator Ken Salazar
Representative Mark Udall
Representative Bob Beauprez
Frazer Lockhart, DOE
Scott Surovchak, DOE
Mark Aguilar, EPA
Carl Spreng, CDPHE
David Kruczek, CDPHE
Dean Rundle, USFWS

STATE OF COLORADO

Bill Owens, Governor
Dennis E. Ellis, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

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Colorado Department
of Public Health
and Environment

November 29, 2006

Lorraine Anderson, Chairman
Rocky Flats Stewardship Council
P.O. Box 17670
Boulder, CO 80308-0670

Dear Ms. Anderson:

LORRAINE

I am writing in reply to your letter of November 6, 2006. The Colorado Department of Public Health and Environment (the department) agrees that the collaborative relationships between the state and federal agencies and the local communities that existed during the cleanup process were important to the success of that effort. We continue to value those relationships and expect that there will continue to be opportunities both through the Stewardship Council and directly with its members to review data, discuss issues, and work on solutions together.

As stated in your letter, the Integrated Monitoring Plan (IMP) was developed through a collaborative process with input from the communities. Post-closure monitoring set up in the Rocky Flats Legacy Management Agreement (RFLMA) will be a continuation of the monitoring established in the IMP with some minor updates and modifications to conform to post-closure requirements.

As described in the RFLMA, quarterly and annual reports will provide the Stewardship Council with all the data collected – the same data available to the regulators. In addition, if conditions necessitate immediate consultation with the regulators, the results will be documented in contact records, which will be made available to the Stewardship Council and communities' designated technical staff. The RFLMA also states that the downstream communities will be specifically notified along with the regulators if exceedances occur at specific monitoring locations. The department continues to be committed to communicating directly with the Stewardship Council as well as directly with its members so that pertinent information is effectively and quickly transferred.

The department continues to support holding technical briefings, as necessary, for all interested parties to allow technical issues to be more thoroughly discussed. As your letter states, DOE and EPA have also agreed to engage any interested parties outside of Stewardship Council board meetings.

With regard to annual sampling of the ponds, the department feels that the decision in the CAD/ROD, and the response to comments on the Proposed Plan, is still the right conclusion. Neither annual pond sampling nor pre-discharge sampling was previously required by the Rocky Flats Cleanup Agreement or by the IMP. Pre-discharge sampling, however, will now be required by the new RFLMA and that data, together with upstream monitoring, will provide sufficient information for our decision-making purposes.

Lorraine Anderson
November 29, 2006
Page 2

Closure of the Rocky Flats site has brought about a great reduction in the level of remaining contamination as well as activities required to maintain regulatory compliance and protection of public health and the environment. The funding and resources that our department will be able to apply to oversight will likewise be greatly reduced. However, the department remains committed to ensuring that affected citizens and communities will have all the necessary information and opportunities to engage the appropriate agencies in the future.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dennis E. Ellis', with a stylized flourish at the end.

Dennis E. Ellis
Executive Director
Colorado Department of Public
Health and Environment

cc: Senator Wayne Allard
Senator Ken Salazar
Representative Mark Udall
Representative Bob Beauprez
Mike Owen, DOE
Frazer Lockhart, DOE
Scott Surovchak, DOE
Robert Roberts, EPA
Mark Aguilar, EPA
Dean Rundle, USFWS

Salazar stalls appointment over Flats workers' case

By Jennifer Talhelm, Associated Press
Wednesday, December 13, 2006

WASHINGTON — Colorado Sen. Ken Salazar says he will block President Bush's candidate for assistant labor secretary until the administration stops its "foot-dragging" and acts on a request to compensate sick former workers from Rocky Flats.

Workers from the former Rocky Flats nuclear weapons plant outside Boulder, who developed illnesses after being exposed to radiation, filed a petition more than a year ago asking for help under a government program that compensates nuclear workers who suffer radiation-related illnesses.

Salazar, a Democrat, said Tuesday that government agencies have yet to act on the sick workers' case and that House hearings have shown the delays may be part of an intentional effort to suppress the program's costs.

Attempting to push the Rocky Flats workers' case forward, Salazar placed a "hold" on the nomination of Leon Sequeira to be assistant secretary for policy at the Labor Department before Congress adjourned earlier this month. He will reissue the hold next year. The hold stalls the Senate from acting on Sequeira's nomination.

"I am furious with the foot-dragging, the obstruction and the neglect that have characterized the administration's approach toward American citizens who took real risks for our country during the Cold War, who are suffering now, and who need and deserve help," Salazar said in comments in the Congressional Record.

Labor Department officials have said they are not trying to limit or delay payments to workers, although documents examined by House investigators and leaked to the media have shown the administration has considered ways to contain costs under the program.

"Mr. Sequeira is a well qualified nominee who is needed to fill an important position in the Labor Department," said Blair Jones, a White House spokesman. "He deserves an up or down vote in the Senate."

Salazar said he wants the administration to ensure that the board considering whether workers qualify for the compensation program is adjusted to be more open to workers' claims. An advisory board's next meeting is scheduled The board's next meeting is

He said he will not lift the hold until the administration gives "firm commitments" that officials will work to approve the Rocky Flats petition.



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U . S . SENATOR ★ COLORADO

WAYNE ALLARD

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CONTACT: Laura Condeluci 202-224-5944
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For Release:

December 13, 2006

Allard Joins Salazar in Labor Appointment Hold

Allard Pushes for Rocky Flats Workers' Petition Decision

Washington, DC – U.S. Sen. Wayne Allard (R-Colo.) announced on Wednesday his support of the hold that U.S. Sen. Ken Salazar (D-Colo.) has placed on the nomination of Leon Sequeira to be assistant secretary for policy at the Labor Department because of delays in administering program benefits to qualified Rocky Flats employees.

“Considering that many qualified Rocky Flats workers are being affected by bureaucratic red tape in receiving their benefits, I intend to support the hold on the nomination for the Labor Department assistant secretary for policy,” Allard said. “While this issue is certainly important, there is a bigger issue that needs to be addressed, which affects a large number of the Rocky Flats workforce, and that is getting a final decision on the Rocky Flats Special Exposure Cohort petition.”

U.S. Department of Health and Human Services has yet to make a final decision on the Rocky Flats Special Exposure Cohort (SEC) petition. Allard is requesting a meeting with HHS Secretary Michael Leavitt after the first of the year to push for a final decision.

“I understand and appreciate the care, consideration and detail that must be taken into account when reviewing SEC petitions and site profiles. I also understand and believe that the only way to fairly evaluate SEC petitions is by using the best scientific knowledge and data available, which I fully support,” Allard said.

The intent of Congress when passing the Energy Employees Occupational Illness Compensation Program Act, which included SEC petition provisions, was to ensure that the men and women who put themselves in harm’s way by working at Rocky Flats and other nuclear production sites had a clear and just process for applying for appropriate financial and medical compensation provided under law. The Rocky Flats SEC petition is an application for such compensation provided under the Act.

“I support the efforts to fairly and scientifically evaluate the Rocky Flats Special Exposure Cohort petition,” said Allard. “However, at the same time, it also appears that the ultimate progress of the Rocky Flats SEC petition has stagnated significantly in recent months.”

ROCKY FLATS

Salazar, Udall protest compensation process

U.S. Sen. Ken Salazar, D-Denver, and U.S. Rep. Mark Udall, D-Eldorado Springs, released a joint statement Thursday protesting "government attempts to limit compensation for Rocky Flats workers."

Salazar and Udall said the National Institute for Occupational Safety and Health — the agency responsible for reviewing nuclear workers' health-related claims — is hindering an independent contractor's access to former Rocky Flats employee records. The contractor, Sanford Cohen and Associates, recently reported that many worker files are incomplete.

Salazar and Udall say the missing files underscore a need to include workers of the former nuclear-weapons plant in a "special exposure cohort" that automatically makes them eligible for government compensation. Both have introduced legislation to that end, and a petition for such inclusion has been separately filed.

Rocky Mountain News

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Ex-Flats workers with cancer hit brick wall in seeking aid

By Ann Imse, Rocky Mountain News
November 16, 2006

Former Rocky Flats workers with cancer are being stymied in their attempt to win compensation because a federal official is blocking an inquiry into whether their radiation records are missing or falsified, Congress was told Wednesday.

Contract auditor SC&A said it could not finish its work because the National Institute for Occupational Safety and Health is limiting its access to workers' claims.

A NIOSH official responded that he restricted the auditor's access to enforce the Privacy Act.

But a watchdog group says it's an attempt to limit compensation to the sick workers for budget reasons.

Since 2000, officials have rejected 70 percent of the claims for aid filed by tens of thousands of sick nuclear weapons workers, said Rep. Sheila Jackson Lee, D-Texas. Workers must prove their cancer and other illnesses were caused by radiation and toxic chemical exposure on the job to collect \$150,000 in compensation plus medical care.

Former workers at the Rocky Flats atom bomb plant outside Denver say they can't prove their cases because radiation records are missing or wrong. On these grounds, they've petitioned for all former Rocky Flats workers with cancer to be grandfathered into the aid program.

Their petition has been in front of a federal advisory board all year, while more workers die without help.

The board, which is to rule on the petition, asked its contractor, SC&A, to figure out if the workers are correct about the missing and incorrect records.

SC&A pulled about a dozen random workers' claim records for Rocky Flats, and "they found enormous gaps in data," some years long, said Richard Miller of the Government Accountability Project in an interview.

Miller said NIOSH, which is doing radiation dose calculations for the workers' claims, then yanked SC&A's access to the records.

In testimony before the House Subcommittee on Immigration, Border Security and Claims on Wednesday, SC&A's John Mauro said he could no longer do his job investigating the Rocky Flats claims of "significant

gaps, falsifications and deliberate destruction of records" if he didn't have access to the records.

Larry Elliott, head of that section of NIOSH, said in an interview that he is merely following the Privacy Act, ensuring that SC&A sees only specified claims.

"They can't just look at any claim they want while they are there," he said.

Elliott denied allegations made in the hearing that his department is setting up the Rocky Flats petition for denial as a cost-saving measure.

Jackson Lee called the Rocky Flats allegation "one of the harshest" she heard in a variety of complaints about the aid program Wednesday. "A fact-finder can't be a fact-finder without access to documents," she said.

The Privacy Act specifically allows for government contractors like SC&A to be treated as government employees with authority to review private records as part of their work.

Miller said SC&A staff members have signed Privacy Act agreements not to reveal patient-specific information to the public.

Miller suggested to the committee that Congress order full access to the records.

He said this could be done in a rider to an appropriations bill before January.

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Feds: Flats cleanup 'waste' moot

Report finds no basis to condemn throwing away tools, material

By **Todd Hartman, Rocky Mountain News**
November 17, 2006

It's "entirely possible" the contractor overseeing the cleanup of Rocky Flats threw away stores of usable - even new - material, but a federal review of the matter issued Thursday drew no conclusion as to whether those actions were wasteful.

The report stems from allegations by former Flats workers that contractor Kaiser-Hill threw away massive volumes of valuable equipment - ranging from motors worth thousands of dollars to wiring, jackhammers and hand tools - in a race to earn \$170 million in bonuses for speedy, cost-saving work.

The Department of Energy's Office of Inspector General issued its report seven months after the *Rocky Mountain News* first reported allegations from several workers, including one who said the throwaway approach was the "ugliest thing I'd ever seen" and another who said she had to turn a blind eye or the wasteful practices "would make you sick."

The brief report, contained in a three-and-a-half-page memo, seemed to hinge on the fact that inspectors couldn't locate specific documentation outlining Kaiser- Hill's and the DOE's approach to disposing of property.

Without such documents, the report said, "We are not in a position to opine on the appropriateness of these actions."

The closest inspectors could come to finding written justification for throwing the equipment away was contained in a closure manual for the site approved by DOE. According to the report, the manual stated that the emphasis at Rocky Flats was on "expedited closure" and that property destruction "may be the most economical means" of achieving closure.

The report notes arguments made by Kaiser-Hill and its subcontractors - that throwing the material away was cheaper than surveying it for contamination, and that by disposing of it, the company avoided the risk of accidentally selling contaminated equipment to the public.

But, again, inspectors had trouble finding written documentation to support these views, including any paperwork showing "that any formal analysis was done relating to whether or not it would have been cost-effective to survey the excess property for radiological or hazardous material contamination."

Even so, the report notes that the DOE had provided general approval for "expeditiously" disposing of property as a way to speed up closure, since delays would prolong the job, keep workers on the payroll and add significant costs to the cleanup.

In the end, the report takes no sides on the practice of throwing away usable materials at Rocky Flats.

The practice "may or may not have been prudent from a financial perspective," it said.

Inspectors did say it might be helpful to look at what happened at Rocky Flats "as a lessons-learned that could improve" property disposal processes at future DOE cleanups.

Steve Weber, an electrician who worked at Rocky Flats for 21 years and first alerted government officials to his concerns about waste in 2004, complained that the report doesn't hold anyone accountable.

He said his frustration is amplified by the fact that he and dozens of others who worked hard to get the cleanup completed fast, were let go just months - even weeks and days in some cases - before certain benefits were slated to kick in.

Weber himself said he is now paying \$1,000 a month for health insurance, which he needs for his ailing wife.

"My thing is, I wanted somebody to know what was going on, because it's wrong," he said. "Waste is wrong in government no matter what. But it's even worse when you waste it and watch 50 people struggle with medical insurance."

A spokesman for CH2M Hill, one half of the former joint venture with Kaiser Group Holdings, said the report shows that Kaiser-Hill's priority was "protection of public health" as carried out by its policy of throwing away equipment rather than risk exposing the public to contamination.

The inspectors were "looking for problems and they didn't find any, and if they had, this would be a very different (report)," said spokesman John Corsi. "We stand behind our conservative (disposal) approach."

hartmant@RockyMountainNews.com or 303-954-5048

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United States Government **Department of Energy**

memorandum

DATE: November 15, 2006

REPLY TO

ATTN OF: IG-40

SUBJECT: Letter Report on "Alleged Waste of Funds Involving Excess Property at Rocky Flats"(INS-L-07-03)

TO: Assistant Secretary for Environmental Management

This is to advise you of the results of an Office of Inspector General inspection of alleged waste of funds involving excess property at the Department of Energy's (DOE's) Rocky Flats site.

BACKGROUND

Nuclear weapons production operations at Rocky Flats were discontinued in 1992.

Subsequently, responsibility for Rocky Flats was reassigned from the Department's Office of Defense Programs to the Office of Environmental Management. In January 2000, DOE entered into a contract with Kaiser-Hill Company, LLC, for the closure of Rocky Flats by December 2006. Closure activities included the dismantling and removal of 805 structures, many of which were radioactively contaminated, as well as the disposal of 600,000 items of excess property and equipment. Rocky Flats was closed on October 13, 2005.

The dismantling and removal of structures included the 371/374 Building Cluster. Prior activities in the 371/374 Building Cluster focused on the recovery of plutonium from mission-related work and the treatment of aqueous waste. At the time site facilities were being evaluated for closure, the 371/374 Building Cluster contained radiological and chemical contamination on building surfaces and in building equipment/systems. The Office of Inspector General received an allegation that Kaiser-Hill wasted funds by throwing away thousands of dollars of excess personal property from the 371/374 Building Cluster without making the property available for sale to other parties. It was alleged that the property included items such as tool chests, electric motors, conduits and fittings, spools of wire, and many other types of tools and supplies valued at anywhere from \$16 to \$8,000. Reportedly, some of the items were brand new and still in their boxes. It was also alleged that, inconsistent with how most of the property was handled, an electrical subcontractor was allowed to take possession of some equipment and remove it from the site.

After receiving the allegation, the Office of Inspector General conducted a preliminary inquiry. We were informed that property remaining on-site was considered "economic discard" and that it was cheaper to discard the property rather than incurring costs to decontaminate it and try to sell it at auction. In response to continuing concerns, the Office of Inspector General initiated an inspection into the facts and circumstances surrounding this matter.

RESULTS OF INSPECTION

We determined that a decision was made by DOE and Kaiser-Hill that under certain circumstances personal property at Rocky Flats would be disposed of as low-level waste rather than surveying it for radioactive contamination, trying to decontaminate it, and selling it at auction. Under such a scenario, it was entirely possible that, as alleged, new or usable excess property was disposed of instead of being processed for sale. However, despite our best efforts, we could not locate documentation supporting the disposition of the excess property in question. As a consequence, we could not determine whether the disposition actions were consistent with site property procedures that implemented this decision by the Department and Kaiser-Hill. DOE and Kaiser-Hill officials told us that the decision on how to dispose of excess property at Rocky Flats was made based on the cost of decontaminating property, the risk of releasing contaminated property, and the overall impact to the site closure schedule. Officials told us that the site had experienced problems with excess property that had previously been auctioned to the public. They referenced instances where auctioned excess property had to be recovered by the Government because of contamination and safety concerns. The officials said that, in order to eliminate the liability associated with releasing contaminated excess property, a decision was made that excess property stored within the secured zone where the 371/374 Building Cluster was located would be declared low-level waste and sent to a radioactive waste landfill.

We found that the disposal decision was incorporated into site closure procedures, which were approved by the Department. Specifically, the Rocky Flats Property Control Manual stated that the emphasis was on completing “expedited closure” of the site and that abandonment and destruction of property may be the most economical means of achieving closure of the facility. As such, the Property Control Manual provided for expedited property disposal activities and a streamlined disposal process, incorporating exemptions from certain provisions of Subchapter H of the DOE Property Management Regulations and Federal Property Management Regulations. The Property Control Manual specifically allowed for excess property from a nuclear facility that was “not free releasable based on process knowledge”¹ and that had a unit acquisition cost of less than \$5,000 to be treated as suspect contaminated property and disposed of as low level waste.

It was specifically alleged that the property in question came from various rooms in the 371/374 Building Cluster, which included several maintenance shops in Building 371. We determined that Buildings 371 and 374 were designated “Type 3” facilities, meaning that they contained significant radiological contamination. Further, the vast majority of items identified in the complaint would have had a unit acquisition cost of less than \$5,000. Therefore, under site procedures the vast majority of the items could have been treated as “suspect contaminated property” and disposed of as low level waste if they could not be released “based on process knowledge.”

It was also alleged that the Building 371 maintenance shops were in the “cold” nonradioactive portion of the building, and it was believed that these items would not have been “Not free releasable based on process knowledge” means that an official with knowledge of the management and/or use of excess property is unable to certify that the property is free to be released without radiological or other restrictions contaminated and could, therefore, have been made available for sale.

However, an official from the site subcontractor that handled property disposal told us that when the 371/374 Building Cluster came due for demolition, there was no one left at the site to certify that property was releasable based on process knowledge. This official also said that, based upon the company's experience, it would not have been cost effective to survey this property for radiological and hazardous material contamination and that, as a result, this property was disposed of as low-level waste. The official acknowledged that it was possible that some new property still in boxes was disposed of in this manner.

Department and contractor officials could not provide any documentation supporting: (1) the contention that certifications based on process knowledge could not be obtained for excess property items coming from the 371/374 Building Cluster; or, (2) that any formal analysis was done relating to whether or not it would have been cost effective to survey the excess property for radiological and hazardous material contamination. We were told that the determination of cost effectiveness was based on experience relating to the cost of the survey effort verses what the property would bring at auction.

In addition, Department and contractor officials were unable to provide any documentation describing the specific excess property items that were sent to the waste disposal site from the 371/374 Building Cluster, including the 371 maintenance shops. There were manifests for the shipments to the waste disposal facility, but the descriptions of materials on the manifests were general and did not identify specific excess property items. Consequently, we were unable to determine if the disposition path for the items identified in the allegation was consistent with the requirement in the Property Control Manual that items be under a \$5,000 acquisition cost limit. We did not corroborate the allegation, which we were informed was not based on first-hand knowledge, that an electrical subcontractor was allowed to remove some property from Rocky Flats. Our inquiries included interviews of Rocky Flats and property disposal subcontractor officials, and none had any knowledge of such removal occurring. We were told that the electrical subcontractor brought significant quantities of its own tools and equipment on site and that this property was removed by the subcontractor when its work was completed. We also asked a representative of the electrical subcontractor about this matter, and this official denied that the subcontractor removed any Rocky Flats property.

The expedited closure of Rocky Flats was the core objective of the contract between DOE and Kaiser-Hill. Documentation indicates that the DOE Headquarters Office of Procurement and Assistance Management accepted the elimination of excess property screening requirements. The Office also accepted that the expedited closure framework would necessitate that excess property be expeditiously disposed of because delays had "the potential to jeopardize the closure schedule and add millions of tax payer [sic] dollars to the project." Estimates in 1995 put the cost of closure of Rocky Flats between \$22 and \$36 billion over 70 years, whereas the expedited closure objective of the Kaiser-Hill contract reduced the expected cost to \$7 billion with closure in 2006.

CONCLUSION

The Department's decision regarding the disposition of the excess property identified in the allegation may or may not have been prudent from a financial perspective. Absent documentation supporting the approach taken by DOE and Kaiser-Hill, we are not in a position to opine on the appropriateness of these actions. We believe it may be beneficial to the success of

future closure activities for the Office of Environmental Management, in consultation with the Office of Procurement and Assistance Management, to use the Rocky Flats excess property disposal effort as a lessons-learned that could improve disposition processes at other DOE sites. This inspection was conducted in accordance with the “Quality Standards for Inspections” issued by the President’s Council on Integrity and Efficiency. Since we are not making any recommendations for corrective actions, a response to this report is not required. If you have any questions concerning this matter, please feel free to contact me at (202) 586-4109.

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Deputy Inspector General for Investigations and Inspections

cc: Deputy Secretary
Chief of Staff
Director, Office of Procurement and Assistance Management
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Rocky Mountain News

Justices send mixed signals in Flats whistle-blower case

By M.E. Sprengelmeyer, Rocky Mountain News
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WASHINGTON - U.S. Supreme Court justices sent mixed signals Tuesday in a Rocky Flats whistle-blower case that could decide how easy or worthwhile it will be for average folks to sue companies they suspect of defrauding the government.

The case goes back to 1986, when James Stone, a laid-off engineer at the former nuclear-weapons plant, told federal officials he thought the plant contractor, Rockwell International Corp., was putting the environment at risk because of the way it was handling nuclear and hazardous wastes.

Stone's report touched off a wider federal investigation, and in 1992 the company pleaded guilty to environmental violations and agreed to pay \$18.5 million of criminal fines.

In the meantime, after the case had gotten widespread media attention, Stone filed his own civil lawsuit in 1989, using a portion of the federal False Claims Act that allows average people to sue on behalf of taxpayers if they think the government is being defrauded.

After the federal government joined in a portion of the complaint, a jury returned verdicts against Rockwell on some charges, and courts ordered it to pay \$4.1 million damages.

In theory, whistle-blowers who file such lawsuits on behalf of the government can share in such awards, but Rockwell has disputed that, saying that Stone does not qualify as a so-called "original source" for the evidence behind the judgment.

The question is this: How much specific, firsthand evidence must a person have to meet that "original source" standard and qualify to share in the award?

The high court's decision, which might not be released for months, could make it easier to qualify, thus encouraging more whistle-blowers to sue, or clamp down on the definition of "original source," handing industry a big victory.

During oral arguments Tuesday, U.S. government lawyer Malcolm Stewart, assistant to the solicitor general, told justices he was in a unique position by arguing for the government to get less money while sharing the settlement with Stone.

He said the government interest is served by encouraging whistle-blowers and that it was the type of case Congress intended to encourage by enacting the law.



James Stone sued Rockwell in 1989, using the federal False Claims Act.

to decide who should be rewarded."

Scalia asked repeated questions echoing Rockwell attorney Maureen Mahoney's arguments that Stone's original complaint was vague and bore little relation to the final judgment, which was based on things that happened after he had left the company.

"The key question is what's the standard, and he has to have substantial knowledge," Mahoney told the court.

She said Stone capitalized on the "one little thing he knew," and although he predicted that problems with pipes could cause groundwater contamination, unrelated concrete issues led to the real hazards - and the judgment.

Being a "trigger" for an investigation that found those types of problems is not enough, Mahoney said. "He must have direct knowledge," she said.

Stone's attorney, Maria Vullo, said Mahoney was minimizing the role Stone played in spearheading the case and sounding warnings about the design of the waste storage areas.

Chief Justice John Roberts was skeptical that Stone's warnings about the design proved that Rockwell defrauded the government by taking payments while it concealed problems.

"All it says is (that) this design won't work," Roberts told Vullo. "There's a lot of things that don't work. That doesn't mean there's a fraud of the government."

Associate Justice Ruth Bader Ginsburg said there could be a problem in future cases if the court ruled against Stone.

If that happened, she said future whistle-blowers, which the court calls "relators," might have less incentive to join forces with the government.

That's because if people could only share in settlements for things they had the most direct, firsthand knowledge about, they might resist federal officials who want to pursue a case based on different charges they think they can prove.

"Why should the relator be punished for that good litigation practice?" Ginsburg said of cooperation.

Whistle-blowers' cut

- **The case:** Rockwell International Corp. vs. United States
- **The issue:** How much specific information must whistle-blowers have before qualifying as an "original source," giving them the ability to share in civil judgments against companies.
- **The origin:** In 1986, James Stone, an ex-engineer at the former Rocky Flats nuclear weapons plant, told the FBI and federal environmental officials he believed there were widespread violations at the plant. Rockwell was ordered to pay fines of \$18.5 million, and later more than \$4.1 million in response to a suit filed by Stone. The question is whether all the money should go to the government or whether Stone should get a share.
- **What's at stake:** If the U.S. Supreme Court defines "original source" quite strictly, it could mean that whistle-blowers would need more specific, firsthand knowledge of potential wrongdoing to share in such lawsuits.

denver & the west

Tepee finds new home in Cold War museum

By Ann Schrader

Denver Post Staff Writer

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"A POWERFUL AND CONTROVERSIAL SYMBOL" | In the late 1970s, a revolving group of activists, including Beat poet Allen Ginsberg, camped near the nuclear-trigger factory. (Post file / Ernie Leyba)

For nine months, a tepee pitched on railroad tracks leading into Rocky Flats was a rallying symbol to those seeking to close the nuclear-weapons facility. The tepee also was home from April 1978 to January 1979 to a revolving group of activists, including Denver native Patrick Malone.

"It was a car-stopper," said Malone, a member of the Rocky Flats Truth Force who now lives in Atlanta. The tepee idea "wasn't the result of pre-planning as much as simply adjusting as needed." Malone figures he lived in the tepee for 180 of its 270-day existence, sometimes with people like Beat poet Allen Ginsberg, who wrote "Plutonium Ode" about the Rocky Flats protests. The tepee was "a powerful and controversial symbol, and we hope to re-create that," said Kim Grant, president of the Rocky Flats Cold War Museum board. On Saturday, Malone will present the tepee to the museum during an event that will feature talks by Malone and other activists who protested Rocky Flats' role in the Cold War.

The museum aims to document facets of Rocky Flats from the perspectives of employees, protesters and government agencies. Many artifacts come from more than 100 buildings that were decontaminated and destroyed as part of the \$7 billion Superfund cleanup completed in late 2005.

About 6,000 acres of the 6,500-acre Rocky Flats site will become a wildlife refuge next year.

In March 2006, local developer Charles Church McKay, whose family owned the land that the federal government bought to build the plant, donated 1.4 acres for the museum. The donation is contingent on the museum's being financed and ready for groundbreaking by Jan. 1, 2008. Since it was incorporated in 2001, the museum has raised more than \$300,000 from Kaiser-Hill, which performed the cleanup; the Colorado State Historical Fund; and private individuals. It's expected to cost \$13 million.

"I never thought they'd close the plant, not in my lifetime," said Malone. As for the tepee ending up in a museum, he said, "I'm excited as heck, personally."