

ROCKY FLATS STEWARDSHIP COUNCIL

P.O. Box 17670
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www.rockyflatssc.org

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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, February 5, 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. Election of Stewardship Council 2007 Officers
 2. Consent Agenda
 - o Approval of meeting minutes and checks
 3. Approval of letter re: worker compensation claims
 4. Executive Director's Report
- 8:50 AM Public Comment
- 8:55 AM EPA Briefing on Deleting Rocky Flats and Adjacent Lands from CERCLA National Priorities List (briefing memo attached)
- o EPA is in the process of deleting from the CERCLA National Priorities List off-site lands and the lands DOE will transfer to the U.S. Fish and Wildlife Service. The lands DOE will retain will not be deleted at this time.
 - o EPA will brief on the process, including the timeline for deletion and what deletion means from a regulatory standpoint.
- 9:15 AM Review Draft Washington, D.C. Talking Points (briefing memo attached)
- o As discussed at the January 2007 meeting, a few Board members and the Executive Director will meet in February in Washington, D.C. with Congressional staff and DOE staff.
 - o To ensure that the message these members and staff will carry reflect the position and policies of the Stewardship Council Board, the Board will approve talking points for their meetings.

Action Item: Approve talking points

- 9:30 AM Host Legacy Management Quarterly Meeting (briefing memo attached)
- Legacy Management (LM) will brief the Stewardship Council on site activities for the third quarter of 2006, July through September.
 - LM has posted the report on their website and will provide a summary of activities to the Stewardship Council.
 - Activities included surface water monitoring, groundwater monitoring, air monitoring, ecological monitoring, and site operations (inspections, maintenance, etc.).

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: May 7, 2007
August 6, 2007

Business Items

- Cover memo
- January 8, 2007, draft board meeting minutes
- List of Stewardship Council checks
- Draft letter re: worker compensation
- Rocky Flats Coalition letter re: worker compensation

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MEMORANDUM

TO: Board

FROM: David Abelson

SUBJECT: Business Items

DATE: January 25, 2007

In addition to approving the consent agenda (approval of minutes and checks), the Board will need to elect officers for 2007 and approve a letter to the Advisory Board on Radiation and Worker Health.

Election of officers

The first order of business will be to elect the officers for 2007. In accordance with the Stewardship Council bylaws, "the Chair, Vice Chair, and Secretary/Treasurer shall be elected annually by the Board of Directors. The terms shall commence at the first meeting of the Board held on or after February 1 of each year." There are no limitations as to the number of terms one can serve.

At the January meeting the Board agreed that if you are interested in serving as one of the officers you should let Lorraine Anderson know prior to the meeting. As of the drafting of this memo Lorraine is in Australia through mid-February, so if you are interested in serving in this capacity and have not communicated with Lorraine, please contact Karen Imbierowicz.

Letter re: Rocky Flats worker compensation

At the January meeting the Board expressed interest in supporting former Rocky Flats workers in their bid to achieve special cohort status under the Energy Employees Occupational Illness Compensation Program Act (EEOIPCA). The EEIOPCA, which was approved by Congress in 2001, compensates former DOE workers who suffer from any one of 22 cancers. The program has been fraught with problems, from DOE being unable to successfully manage a key component of the program to data reliability. Special cohort status seeks to rectify such problems by simplifying the process and altering the causal links necessary to achieve compensation under the action.

In 2005 Rocky Flats workers submitted an application to be designated a special cohort class under the EEOIPCA. Senator Salazar and Representatives Udall and Beauprez also introduced legislation that would classify Rocky Flats workers as a special cohort class. The Coalition issued a letter in support of the legislation (attached).

The federal entities charged with ruling on the petition have yet to rule. The Advisory Board on Radiation and Worker Health was likely going to rule on the petition at its February 7-9, 2007, meeting, but Sen. Salazar and Reps. Udall and Perlmutter issued a letter (See "Letter and News Clips" at end of Board packet) asking for a delay until such time that questions regarding data reliability could be appropriately addressed. In part based on this letter, the Advisory Board agreed to delay consideration of the Rocky Flats petition from its February meeting until its May 2-4, 2007, meeting in Denver.

The attached draft letter expresses concerns about the ongoing delays in implementing the program and in ruling on the workers' petition and asks that the Advisory Board not deny the petition if the outstanding issues regarding data reliability are not addressed and if missing records are not uncovered. This approach tracks the direction established by our Congressional delegation. (FYI, while Senator Allard did not sign the letter, he has expressed strong support for the workers.)

Rep. Udall's staff advises me that we should send the letter now and then read it at the hearing in May.

Thanks.

Rocky Flats Stewardship Council Board Meeting Minutes
Monday, January 8, 2007
8:30 a.m. – 11:00 a.m.
Jefferson County Airport, Broomfield

Board members in attendance: Lorraine Anderson (Director, Arvada), Shaun McGrath (Director, City of Boulder), Matt Jones (Alternate, City of Boulder), Lori Cox (Director, Broomfield), Mike Bartleson (Alternate, Broomfield), Bob Nelson (Alternate, 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), 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), Jennifer Bohn (accountant).

Attendees: Carl Spreng (CDPHE), Mark Aguilar (EPA), Rob Henneke (EPA), Dean Rundle (USFWS), Steve Berendzen (USFWS), Amy Thornburgh (USFWS), Doug Young (Rep. Udall), Jeanette Alberg (Sen. Allard), Shirley Garcia (Broomfield/Westminster), Linda Kaiser (Stoller), John Rampe (DOE), Frazer Lockhart (DOE), Scott Surovchak (DOE-LM), Bob Darr (Stoller/DOE-LM).

Convene/Agenda Review

Vice Chair Karen Imbierowicz convened the meeting at 9:05 a.m. Due to poor road conditions, the Board was one member short of the quorum needed for voting. Therefore, the agenda was modified so that items requiring Board action were postponed until later in the meeting.

Executive Director Report

- David began by noting that while 2006 was a year of transition and working to complete the regulatory closure process, 2007 will be a time for the Stewardship Council to further identify and strengthen its long-term role.
- Some of the big issues the Stewardship Council will address in 2007 will likely include the CERCLA 5-year review, completion of the regulatory closure process, the EPA de-listing process, possible re-introduction of a bill by Representative McKinley (which may necessitate a special meeting), changes within DOE and State personnel (due to changes in administrations), communicating with the new Governor and CDPHE, and also beginning to work with new U.S. Representative Perlmutter.
- David noted that Board Members need to be aware of the different interests and priorities of the different parties bring to the Stewardship Council. He reminded the members to be mindful of these differences. He also pointed out that the 2007 work plan includes a

provision regarding an annual assessment of the Stewardship Council's progress. Currently that assessment is scheduled for May. This assessment is meant to allow the members to look at how things are working, and if the priorities still making sense.

- The Stewardship Council has received official responses to its letter dated November 6, 2006, regarding communication issues for downstream communities. The responses from DOE, EPA and CDPHE have been distributed, and David feels that they were very positive.
- David moved on to a discussion about scheduling meetings for Stewardship Council members in Washington, D.C. with members of Congress and DOE. He is looking at two dates, each based around meetings that several members will already be attending. The first is Friday, February 16, after the ECA meeting. Lorraine and David will already be there for ECA, and other Board members could attend as well. The other date would be March 13-15, after the National League of Cities meeting. The Board needs to figure out who would be available to attend meetings on either of these dates. Lori Cox noted that the Wednesday after the National League of Cities meetings is their official lobby day. David noted that the cities should have enough people attending to split up and have different meetings. Shaun McGrath said that he is available on that Wednesday afternoon, but no other time. Kim Grant said he prefers the February date due to his schedule.

David asked the Board members if they would be comfortable with approving a message and talking points, and then allowing those who can attend at the chosen time be responsible for delivering it. Jeannette Hillery agreed that this would be efficient way of doing it. Shaun said he was also comfortable with it, and asked if there was any need for meetings at both times. Karen Imbierowicz said she would be there during the February meeting. There was a general agreement that the Stewardship Council will schedule some meetings during both timeframes for whoever is there at the time.

Consent Agenda

A quorum of voting members was now present. The Board acted on the Consent Agenda which included:

- Approval of Meeting Minutes and Checks
- Resolution Regarding 2007 Meeting Schedule and Notice Provisions

Lori Cox moved to approve the consent agenda. The motion was seconded by Karen Imbierowicz. The motion passed 9-0. (Arvada, Boulder County and the Rocky Flats Cold War Museum were not present).

Public Comment

Mark Aguilar (EPA) spoke about a recent article written by Leroy Moore with the Rocky Mountain Peace and Justice Center which stated that EPA had already de-listed Rocky Flats from the CERCLA National Priorities List (NPL). Mark wanted to clarify that this statement was inaccurate. Prior to de-listing, EPA will go through a 30-day public comment period.

However, the Stewardship Council will have even longer to comment, as the 'Notice of Intent to Delete' will be shared within a couple weeks. Since DOE must still complete construction of fencing, the timing will partially depend on weather issues. Rik Getty asked if Mark would talk briefly about the Peripheral OU. David Abelson asked instead if Mark would be willing to provide a more thorough briefing at the next meeting. Mark said he would be happy to give a briefing.

Barb Vander Wall noted that since this is a special meeting, the first official meeting of year will be in February. Prior to that meeting, Barb will request that all members send their list of designated members to her office. Also, at the February meeting, Northglenn will take over the rotating voting seat from Golden, and the Stewardship Council will be electing officers for the year. Shaun McGrath asked for a review of the process that will be used to elect members. Barb said they will simply ask for nominations and then vote. Lorraine asked if there should be a nominating committee. She then asked anyone who is interested to give her a call.

Approve Fiscal Year 2007 Work Plan

The draft work plan was initially reviewed by the Board at the November meeting. A few non-substantive minor changes were made following the meeting. These minor changes helped clarify which actions fall under DOE and which fall under USFWS. This change was made in order to better identify in the work plan which issues fall under the DOE grant and which need to be paid for by other funds.

Shaun McGrath directed the group to page 3, bullet #10, regarding working with DOE on access restrictions. He asked what the intent of this section was. David said it could be a multitude of things. It could be working with DOE on signs or fencing, problems with signs, trespassing, or remedy effectiveness. He added that this was mostly a DOE issue, but they kept it under the USFWS section as well. Shaun stated his concern that this language was so flexible that one could read it to include working to open the DOE lands to broader access. Shaun recognized that was not the intent, but asked to include a clarification. David noted that broader access is prohibited under the Legacy Management Agreement, so the work plan language would be ruling out something that is already prohibited. But, he said he would add language stating that the Stewardship Council will 'work with DOE to restrict access, as included in RFLMA...'

Shaun McGrath moved to approve the 2007 work plan as amended. The motion was seconded by Lori Cox. The motion passed 11-0 (Boulder County was not in attendance).

Letter to State Legislators

In May, following the Stewardship Council's decision to oppose Rep. McKinley's bill, the Board identified a need to communicate with the state legislature prior to the 2007 session. The plan the Board identified was to write to 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. David asked if there were any questions about the process that was used. There were none.

Karen Imbierowicz moved to approve the letter as written. The motion was seconded by Jo Ann Price. The motion passed 11-0 (Boulder County was not in attendance).

USFWS and DOE Update on Minerals Acquisition and Entrance Signage for Rocky Flats

Negotiations over acquisition of certain minerals rights underlying the western portion of Rocky Flats are progressing. USFWS and DOE were asked to update the Board on the negotiations, as well as work on entrance signs for Rocky Flats.

Dean Rundle (USFWS) began by introducing Steve Berendzen, who is the new Project Leader starting today for Rocky Flats, the Rocky Mountain Arsenal and Two Ponds. Dean went on to note that the law creating the Rocky Flats National Wildlife Refuge requires DOE to transfer ownership within 30 days of EPA's release of the Notice of Intent to Delete, and the associated 30-day public comment period. The agencies are currently in the process of getting all of the legal documentation in order. Dean is confident that the lands for the Refuge will be transferred to USFWS following the EPA process. Refuge signs will be posted within 60 days after transfer of ownership. However, since there is no operating budget, the Refuge will not be open to the public but will instead go into a caretaker status. Caretaker activities will include law enforcement to prevent trespass, minimal endangered species monitoring, and weed management.

In terms of entrance signage for the refuge, USFWS has received public input and revised language is being sent to the Regional Director for approval. Dean hopes that it will be released this month on the website, along with the public comments. Dean said that they received great input, and that they have made significant changes, especially with regard to language regarding the Cold War. They also replaced the 'Is it Safe' section with 'What about Residual Contamination'.

Dean also said that the agencies are making good progress on acquisition of mineral rights, but that since this is on the agenda for later in the meeting, he would defer further discussion until then.

Kim Grant asked if there would be an operating budget in FY08. Dean said it was pretty unlikely because USFWS is in a downsizing mode. For example, they are in the process of reducing the regional office by 10%. Kim followed up by asking if the fencing and signage creation will go forward. Dean said they will post the boundary signs as the agency has already acquired them. Also, they still have an interagency agreement with DOE and some funding left from 2004. Amy Thornburg is funded through end of year. The Comprehensive Conservation Plan (CCP) states that, when funding becomes available, the Lindsey Ranch trail will be the first to be developed.

David Allen asked if USFWS will be doing any planning before an operating budget is secured. Dean noted that a full-time law enforcement officer is assigned to the site. Also, the new site manager will make the decision about any further planning. Future trail locations are pretty well

laid out in the CCP, but will require some additional planning before implementation. Dean stated that he knows that many in the community have an interest in working together on this issue, and that they will have this chance.

Jeanette Alberg asked if it was correct that the CCP will not be implemented until there is an operating budget. Dean said that would be his recommendation. He also noted that the Rocky Flats CCP won the Plan of the Year award within USFWS for FY06, which he said was a prestigious accomplishment. The jury was made up of professional planners in both government and the private sector. Dean said that an operating budget will come eventually, and USFWS will be ready to implement it.

Kim Grant asked if there was there a similar period of caretaker status at the Arsenal. Dean said that the statutes are different for the two sites. USFWS was required to manage the Arsenal as a Refuge during cleanup. This provision was not in the Rocky Flats Refuge law. Also, the Army funded the first ten years at the Arsenal.

Ron Hellbusch shared that he has been involved with the National Wildlife Refuge Association for some time, and that these funding problems are being seen nationwide. He suggested that, in the future, perhaps the Stewardship Council could discuss ways to provide advocacy and support for the Refuge when the Federal government cannot. He also noted that a coalition (including Rep. Udall) is being formed in Congress to address these issues.

Lorraine Anderson stated that USFWS has just a small amount of funding and that it is spread very thin nationally. She hopes the community and agencies will be able to work together to resolve issues and help make the Refuge a good asset for this area. Dean Rundle added that he has no doubt that USFWS will be able to take care of the land, and that it is not unusual for new refuges to not have operating budgets for an initial 3-5 year period. He offered his thanks to everyone and added that he looks forward to working with the community as the Refuge is developed. He concluded by stating that he is not worried about Rocky Flats, because of the dedication of the agencies and community, and because there is a great new refuge manager.

Steve Berendzen noted that he is looking forward to working with everyone and learning about the issues at this site.

Next, John Rampe provided an update on the acquisition of mineral rights at Rocky Flats. The 2006 National Defense Authorization Act identified four parcels to be acquired. However, the owner of one of the parcels, Charlie McKay, has declined to sell. The legislation requires DOE to buy the parcels at fair market value from willing sellers. The Trust for Public Lands (a non-profit organization) has been working with DOE and the parcel owners to negotiate the sales. The remaining three parcels comprise 85% of the land DOE was interested in. DOE closed on one parcel on December 29, 2006, which included 160 acres in the western buffer zone. Negotiations on the other two parcels are proceeding. Trust for Public Lands is working with gravel operators who hold leases in order to try to clear the leases for a purchase. According to John Rampe, DOE would prefer that leases be cleared before taking title, although is not a requirement. As of last week, DOE put the remainder of the allotted \$10M into the Department

of Interior's Natural Resources Damages Fund. The Natural Resource Trustees will work to make acquisitions and transfer funding.

Matt Jones asked what would happen if the McKay property becomes available in the future. John responded that the parties would have to meet and authorize the purchase, and would then be able to withdraw from the fund to complete the purchase. He added that there is a timing issue and money may not be available in the future if it is spent on other projects.

Ron Hellbusch asked for clarification that one purchase has been completed. John said that it had and added that DOE is expecting to complete the other two shortly. Ron asked how much land was involved in the first transaction. John said it was about 200-300 acres.

Jeanette Alberg noted that there seems to be a preference by the Trustees to prioritize these purchases if they became available in future. Also, the money in the fund is intended to be spent on Rocky Flats damages specifically and any withdrawals must be approved by the Trustees. A new agreement was just signed by agencies to guide the process to deposit and withdraw money from the trust fund. Also, the Trustees are required to work with the local community in deciding how to spend the money.

Lorraine Anderson asked how much of the \$10 million will be left in the fund. John Rampe said that, after the pending transactions, there will be a little less than \$5 million. Lorraine asked if it will be set up like an endowment so that only interest will be spent. John Rampe said that while the fund is in an interest-bearing account it is not the intent to live off the interest. The trustees hope to meet with the public to identify specific projects on which to spend the money.

Discuss and Approve Comments on the Rocky Flats Legacy Management Agreement (RFLMA)

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 2006 meetings. This discussion will focus on addressing Board members' questions and approval of comments on the document

David Abelson noted that this letter came about from multiple sources. There was a staff assessment of the document, and also Shirley Garcia organized a meeting in mid-November to go through the agreement. The intent was to try to better understand the agreement and start flagging issues that would likely be of concern and to resolve them proactively. Staff also went back and looked at the matrix of communication recommendations that Broomfield developed and analyzed the extent to which the RFLMA captured these recommendations.

David concluded that, in looking back at the recommendations of all past stakeholder efforts, this is really a good agreement. It successfully maintains the consultative process that has been working here and most public issues are captured in this document. These include water monitoring, and communication and decision processes. While some changes can and should be made to make the agreement even better, if these changes are not made, David still believes it is

a good document. David sees no fundamental flaws. The objective for this meeting is to get the letter approved, since the comment period ends before the next meeting.

Lori Cox stated that Broomfield appreciates David's work on this letter. She said the letter covers all of their concerns, and they are very happy with it.

Jo Ann Price added that Westminster also thinks it is a very good letter and agreement.

Jo Ann Price moved to approve the comments on the RFLMA. The motion was seconded by Lori Cox. The motion passed 9-0. (Boulder County was not in attendance)

After the vote, Jo Ann Price asked about the section on Page 4 referring to the quarterly technical meetings. She was curious, since the Stewardship Council knew that it wanted these meetings, why it was not in letter. David said it was partly due to a timing issue. This letter was drafted before Christmas, and two of the three letters from the agencies received subsequently. DOE's letter stated that DOE-LM will be available after the public meetings as requested. David also said that in the future perhaps these meetings will not be necessary. Jeannette Hillery asked Jo Ann what she would like the letter to say. Jo Ann responded that, while she was not sure the letter was specific enough, she was fine with it as written.

Public Comment

Jeanette Alberg announced that the Radiation Advisory Board may meet in Denver February 7-9, 2007. At these meetings, they may consider the Rocky Flats Special Cohort petition, which was submitted about two years ago by the Steelworkers. It will be known later this week if this topic makes it onto the agenda. If so, there will be a verbal public comment period at the meeting. She will email all relevant information to David for the Stewardship Council members.

David Abelson noted that, although former worker issues have not been brought to the Board recently, they are on the Stewardship Council's work plan. Staff has been tracking the issues and believe that the Congressional offices are really doing a good job assisting the workers as much as possible. Karen Imbierowicz asked if it would make sense for the Stewardship Council to send a letter to the Radiation Advisory Board in advance of the upcoming meetings. Jeanette Alberg and Doug Young both responded that this would be a good thing to do. Doug added that, while sending a letter would be very helpful, having someone from this group could read a statement from the Stewardship Council in person would be even better. David will talk with Doug and Jeanette and figure out the best way to proceed. The Stewardship Council will be able to approve a letter and/or comments at the February meeting. Lorraine pointed out that she will miss the next Stewardship Council meeting.

Updates/Big Picture Review

David noted that when USFWS releases the revised Refuge sign language, he will recommend that the Stewardship Council send a second letter to the State legislators. This letter will update them on the progress and changes, and provide this group's opinion and assessment of the changes.

The next meeting will be February 5, 2007. Topics will include officer elections, hosting the DOE Quarterly Public Meeting, an EPA briefing on the Rocky Flats NPL de-listing process, and the Stewardship Council's D.C. meeting packet.

The following meeting will be on May 7, 2007.

The meeting was adjourned at 10:20 a.m.

Respectfully submitted by Erin Rogers.

3:52 PM

01/23/07

Rocky Flats Stewardship Council
Check Detail
 December 20, 2006 through January 23, 2007

Type	Num	Date	Name	Account	Paid Amount	Original Amount
Check		12/31/2006		CASH-Wells Fargo-Operating		-2.00
				Admin Services-Misc Services	-2.00	2.00
TOTAL					-2.00	2.00
Check	1123	12/21/2006	UCN	CASH-Wells Fargo-Operating		-14.77
				Telecommunications	-14.77	14.77
TOTAL					-14.77	14.77
Check	1124	12/21/2006	Office Depot Credit Plan	CASH-Wells Fargo-Operating		-22.78
				Supplies	-22.78	22.78
TOTAL					-22.78	22.78
Check	1125	12/21/2006	Pitney Bowes, Inc.	CASH-Wells Fargo-Operating		-153.60
				Postage	-153.60	153.60
TOTAL					-153.60	153.60
Check	1126	12/21/2006	Seter & Vander Wall, P.C.	CASH-Wells Fargo-Operating		-888.38
				Attorney Fees	-888.38	888.38
TOTAL					-888.38	888.38
Bill Pmt...	1127	1/7/2007	Jennifer A. Bohn	CASH-Wells Fargo-Operating		-315.00
Bill	0699	12/31/2006		Accounting Fees	-315.00	315.00
TOTAL					-315.00	315.00
Bill Pmt...	1128	1/7/2007	Crescent Strategies, LLC	CASH-Wells Fargo-Operating		-9,426.39
Bill	12/31...	12/31/2006		Personnel - Contract	-8,900.00	8,900.00
				Postage	-138.00	138.00
				Printing	-175.00	175.00
				Telecommunications	-127.06	127.06
				TRAVEL-Local	-86.33	86.33
TOTAL					-9,426.39	9,426.39
Check	1129	1/7/2007	Excel Micro	CASH-Wells Fargo-Operating		-10.75
				Telecommunications	-10.75	10.75
TOTAL					-10.75	10.75
Check	1130	1/7/2007	Qwest	CASH-Wells Fargo-Operating		-26.15
				Telecommunications	-26.15	26.15
TOTAL					-26.15	26.15
Check	1131	1/7/2007	Qwest	CASH-Wells Fargo-Operating		-71.91
				Telecommunications	-71.91	71.91
TOTAL					-71.91	71.91
Bill Pmt...	1132	1/23/2007	Seter & Vander Wall, P.C.	CASH-Wells Fargo-Operating		-202.64

3:52 PM

01/23/07

Rocky Flats Stewardship Council
Check Detail
December 20, 2006 through January 23, 2007

<u>Type</u>	<u>Num</u>	<u>Date</u>	<u>Name</u>	<u>Account</u>	<u>Paid Amount</u>	<u>Original Amount</u>
Bill	50988	12/31/2006		Attorney Fees	-202.64	202.64
TOTAL					-202.64	202.64
Bill Pmt...	1133	1/23/2007	Blue Sky Catering, Inc.	CASH-Wells Fargo-Operating		-225.00
Bill	504	1/8/2007		Misc Expense-Local Government	-225.00	225.00
TOTAL					-225.00	225.00
Bill Pmt...	1134	1/23/2007	UCN	CASH-Wells Fargo-Operating		-7.78
Bill		12/31/2006		Telecommunications	-7.78	7.78
TOTAL					-7.78	7.78

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February ____, 2007

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

Dear Dr. Ziemer,

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

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

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

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

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

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

Sincerely,

Karen Imbierowicz
Vice Chairman

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

Rocky Flats Coalition of Local Governments

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April 8, 2005

The Honorable Mike Enzi, Chairman
The Honorable Edward Kennedy, Ranking Member
Senate Committee on Health, Education, Labor, and Pensions
428 Dirksen Senate Office Building
Washington, DC 20510-6300

RE: S. 585, "The Rocky Flats Special Exposure Cohort Act"

Dear Chairman Enzi Ranking Member Kennedy:

The Rocky Flats Coalition of Local Governments is writing in support of S. 585, "The Rocky Flats Special Exposure Cohort Act" and requests that the Committee on Health, Education, Labor, and Pensions schedule a hearing on this time-sensitive legislation.

This bill addresses a fundamental flaw in the Energy Employees Occupational Illness Compensation and Program Act (EEOICPA) which has prevented current and former workers at the Department of Energy's Rocky Flats site from being compensated for illnesses contracted while in the service of their country. Through the EEOICPA, Congress intended to help take care of these sick workers and their families. However, as Congress has become well aware, there have been numerous problems in implementing the EEOICPA, particularly in reconstructing worker radiation exposure received while working at Rocky Flats. These problems have resulted, in part, in workers being unable to prove their illness was a direct and proximate result of their work at Rocky Flats.

Under this bill the hurdle of proving causation would be eliminated as employees who have contracted one of the 22 cancers identified in the EEOICPA would automatically qualify for compensation. In approving this legislation, Congress would therefore not be creating new benefits, but rather would be ensuring that those for whom these benefits were intended would receive just compensation.

The Rocky Flats Coalition of Local Governments consists of elected officials from the seven municipal governments that surround the Rocky Flats site. These workers are our constituents and were at ground zero in helping to win the Cold War. Just as we have always supported the Rocky Flats workers, we have also supported Congress's efforts to address their ongoing health needs. We remain concerned that worker benefits continue to be delayed, especially as closure of Rocky Flats is rapidly approaching.

We therefore respectfully request that the Committee provide a hearing on this legislation and we urge swift passage of S. 585.

Sincerely,

/s/

Shaun McGrath
Chairman

Cc: Senator Ken Salazar
Senator Wayne Allard
Representative Mark Udall
Representative Bob Beauprez
Samuel Bodman, Secretary of Energy
Elaine Chao, Secretary of Labor
Michael Leavitt, Secretary of Health and Human Services
Rocky Flats Citizens Advisory Board

EPA Briefing on Deleting Rocky Flats and Adjacent Lands from CERCLA National Priorities List

- Cover memo
- Draft EPA Notice to Delete

Washington, DC Talking Points

- Cover memo
- Draft Talking Points

Legacy Management Quarterly Meeting

- Cover memo

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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: EPA Briefing on CERCLA Deletion
DATE: January 26, 2007

I have scheduled 20 minutes for Mark Aguilar (EPA) to brief the Board on his agency's action to delete from the CERCLA National Priorities List (NPL) off-site lands and the lands DOE will transfer to USFWS for use as the Rocky Flats National Wildlife Refuge. The NPL is the list of hazardous waste sites eligible for long-term remedial action under the federal CERCLA (Superfund) program. EPA regulations outline a formal process for assessing hazardous waste sites and placing them on the NPL, as well as removing these sites from the NPL.

Rocky Flats was placed on the NPL on October 4, 1989. CERCLA (along with the hazardous waste law, RCRA) provided the legal basis for remediating Rocky Flats. EPA may delete a site from the NPL if it determines that no further response action is required to protect human health or the environment. Partial deletion, such as EPA will undertake at Rocky Flats, is also permissible. In order to delete, one of the following criteria must be met:

http://www.epa.gov/superfund/programs/npl_hrs/nploff.htm

- EPA, in conjunction with the State, has determined that responsible or other parties have implemented all appropriate response action required.
- EPA, in consultation with the State, has determined that all appropriate responses under CERCLA have been implemented and that no further response by responsible parties is appropriate.
- A Remedial Investigation/Feasibility Study has shown that the release poses no significant threat to public health or the environment and, therefore, remedial measures are not appropriate.

CERCLA regulations establish the following steps regarding deletion from the NPL (40 CFR Sec. 300.425):

...

(e) Deletion from the NPL. Releases may be deleted from or recategorized on the NPL where no further response is appropriate.

(1) EPA shall consult with the state on proposed deletions from the NPL prior to developing the notice of intent to delete. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria has been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

(2) Releases shall not be deleted from the NPL until the state in which the release was located has concurred on the proposed deletion. EPA shall provide the state 30 working days for review of the deletion notice prior to its publication in the Federal Register.

(3) All releases deleted from the NPL are eligible for further Fund-financed remedial actions should future conditions warrant such action. Whenever there is a significant release from a site deleted from the NPL, the site shall be restored to the NPL without application of the HRS.

(4) To ensure public involvement during the proposal to delete a release from the NPL, EPA shall:

(i) Publish a notice of intent to delete in the Federal Register and solicit comment through a public comment period of a minimum of 30 calendar days;

(ii) In a major local newspaper of general circulation at or near the release that is proposed for deletion, publish a notice of availability of the notice of intent to delete;

(iii) Place copies of information supporting the proposed deletion in the information repository, described in §300.430(c)(2)(iii), at or near the release proposed for deletion. These items shall be available for public inspection and copying; and

(iv) Respond to each significant comment and any significant new data submitted during the comment period and include this response document in the final deletion package.

(5) EPA shall place the final deletion package in the local information repository once the notice of final deletion has been published in the Federal Register.

As Mark will explain, the lands DOE will retain will not at this time be deleted from the NPL. In the meantime, attached is EPA's draft notice to delete that will soon be placed in the *Federal Register*.

Please let me know what questions you have.

333ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-SFUND-1987-0002; FRL-XXXX-X]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent for partial deletion of the Rocky Flats Plant from the National Priorities List; request for comments.

SUMMARY: The United States Environmental Protection Agency (EPA) Region 8 announces its intent to delete the Peripheral Operable Unit (OU) and Operable Unit 3 (OU 3), also referred to as the Offsite Areas, encompassing approximately 25,420 acres, of the Department of Energy (DOE) Rocky Flats Plant from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR Part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Rocky Flats means the property owned by the United States Government, formerly known as the Rocky Flats Plant, Rocky Flats Site, or the Rocky Flats Environmental Technology Site (RFETS), as identified in Figure 1. The Rocky Flats Plant is divided into the Central and Peripheral Operable Units (Figure 2) which contain 1,308 and 4,933 acres, respectively, and OU 3 (Figure 3) which contains approximately 20,480 acres.

EPA bases its proposal to delete the Peripheral OU and OU 3 of the Rocky Flats Plant on the determination by EPA and the State of Colorado, through the Colorado Department of Public Health and Environment (CDPHE), that all appropriate actions under CERCLA have been implemented to protect human health, welfare and the environment and that no further response action by responsible parties is appropriate.

This partial deletion pertains to the surface media (soil, surface water, sediment) and subsurface media, including groundwater, within the Peripheral OU and OU 3 of the Rocky Flats Plant. The Central OU will remain on the NPL and is not being considered for deletion as part of this action.

DATES: Comments must be received on or before [insert date 30 days from date of publication in the Federal Register].

ADDRESSES: Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-1989-0011, by one of the following methods:

- <http://www.regulations.gov> . Follow on-line instructions for submitting comments.
- Email: henneke.rob@epa.gov.
- Fax: 303-312-6961
- Mail: Rob Henneke, Community Involvement Coordinator (8OC), U.S. EPA, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129.
- Hand delivery: 1595 Wynkoop Street, Denver, Colorado 80202-1129. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA-HQ-SFUND-1989-0011. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, not through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

DOCKET: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials may be accessed at the following locations during specified hours of operation. The U.S EPA Region 8 Docket Facility, Regional Records Center, 1595 Wynkoop Street, Denver, Colorado 80202-1129, is open from 8:00 a.m. to 4:00 p.m. by appointment, Monday through Friday, excluding legal holidays. The EPA Docket telephone number is 303-312-6734. The DOE Rocky Flats Plant Docket Facility is located at Front Range Community College, 3705 112 Avenue, Westminster, Colorado, 80030. The Rocky Flats Plant Docket Facility is open from 9:00 am to 5:00 pm, Monday through Thursday and 10:00 am to 5:00 pm, Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Rob Henneke, Community Involvement Coordinator (8OC), U.S. Environmental Protection Agency Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129; telephone number: 1-800-227-8917 or (303) 312-6734; fax number: 303-312-6961; email address: henneke.rob@epa.gov.

SUPPLEMENTARY INFORMATION:

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- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Intended Partial Site Deletion

I. Introduction

EPA Region 8 announces its intent to delete the Peripheral OU and OU 3 of the Rocky Flats Plant, Jefferson and Boulder Counties, Colorado, from the National Priorities List (NPL) and requests comment on this proposed action. The NPL constitutes Appendix B of the NCP, 40 CFR Part 300, which EPA promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. 9605. EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. Sites on the NPL may

be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). This partial deletion of the Site is proposed in accordance with 40 CFR 300.425(e) and Notice of Policy Change: Partial Deletion of Sites Listed on the NPL (60 FR 55466 (November 1, 1995)). As described in 40 CFR 300.425(e)(3), portions of a site deleted from the NPL remain eligible for further remedial actions if warranted by future conditions.

EPA will accept comments concerning its intent for partial deletion of the Rocky Flats Plant for thirty days after publication of this notice in the *Federal Register*.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this proposed partial deletion. Section IV discusses the Peripheral OU and OU 3 of the Rocky Flats Plant and explains how it meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate to protect public health or the environment. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

Section 300.425(e)(1)(i). Responsible parties or other persons have implemented all appropriate response actions required;

Section 300.425(e)(1)(ii). All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

Section 300.425(e)(1)(iii). The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

A partial deletion of a site from the NPL does not affect or impede EPA's ability to conduct CERCLA response activities for portions not deleted from the NPL. In addition, deletion of a portion of a site from the NPL does not affect the liability of responsible parties or impede agency efforts to recover costs associated with response efforts. DOE will be responsible for all future remedial actions required at the area deleted if future site conditions warrant such actions.

III. Deletion Procedures

Upon determination that at least one of the criteria described in Section 300.425(e) of the NCP has been met, EPA may formally begin deletion procedures. The following procedures were used for this proposed deletion of the Peripheral OU and OU 3 of the Rocky Flats Plant from the NPL:

- (1) DOE has requested the partial deletion and has prepared the relevant documents.
- (2) The State of Colorado, through CDPHE, has concurred with publication of this notice of intent for partial deletion.
- (3) Concurrent with this national Notice of Intent for Partial Deletion, a local notice has been published in a newspaper of record and has been distributed to appropriate federal, State, and local officials, and other interested parties. These notices announce a thirty day public comment period on the deletion package, which ends on [insert date thirty days from date of publication in the Federal Register], based upon publication of this notice in the *Federal Register* and a local newspaper of record.
- (4) EPA has made all relevant documents available at the information repositories listed previously for public inspection and copying.

Upon completion of the thirty calendar day public comment period, EPA Region 8 will evaluate each significant comment and any significant new data received before issuing a final decision concerning the proposed partial deletion. EPA will prepare a responsiveness summary for each significant comment and any significant new data received during the public comment period and will address concerns presented in such comments and data. The responsiveness summary will be made available to the public at the EPA Region 8 office and the information repositories listed above and will be included in the final deletion package. Members of the public are encouraged to contact EPA Region 8 to obtain a copy of the responsiveness summary. If, after review of all such comments and data, EPA determines that the partial deletion from the NPL is appropriate, EPA will publish a final notice of partial deletion in the *Federal Register*. Deletion of the Peripheral OU and OU 3 of the Rocky Flats Plant does not actually occur until a final notice of partial deletion is published in the

Federal Register. A copy of the final partial deletion package will be placed at the EPA Region 8 office and the information repositories listed above after a final document has been published in the *Federal Register*.

IV. Basis for Intended Partial Deletion

The following provides EPA's rationale for deletion from the NPL of the Rocky Flats' Peripheral OU and OU 3 and EPA's finding that the criteria in 40 CFR Sec. 300.425(e) are satisfied.

Site Background and History

The Rocky Flats Plant is a DOE facility owned by the United States. Rocky Flats is located in the Denver metropolitan area, approximately sixteen miles northwest of Denver, Colorado, and ten miles south of Boulder, Colorado. Nearby communities include the Cities of Arvada, Broomfield, and Westminster, Colorado. The majority of the Site is located in Jefferson County, with a small portion located in Boulder County, Colorado.

Rocky Flats Plant was proposed by EPA for inclusion on the CERCLA NPL in 1984, and was added to the CERCLA NPL on September 21, 1989 (54 *Federal Register* 41015, October 4, 1989). The EPA Superfund Identification Number for Rocky Flats Plant is CO7890010526. The Site was proposed for listing because activities at Rocky Flats resulted in the release of materials defined by CERCLA as hazardous substances, contaminants, and pollutants, as well as hazardous wastes and hazardous waste constituents as defined by the Resource Conservation Recovery Act (RCRA) and Colorado Hazardous Waste Act (CHWA). Contaminants released to the environment from the activities at Rocky Flats have included, but were not limited to: radionuclides (such as plutonium, americium, and various uranium isotopes), organic solvents (such as trichloroethene, tetrachloroethene, and carbon tetrachloride), metals (such as chromium), and nitrates. Apart from the activities of DOE and its contractors at the Site, there are no other known, significant, human-caused sources of contamination at Rocky Flats.

Two Operable Units (OUs) are present within the boundaries of the Site: the Peripheral OU and the Central OU. The Central OU consolidated all areas of the Site that required remedial actions, while also considering practicalities of future land management. The Central OU is not included within this proposed partial deletion action. The Peripheral OU includes the majority of the Buffer Zone and was left undisturbed.

This land provided a security and safety buffer area around the former manufacturing areas of the Site. Portions of the Buffer Zone have been co-managed by the U.S. Fish and Wildlife Service for ecological resources since 1999. Based upon the *RCRA Facility Investigation – Remedial Investigation/Corrective Measures Study – Feasibility Study Report for the Rocky Flats Environmental Technology Site (RI/FS) Report*, which included both a Human Health and Ecological Risk Assessment, DOE (as the Lead Agency under CERCLA) determined that no action was necessary to protect public health, welfare or the environment for the Peripheral OU. That decision was supported and documented in the *Rocky Flats Environmental Technology Site Corrective Action Decision/Record of Decision (CAD/ROD)* signed by DOE, CDPHE and EPA, Region 8 on September 29, 2006. OU 3 was addressed under a separate CAD/ROD, *Corrective Action Decision/Record of Decision Operable Unit 3 The Offsite Areas Rocky Flats Environmental Technology Site* dated April 1997. The OU 3 CAD/ROD was signed by DOE, CDPHE and EPA, Region 8 on June 3, 1997. The OU 3 CAD/ROD also determined that no action was necessary to protect public health, welfare or the environment for the OU 3.

A. Peripheral Operable Unit

The *Rocky Flats Environmental Technology Site CAD/ROD* was prepared by DOE, Rocky Flats Field Office, Golden, Colorado and was signed by DOE, CDPHE, and EPA Region 8 on September 29, 2006.

The RI/FS Report was prepared in accordance with the *Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA*. Because remedial activities at RFETS were conducted under RCRA and CHWA, this RI/FS Report also met RCRA/CHWA requirements for a RCRA Facility Investigation/Corrective Measures Study (RFI/CMS) Report. References to CERCLA requirements were also intended to encompass RCRA/CHWA requirements. For simplicity, the report is hereinafter referred to as the RI/FS Report. The RI/FS Report, approved by EPA and CDPHE on July 5, 2006, was the basis for development of the *Rocky Flats Environmental Technology Site Proposed Plan* that described the preferred remedy. The Proposed Plan was the basis for the Final CAD/ROD.

A.1 Description of the Peripheral OU Remedial Investigation

The DOE began more than 20 years ago to develop an extensive body of documentation about the use of hazardous substances and the known or suspected release of hazardous substances at Rocky Flats. Information

was gathered from an extensive review of Rocky Flats operating records and contemporaneous documents. In addition, interviews were conducted of persons with knowledge of Rocky Flats operations and of events that did release or were suspected of releasing hazardous substances. The information collected is organized in the Rocky Flats Historical Release Report (HRR), originally published in 1992, which has been periodically updated as investigation and cleanup of the Site progressed. The final version of the HRR is provided as Appendix B of the RI/FS report entitled *FY2005 FINAL Historical Release Report* dated October 2005.

Sampling and analysis of surface and subsurface soil, groundwater, and surface water were extensively used to locate and measure hazardous substance contamination at historical release locations and guide the conduct and completion of remediation activities. Environmental monitoring was performed under the auspices of a site-wide Integrated Monitoring Plan. Additional monitoring was conducted pursuant to environmental permits (including the National Pollutant Discharge Elimination System permit and the State of Colorado Air Quality Operating Permit) issued to DOE and its contractors.

Environmental data for Rocky Flats were collected in accordance with agency-approved Sampling and Analysis Plans (SAPs) and standardized contract-required analytical procedures. Approved Work Plans and SAPs specified the use of EPA-approved sampling procedures and analytical methods, data quality requirements, and data management processes, and specified the appropriate data quality objectives. Released hazardous substances at Rocky Flats include radionuclides, volatile organic compounds (VOCs), and semivolatile organic compounds (SVOCs), inorganic compounds, and metals.

Known or suspected release locations (primarily soil) were delineated by 183 Individual Hazardous Substance Sites (IHSSs), 146 Potential Areas of Concern (PACs), 31 Under Building Contamination (UBC) Sites, and 61 Potential Incidents of Concern (PICs) (totaling 421 areas). The IHSSs, PACs, UBC Sites, and PICs were thoroughly investigated and characterized, as appropriate, and accelerated actions, including non-time critical removals, triggered by contamination levels have been confirmed completed.

The nature and extent of contamination evaluations considered the following environmental media: soil, groundwater, surface water, sediment, and air. These evaluations were conducted to show the types of analytes of interest (AOIs) remaining in the environmental media and their extent at Rocky Flats following the

completion of accelerated actions. The purpose of identifying AOIs was to focus the nature and extent evaluation on constituents that were detected at concentrations that may contribute to the risk to future receptors and to show the overall spatial and temporal trends of those constituents on a sitewide basis. These evaluations identified 14 AOIs for surface soil, 14 AOIs for subsurface soil, 19 AOIs for groundwater, 18 AOIs for surface water, 5 AOIs for sediment, and 5 AOIs for air. The contaminant fate and transport evaluation used information about the Site physical characteristics, contaminant source characteristics, and contaminant distribution across the Site to develop a conceptual understanding of the dominant transport processes that affect the migration of different contaminants in various Rocky Flats environmental media. The primary focus was evaluating the potential for contaminants from any medium to impact surface water quality. Evaluation of a contaminant's fate and transport was based upon two criteria: (1) does a complete migration pathway exist based on an evaluation of contaminant transport in each environmental medium; and (2) is there a potential impact to surface water quality based on an evaluation of data at representative groundwater and surface water monitoring locations in the creek drainages.

The RI included a Comprehensive Risk Assessment (CRA). The CRA consisted of two parts: Human Health Risk Assessment (HHRA) and Ecological Risk Assessment (ERA). The CRA was designed to provide information to decision makers to help determine the effectiveness of the accelerated actions and select a final remedy that is protective of human health and the environment. The CRA evaluated the risks posed by conditions at the Site to the anticipated future users, those being the wildlife refuge worker and the wildlife refuge visitor. The CRA did not evaluate an unrestricted use scenario, but did consider an indoor air pathway, if occupied structures were to be present at the Site in the future.

The Peripheral OU was determined to be unimpacted by Site activities from a hazardous waste perspective. That is, no hazardous wastes or constituents were placed in or migrated to the Peripheral OU.

A small portion of the Peripheral OU was impacted by Site activities from a radiological perspective. For example, plutonium exists above background in surface soil in small areas within the Peripheral OU. A few sampling locations for plutonium within the Peripheral OU exceed a level of 9.8 picocuries per gram (pCi/g), which corresponds to a 1×10^{-6} risk level for a wildlife refuge worker. Of these few sampling locations, the

highest result is approximately 20 pCi/g. If that highest concentration of 20 pCi/g was considered the average concentration over an appropriate exposure unit, it would correspond to a risk of approximately 1×10^{-5} for a rural resident, which would be in the middle of the CERCLA risk range (10^{-6} to 10^{-4}). These levels of radioactivity are also far below the 231 pCi/g activity level for an adult rural resident, which equates to the 25-millirem per year dose criterion specified in the Colorado Standards for Protection Against Radiation.

A.2 Declaration Statement for the Peripheral OU CAD/ROD

Based upon the RI/FS Report, which included both a Human Health and Ecological Risk Assessment, DOE (as the Lead Agency under CERCLA) has determined that no action is necessary to protect public health or welfare or the environment for the Peripheral OU.

The RI/FS Report concluded that the Peripheral OU is already in a state protective of human health and the environment. The NCP provides for the selection of a no action remedy when an OU is in such a protective state and therefore, no remedial action for the Peripheral OU is warranted. The selected remedy for the Peripheral OU was no action.

A.3 Peripheral OU Conclusions

The selected remedy for the Peripheral OU attains the mandates of CERCLA Section 121, and to the extent practicable, the NCP. The selected remedy for the Peripheral OU is protective of human health and the environment, complies with Federal and State requirements, and is cost-effective. The selected remedy complied with applicable requirements of the CHWA. No accelerated actions were taken in the Peripheral OU, and no remedial action alternatives were evaluated for the Peripheral OU. Because no hazardous substances, pollutants, or contaminants occur in the Peripheral OU above levels that allow for unlimited use and unrestricted exposure, a five-year review was not required for this remedy.

B. Operable Unit 3 (Offsite Areas)

The OU 3 CAD/ROD was prepared by DOE, Rocky Flats Field Office, Golden, Colorado, in April, 1997, and was signed by DOE, CDPHE, and EPA Region 8 on June 3, 1997. The following is the basis for deleting OU3 and is a part of the deletion docket.

OU 3 was investigated and a remedy was selected in compliance with the Federal Facility Agreement and Consent Order – Interagency Agreement (IAG), signed by DOE, CDPHE, and EPA on January 22, 1991. The selected remedy is also consistent with the Federal Facility Agreement and Consent Order – Rocky Flats Cleanup Agreement (RFCA), signed by DOE, CDPHE, and EPA on July 19, 1996.

OU 3 is one of sixteen OUs at Rocky Flats identified in the 1991 IAG, and is the only one not located within the RFETS boundaries. The 1996 RFCA consolidated the original sixteen OUs into three OUs, but OU 3 remained separate, owing both to its unique geographic location and to the fact that investigations and administrative activity for OU 3 were nearly completed when the 1996 regulatory agreement (RFCA) was signed. OU 3 is comprised of four Individual Hazardous Substance Sites (IHSSs): Contamination of the Land's Surface (IHSS 199), Great Western Reservoir (IHSS 200), Standley Lake (IHSS 201) and Mower Reservoir (IHSS 202). IHSSs are specific locations where hazardous substances, solid wastes, pollutants, contaminants, hazardous wastes or hazardous constituents may have been disposed of or released to the environment from Rocky Flats at any time in the past.

B.1 Description of the OU 3 Remedial Investigation

The selected remedy for OU 3 was no action. A Baseline Risk Assessment (BRA), including an HHRA and an ERA, was conducted as part of the OU 3 Resource Conservation and Recovery Act (RCRA) Facility Investigation. The RCRA Facility Investigation/CERCLA Remedial Investigation Report (RFI/RI) Report was completed in accordance with requirements presented in the Interagency Agreement and specifically identified in the OU3 RFI/RI Work Plan and addenda. The RFI/RI Report evaluated human health risks based upon exposure to identified Contaminants of Concern (COCs) and was reported as the probability of an individual developing cancer as a result of exposure to OU 3 contamination under recreational and residential exposure scenarios. Assumptions regarding future land use provided the basis to calculate human health risks for both IHSS 199 and for IHSS 200. No COCs were identified in surface water samples collected from Standley Lake, Great Western Reservoir, and Mower Reservoir.

For IHSS 199, risks from both plutonium and americium were calculated and were assumed to be additive. For IHSS 200, only the risks associated with plutonium were calculated, as plutonium was the only

COC there. In both IHSSs, the highest contaminant concentration was used in risk calculations. The RFI/RI Report also calculated radiation doses that would be expected as a result of the recreational and residential scenarios described in the OU 3 CAD/ROD.

Excess lifetime cancer risk (that is, the incremental additional cancer risk that is incurred through exposure to COCs at OU 3 or any other contaminated site) is calculated by multiplying the average daily chemical intake over a lifetime of exposure by the contaminant's individual slope factor. For radionuclides, slope factors are the average risk per unit intake or exposure for an individual in a stationary population with mortality rates typical of those in the United States in 1970. EPA guidelines indicate that excess lifetime cancer risks which are within or below the one in ten thousand (1×10^{-4}) to one in one million (1×10^{-6}) range are considered protective of human health.

For IHSS 199, the highest calculated excess cancer risk, assuming reasonable maximum exposures (RME) under a residential exposure was three in one million (3×10^{-6}). Using central tendency, the risk under a residential scenario was two in ten million (2×10^{-7}). For the recreational exposure, the excess cancer risk was five in one hundred million (5×10^{-8}) using the RME, and three in one billion (3×10^{-9}) using central tendency.

For IHSS 200, the highest calculated excess cancer risk employing RME and the residential exposure was nine in ten million (9×10^{-7}); the corresponding risk using central tendency was six in one hundred million (6×10^{-8}). Using the recreational scenario, the highest risk using RME was one in one hundred million (1×10^{-8}), and the risk using central tendency was eight in ten billion (8×10^{-10}).

The highest calculated radiation dose for IHSSs 199 and 200 occurred using the RME, assuming a residential exposure scenario. The highest Total Effective Dose Equivalent (TEDE, which incorporates both internal and external radiation dose) for IHSS 199 for an adult was 0.12 millirem per year (mrem/yr); the corresponding TEDE for IHSS 200 is 0.0065 mrem/yr. The average radiation dose in the U.S. is estimated to be about 300 mrem/yr, while the average dose in Colorado may be as much as 700 mrem/yr, owing to the state's higher altitude and relative abundance of naturally occurring radionuclides.

The RFI/RI Report evaluated health risks and radiation dose from surface water. Surface water was sampled for plutonium and americium. The maximum and mean concentrations of plutonium and americium

detected in surface water from the reservoirs were well below the CDPHE standards, the National Drinking Water Standards, and the Rocky Flats Site specific standards for plutonium and americium.

DOE submitted the RFI/RI Report to the Agency for Toxic Substances and Disease Registry (ATSDR), a part of the federal Center for Disease Control, for the purpose of obtaining a Health Consultation. The purpose of the Health Consultation was to obtain an independent evaluation as to whether COCs had been adequately identified in OU 3, the risks to human health posed by releases of hazardous substances in OU 3 adequately analyzed, and whether the proposal for no remedial action in OU 3 was appropriate considering these risks. The ATSDR concluded that the COC selection process was based on reasonable assumptions, and that none of the constituents present in OU 3 posed public health concerns. Further, the ATSDR Health Consultation stated that no additional activities were needed in OU 3 in order to ensure the public's health.

Based upon the BRA and the ERA contained in the RFI/RI Report of June 1996, DOE, the lead agency under CERCLA for OU 3, concluded that no action was appropriate for OU 3. The RFI/RI Report concluded that all IHSSs within OU 3 are already protective of human health and the environment. Field and laboratory work showed no indications of adverse effects from plutonium or americium on the ecology of OU 3. The NCP provides for the selection of a no action remedy when an OU is in such a protective state. Therefore, no remedial action regarding OU 3 or any of its constituent IHSSs was warranted.

B.2 Declaration Statement for Offsite Areas OU CAD/ROD

DOE in consultation with CDPHE and EPA, determined that no remedial action was necessary for OU 3 to be protective of human health, welfare and the environment. No hazardous substances, pollutants or contaminants remain within the boundaries of OU3 above levels that allow for unlimited use and unrestricted exposure, as these levels have been calculated in the OU 3 RFI/RI Report.

B.3 Evaluation of OU3 CAD/ROD Data in First Five-Year Review

A five-year review of the OU 3 CAD/ROD was conducted to assess the continued protectiveness of the remedy. The OU 3 CAD/ROD concluded that transport by wind and water were the primary means by which plutonium and americium were carried to OU 3. Therefore, available air and water monitoring data collected after the OU 3 CAD/ROD was signed were reviewed to determine if environmental conditions at OU 3 have

changed since the BRA was completed. The air monitoring data from the RFETS perimeter air monitoring network were analyzed and the conclusion was that the amounts of plutonium and americium that have been measured at the RFETS perimeter since 1997 have been environmentally insignificant. These amounts of plutonium and americium would not have caused contaminant levels in OU 3 to change significantly since the OU 3 CAD/ROD was signed. Water monitoring data from the RFCA Points of Compliance (POCs) on Woman Creek and Walnut Creek at Indiana Street, and data collected by the City of Broomfield for Great Western Reservoir, were analyzed. Samples of water leaving RFETS showed consistent compliance with RFCA surface water standards, and water samples from Great Western Reservoir were consistently at or below detection limits for plutonium and americium. The report also included a Protectiveness Statement as required by EPA guidance. Pursuant to the Protectiveness Statement, DOE's ongoing custody and control of RFETS, ongoing monitoring programs, and restriction of public access serve to adequately control risks posed by contamination at RFETS. The no action decision for OU 3 was determined to be adequately protective.

Review of air monitoring data and water quality data at the Points of Compliance since the first five-year review also indicate there have not been significant amounts of plutonium or americium that have entered OU 3 through the air or water pathways. Therefore, environmental conditions at OU 3 have not changed significantly since the OU 3 CAD/ROD was signed.

B.4 OU 3 Conclusions

Conditions in OU 3 pose no unacceptable or significant risks to human health or the environment; future unacceptable or significant exposures will not occur there as a result of past contamination. DOE concluded, therefore, that no action was necessary in OU 3 for the protection of human health or the environment. Reviews following the OU 3 CAD/ROD have concluded that environmental conditions at OU 3 have not changed significantly since the OU 3 CAD/ROD was signed.

Community Involvement

Public Participation activities for the cleanup of the Peripheral OU and OU 3 were conducted as required under CERCLA Section 113(k), 42 U.S.C. 9613(k) and Section 117, 42 U.S.C. 9617. Public review included the following activities:

A. Community Involvement for the Peripheral OU

The Draft RI/FS Report for the RFETS was released for public review and information in October 2005, and was available at that time in the Rocky Flats public reading rooms and online. Several informational public meetings on the draft RI/FS were held, at which representatives from DOE and its contractor, EPA and CDPHE were present to answer questions. These meetings included a discussion at the Rocky Flats Citizens Advisory Board meeting on November 3, 2005. The final RI/FS report was approved by EPA and CDPHE on July 5, 2006. Copies of the final RI/FS report were placed at seven information centers in the Denver metropolitan area on July 14, 2005. In addition, the RI/FS report was available on line at www.rfets.gov, and copies on compact disc were available at the public information meetings during the comment period for the Proposed Plan. DOE, EPA and CDPHE held a pre-release informational meeting for the Proposed Plan on May 30, 2006, to explain changes that were made to the draft RI/FS report, and to describe the major components of the Proposed Plan. The Proposed Plan was released for formal public comment on July 14, 2006. Notice of the public comment period appeared in *The Rocky Mountain News* and *The Denver Post* from May 22 through May 28, 2006, and was also provided at the informational public meeting. DOE sent out community and media advisories prior to the release of the Proposed Plan, and prior to each informational meeting and the public hearing. The Proposed Plan was placed in seven information centers in the Denver metropolitan area, was available at the informational meetings held during the comment period, and was available on line at www.rfets.gov. The Proposed Plan included discussions on future land use and use of groundwater at Rocky Flats. The Rocky Flats administrative record file was available for public review at the Front Range Community College reading room in Westminster, Colorado, as well as on line at www.rfets.gov.

DOE held two informational meetings during the public comment period, at which agency representatives presented the scope and purpose of the Proposed Plan, discussed opportunities to provide input on the Proposed Plan, and responded to questions from the public. The first informational meeting was held on July 19, 2006 in Golden, Colorado, and the second informational meeting took place in Westminster, Colorado on August 8, 2006. Prior notice of each meeting was provided through advertisements in the aforementioned newspapers, running from July 13 through July 19, 2006, and again from August 2 through August 8, 2006. A public hearing for the Proposed Plan took place on August 31, 2006 in Arvada, Colorado; separate sessions were held in the afternoon and in the

evening on that date to accommodate as many members of the public as possible. Prior notice of the public hearing was accomplished through advertisements in the aforementioned newspapers that ran from August 25 through August 31, 2006, with a display ad posted in both papers on August 29, 2006. Both written and oral public comments were accepted at the public hearing. A transcript of the public hearing has been made available to the public and placed in the Rocky Flats administrative record file.

The public comment period for the Proposed Plan extended from July 14 through September 13, 2006. No requests for extension of the public comment period were received. DOE's responses to public comments received during the comment period are included in the Responsiveness Summary section of the RFETS CAD/ROD.

B. Community Involvement for OU 3

DOE submitted the final RFI/RI Report for OU 3 to EPA on July 11, 1996 following resolution of final comments by EPA, CDPHE, the City of Broomfield, and the City of Westminster. Regulatory approval to release the OU 3 Proposed Plan for public comment was granted on August 7, 1996.

The Proposed Plan was released for public comment on August 7, 1996. A public hearing on the OU 3 Proposed Plan was held on September 18, 1996 at the Arvada Center for the Performing Arts and Humanities in Arvada, Colorado. Citizen comments received at the public hearing were recorded and responses to those comments were included in a Responsiveness Summary. The public comment period for the OU 3 Proposed Plan ended on October 11, 1996. Written comments on the Proposed Plan were received from the Cities of Westminster and Broomfield. Responses to those written comments were also included in the Responsiveness Summary.

Current Status

The RFETS RI/FS Report concluded that the Peripheral OU was already in a state protective of human health and the environment, therefore the selected remedy in the RFETS CAD/ROD for the Peripheral OU was no action. No accelerated actions were taken in the Peripheral OU, and no remedial action alternatives were evaluated for the Peripheral OU. Because no hazardous substances, pollutants, or contaminants occur in the Peripheral OU above levels that allow for unlimited use and unrestricted exposure, a five-year review was not

required for this remedy. Therefore, this documentation provides the technical justification for deletion of the Peripheral Operable Unit, Rocky Flats Plant from the NPL.

For the OU 3 (Offsite Areas) conditions were determined to be protective of human health and the environment at the time the OU 3 CAD/ROD was signed in 1997, and again during the first five-year review finalized in September 2002. Since then, summary data for OU 3 has been reviewed and indicate that conditions have not changed to alter conclusions of earlier OU 3 assessments. Therefore, this documentation provides the technical justification for deletion of OU 3 (Offsite Areas), Rocky Flats Plant from the NPL.

EPA, with concurrence from CDPHE, has determined that all appropriate CERCLA response actions have been completed within the Peripheral OU and OU 3 to protect public health and the environment and that no further response action by responsible parties is required. Therefore, EPA proposes to delete the Peripheral OU and OU 3 of the Rocky Flats Plant from the NPL.

Dated:

Robert E. Roberts,
Regional Administrator, Region

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

MEMORANDUM

TO: Board

FROM: David Abelson

SUBJECT: Washington, DC talking points

DATE: January 26, 2007

I have scheduled 15 minutes for the Board to discuss and approve (as modified) the attached talking points for meetings with Congress and DOE. As discussed at the January 2007 meeting, a few Board members and the Executive Director will meet in February in Washington, D.C. with Congressional staff and DOE staff. To ensure that the message these members and staff carry reflects the Stewardship Council's positions and policies, it is important for the Board to approve talking points.

Please let me know what questions and/or concerns you have and any issues that you believe should be added. I have focused on broad-reaching issues, recognizing that as we discussed at the January meeting, Stewardship Council members will supplement these messages when they meet with their representatives in March.

One issue I have intentionally not included is the Rocky Flats Cold War Museum's anticipated request for federal appropriations. My reason is that the Museum has not asked the Stewardship Council to join in its request. Should the Museum make such a request, my recommendation would be that the Museum first brief the Board on the nature of its request, and that the Board not develop its policy during approval of these talking points.

Thanks.

Rocky Flats Stewardship Council

Washington, D.C. – Talking Points

February 2007

Background:

1. The Rocky Flats Stewardship Council held its first meeting in March 2006. Membership includes nine governments, three member organizations and one individual.
2. Since its inception the organization has focused on the regulatory closure of Rocky Flats.
3. The Stewardship Council is working hard by
 - a. Meeting regularly as a board;
 - b. Working closely with DOE, EPA, and CDPHE on regulatory closure issues (RI/FS, Proposed Plan, RFLMA);
 - c. Tracking remedy performance, and working with DOE and the regulators to address various issues;
 - d. Evaluating mechanisms for communicating site conditions and the long-term needs of Rocky Flats with constituents and members;
 - e. Working with DOE to communicate with a broad audience information about the cleanup and closure of Rocky Flats (We could also note that the Rocky Flats Cold War Museum would provide a great opportunity for communicating the history of Rocky Flats and long-term management needs); and
 - f. Tracking issues related to minerals acquisition and establishment of Rocky Flats National Wildlife Refuge.

Transitions and Long-term Stewardship

1. 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.
2. First 3-5 years following transition will be telling as to whether the long-term management needs will become sufficiently institutionalized within DOE, EPA, CPDHE, Congress, local governments, community groups and others, or whether people will forget about Rocky Flats.
3. It is important to remember that cleanup was predicated on developing and implementing long-term controls – so we need to ensure such controls are maintained and that as problems arise they are promptly evaluated and addressed.
4. Congressional oversight of DOE's Office of Legacy Management – both programs and budgets – will be a necessary part of long-term stewardship of Rocky Flats.

Workers:

1. The Stewardship Council is concerned about continued delays in implementing the Energy Employees Occupational Illness Compensation Program Act (EEOIPCA).
2. The board is grateful for work the delegation exerts on this issue and the Stewardship Council remains available to support Congressional efforts, as necessary.

Signage for Rocky Flats:

1. USFWS is in the process of finalizing entrance signs for Rocky Flats.
2. USFWS has told the Stewardship Council that the language on the signs will reflect community's input.
3. Signs will also be hung on a fence delineating internal Refuge boundary, identifying which lands DOE will retain as part of ongoing management responsibilities.
4. The Stewardship Council is communicating with state representatives who sponsored Rep. Wes McKinley's Rocky Flats bill during the 2006 legislation, positing that future legislation is unnecessary.

Rocky Flats National Wildlife Refuge:

1. At the end of regulatory closure (which is soon approaching) lands that will be part of the Rocky Flats National Wildlife Refuge will be transferred to USFWS.
2. USFWS has no operating budget for the Rocky Flats National Wildlife Refuge in fiscal years 2007 or 2008. In fact, because of budgets, USFWS is in the process of reducing its regional office staff by 10%.
3. It is not unusual for new refuges to not have an operating budget for first 3-5 years. Without a budget, however, the Refuge will be in caretaker status so USFWS cannot implement the Comprehensive Conservation Plan (CCP).
4. Congress needs to start providing funding for USFWS to implement the CCP.
5. It is important for USFWS to have sufficient funding to implement the CCP to help ensure the site is an asset and does not fall into disrepair.

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

MEMORANDUM

TO: Stewardship Council Board
FROM: Rik Getty
SUBJECT: Legacy Management Quarterly Update Briefing
DATE: January 25, 2007

We have scheduled 75 minutes for Legacy Management (LM) to present their quarterly update. As was the case last quarter, topics will include:

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

As David and I communicated via email, the more detailed technical meeting will take place on Monday January 29, 2007, one week prior to the Board meeting. This detailed technical meeting will allow Board members and others to ask more detailed questions about the quarterly report.

LM Quarterly Report Highlights

Each quarter LM issues a quarterly report which is based on the prior quarter and is always updated in arrears. The reporting period for the current quarterly report is the third quarter for 2006 (July-September). The lag in the reporting is primarily due to compiling and validating the voluminous sample data collected during the reporting period. LM posted the current quarterly report on the LM website on January 10, 2007:

http://www.lm.doe.gov/documents/sites/co/rocky_flats/quarterly_reports/3rdqtr2006_report.pdf

Please note, the report, which is approximately 4 MB, is 167 pages, of which 80 pages are text and the remainder are data tables and remedy inspection logs.

I have reviewed the report and some of the highlights are:

- LM continues to investigate the reportable uranium values at surface water POE station GS-10 (located just upstream from the B-series ponds). Based on sample and flow data, LM has

determined that the elevated uranium levels are due primarily to natural-occurring uranium isotopes with only a minor contribution from human activities. LM attributes the increased naturally-occurring uranium levels to a higher percentage of a groundwater contribution to the base surface water flow at GS-10 which in past years was mainly composed of surface water runoff.

- Continual efforts are being made to repair damaged erosion control measures resulting from wind and water damage within the DOE-retained lands.
- Additional water samples from the Present Landfill pond have been analyzed for metals as required by the site's Integrated Monitoring Plan in consultation with the regulators.
- The solar ponds groundwater treatment system was significantly rebuilt and effluent water samples indicate the system has returned to treating nitrates effectively.
- Researchers from CSU have begun a treatability study aimed at process improvements for the solar ponds treatment system.
- There were no flows at the two site boundary surface water points of compliance during the quarter along Indiana Street where Walnut and Woman creeks cross the site boundary.

Please contact me if you have any questions.

Letters and News Clips

- Salazar, Udall, Perlmutter letter re: Rocky Flats worker compensation
- News clip re: Salazar, Udall and Perlmutter worker compensation letter
- Denver Post editorial re: Salazar blocking Department of Labor nomination
- News clip re: Oak Ridge incineration burning Rocky Flats waste

Congress of the United States
Washington, DC 20515

January 9, 2007

The Honorable Elaine Chao
Secretary of Labor
Department of Labor
Frances Perkins Building, Third Street and Constitution Avenue, NW
Washington, DC 20210

The Honorable Michael Leavitt
Secretary of Health and Human Services
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

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

Lewis V. Wade, Ph.D., Executive Secretary
Advisory Board on Radiation and Worker Health
Hubert H. Humphrey Bldg.
200 Independence Ave., S.W., Room 715H
Washington, DC 20201

Dear Secretary Chao, Secretary Leavitt, Dr. Ziemer and Dr. Wade:

On March 16, 2006, we wrote to express our deep concern about the implementation of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) and the operations of the Advisory Board on Radiation and Worker Health. Administration documents demonstrate beyond question that officials of the Bush Administration have sought to reduce expenditures by measures that would result in denying compensation to deserving workers under the EEOICPA program. One proposed step toward that end was to appoint to the Advisory Board only members who could be expected to be hostile to Special Exposure Cohort petitions.

Special Exposure Cohort petitions are allowed under EEOICPA to enable workers to receive benefits in circumstances where the federal government, or its contractors, failed to create or to maintain reliable records of the workers' exposures to radiation. A recent study by an independent consultant has confirmed our view - which was the basis for proposed legislation to include Rocky Flats workers in the Cohort -- that the exposure records of a sample of Rocky Flats employees are grossly incomplete and unreliable.

The response of National Institute for Occupational Safety and Health (NIOSH) to this report was to temporarily block access by this consultant to any further relevant records - and while some access has evidently been restored - that response fit the pattern of resistance to making payments in accordance with the intent of the Act.

In short, this Administration has acted to deny and disguise the inadequacy of the exposure records of the Rocky Flats workers and then, when these workers exercised their statutory right to seek inclusion in the Special Exposure Cohort, the Administration has sought to stack the Advisory Board with reliable opponents of SEC petitions. This conduct is shameful.

We have written to you and have commented publicly on numerous occasions, urging you to stop delaying and impeding the Rocky Flats workers' petition. To demonstrate the depth of our concern, on December 11, Senator Salazar put a hold on the nomination of Leon Sequiera to a Department of Labor position until the composition of the Advisory Board is adjusted so that it will more fairly consider SEC petitions.

Since that action, we have been advised that the Administration has submitted two nominations to the Advisory Board. We acknowledge that this is a significant step forward, but, even with these two nominations, the Board will not be returned to the balance intended by Congress.

The Advisory Board has also recently announced its intention to make a final determination on the Rocky Flats SEC petition in February, despite the continuing investigation into the inadequacy and unreliability of the Rocky Flats exposure records and despite the continuing imbalance of the Board. Although we - and the Rocky Flats workers and their families - are anxious to reach a conclusion to this drawn out administrative process, it would be wrong to rush to judgment in such circumstances.

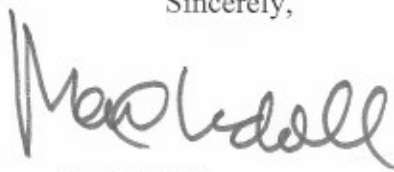
We therefore request that the Advisory Board not act on the Rocky Flats SEC petition at the Board's February meeting, and should not act until the independent investigation into the Rocky Flats worker exposure records is concluded and the Advisory Board has been restored to the balance intended by Congress.

In the event that the agenda for the Advisory Board's February meeting includes action on the Rocky Flats SEC petition, it is our intention to appear personally at that meeting to make our position clear and to set forth the facts that have brought us to this position.

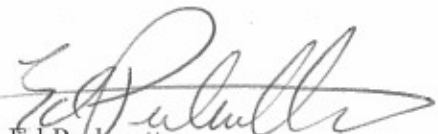
Sincerely,



Ken Salazar
United States Senator



Mark Udall
Member of Congress



Ed Perlmutter
Member of Congress

3 Colo. lawmakers want delay in Flats decision

By The Denver Post Staff

Article Last Updated: 01/09/2007 10:50:14 PM MST

WASHINGTON, D.C. - Three members of Colorado's congressional delegation have asked a federal panel to delay making a decision on granting compensation to some Rocky Flats workers, citing concerns that the approval process is flawed.

Sen. Ken Salazar and Reps. Mark Udall and Ed Perlmutter, all Colorado Democrats, are urging the federal Radiation Advisory Board to take more time to consider a petition filed by United Steelworkers Local 8031.

If approved, the petition would grant compensation for workers who were exposed to radiation and have certain types of cancers.

The delegation complained that the Bush administration has stacked the advisory board with petition opponents and that records supporting worker claims are "grossly incomplete and unreliable."

"Although we - and the Rocky Flats workers and their families - are anxious to reach a conclusion to this drawn-out administrative process, it would be wrong to rush to judgment under certain circumstances," the officials wrote.

The board is scheduled to discuss the petition at its February meeting in Denver.

editorial

Sticking up for Flats workers

Article Last Updated: 01/01/2007 10:36:14 PM MST

The federal government's failure to help sick and dying Rocky Flats workers is an unconscionable act of neglect that must be addressed.

That's why we were glad when U.S. Sen. Ken Salazar recently said he was taking steps to force action on compensation requests by workers sickened from radiation exposure at the Cold War era nuclear bomb trigger facility.

Salazar said he will block the nomination of Leon Sequeira as an assistant secretary of Labor until the matter was resolved. Sen. Wayne Allard said he would do the same.

It's a protest, the senators said, meant to get the attention of the Labor Department and the Department of Health and Human Services, which have before them a claim from Rocky Flats workers.

Many of those who built nuclear bomb components at the plant northwest of Denver were exposed to varying amounts of radiation and have contracted a range of cancers and other illnesses.

For years, ailing workers have tried different avenues of recourse, including lawsuits and appeals for federal compensation. They have largely been unsuccessful, despite evidence of the record of a multitude of transgressions, including sloppy plant storage practices and plutonium releases.

When the FBI raided the plant in 1989 during an investigation of environmental crimes, agents found oozing barrels of plutonium-laden waste.

It was also revealed during a recent trial that 2,600 pounds of plutonium - enough to make 400 nuclear weapons - was unaccounted for at the end of the plant's 36 years of operation.

Seventeen months ago, workers sought compensation through a special exposure cohort petition, a petition that is now before the federal health and labor departments. The process was created to compensate thousands of Cold War workers sickened at the country's nuclear facilities.

The Rocky Flats workers' petition has repeatedly been delayed and obstructed at various levels and by several agencies. By holding up Sequeira's nomination, Salazar and Allard hope to get commitments for a fair evaluation process and a just outcome.

We support their efforts and hope to see a favorable response from Washington that will address the many years of neglect these workers have suffered.



Oak Ridge incinerator to burn another 10 million pounds of waste

January 4, 2007

OAK RIDGE, Tenn. — The Department of Energy plans to burn more than 10 million pounds of toxic waste from Rocky Flats in Colorado and other sites at a special incinerator in Oak Ridge before permanently closing the facility in three years.

Tennessee environmental officers have given preliminary approval to the plan so other states will accept Oak Ridge wastes for disposal at landfills or underground repositories in their jurisdiction.

The Toxic Substances Control Act Incinerator, located at Oak Ridge's former K-25 uranium enrichment site, is uniquely qualified to burn a range of mixed wastes containing both radioactive materials and hazardous chemicals, including hard-to-destroy polychlorinated biphenyls or PCBs.

The \$26 million incinerator has burned about 31 million pounds of waste during its 20 years of operation. Most of that has come from cleanup operations in Oak Ridge, where DOE also has the Y-12 nuclear weapons plant and the Oak Ridge National Laboratory.

The latest "burn plan" submitted by DOE to state environmental regulators says only 2.7 million pounds of the 10.1 million pounds planned for burning through 2009 will come from Oak Ridge.

More than 7 million pounds will come from DOE's uranium enrichment facility at Portsmouth, Ohio, and nearly 168,000 pounds from a uranium enrichment facility at Paducah, Ky.

Waste from a total of 11 out-of-state facilities is expected, including DOE's Hanford, Wash., site; the Nevada Test Site, the Rocky Flats nuclear weapons plant outside Denver, the Los Alamos and Sandia national laboratories in New Mexico and the Brookhaven National Laboratory in New York.

"Emissions are not expected to adversely affect sensitive or other human populations in the vicinity of the incinerator," according to a risk analysis by DOE environmental manager Bechtel Jacobs Co.

"We saw no difficulty with making this approval over three years to maximize the efficient operations of the facility," said John Owsely, Tennessee's environmental oversight director in Oak Ridge, told The Knoxville News Sentinel.

But DOE has extended the lifetime of the Oak Ridge incinerator before, and some observers are skeptical it will be shut down as now planned in late 2009. The facility's original 10-year permit expired in 1997, and DOE's application for renewal has been under review ever since.

"I'd be willing to bet money it gets extended again," said Susan Gawarecki, executive director of the Local Oversight Committee, which studies environmental projects for local governments in Oak Ridge. "I don't think the original intent was to go decades."
