

ROCKY FLATS STEWARDSHIP COUNCIL
Monday, February 4, 2019, 8:30 – 11:10 a.m.
Rocky Mountain Metropolitan Airport, Terminal Building, Mount Evans Room
11755 Airport Way, Broomfield, Colorado

Board members: Mark McGoff (Director, Arvada), Sandra McDonald (Alternate, Arvada), Matt Jones (Director, Boulder County), Summer Laws (Alternate, Boulder County), Lisa Morzel (Director, Boulder), Mike Shelton (Director, Broomfield), David Allen (Alternate, Broomfield), Libby Szabo (Director, Jefferson County), Pat O’Connell (Alternate, Jefferson County), Jim Dale (Director, Golden), Joyce Downing (Director, Northglenn), Shelley Stanley (Alternate, Northglenn), Sophie Porcelli (Alternate, Northglenn), Mark Lacin (Director, Superior), Ken Lish (Alternate, Superior), Jan Kulmann (Director, Thornton), Emily Hunt (Alternate, Thornton), Cathy Shugarts (Alternate, Westminster), Jeannette Hillery (Director, League of Women Voters), Linda Porter (Alternate, League of Women Voters), Murph Widdowfield (Director, Rocky Flats Cold War Museum), Roman Kohler (Director, Rocky Flats Homesteaders), Kim Griffiths

Stewardship Council staff and consultants: David Abelson (Executive Director), Barb Vander Wall (Seter & Vander Wall, P.C.), Rik Getty (Technical Program Manager), Melissa Weakley (Technical Program Manager), Sandy Thomas

Attendees: Ryan Hanson (Sen. Gardner), Gwen Hooten (DOE-LM), Scott Surovchak (DOE-LM), Andy Keim (DOE-LM), Vera Moritz (EPA), Lindsay Masters (CDPHE), George Squibb (Navarro), John Boylan (Navarro), Bob Darr (Navarro), Jeremy Wehner (Navarro), Patty Gallo (Navarro), Laura Hubbard (Broomfield), Lindie Aragon (Westminster), James Boswell (Thornton), Christine Hawley (WCRA), Trae Nance (WCRA), Bonnie Graham-Reed, Ted Ziegler, Linda Hledik, Heather Sparr-Hoornaert.

Convene/Agenda Review: Chair Joyce Downing opened the meeting at 8:30 a.m.

Public comment on Consent Agenda and Non-Agenda Items: None

Business Items:

Stewardship Council Officers for 2019: David Abelson explained that the following people expressed interest in serving on the executive committee:

- Joyce Downing (Northglenn) – Chair
- Jan Kulmann (Thornton) – Vice Chair
- Jeannette Hillery (League of Women Voters) – Secretary/Treasurer

Libby Szabo made a motion to appoint these individuals as the executive committee until the February 2020 meeting. Kim Griffiths seconded it. The motion was approved 14-0.

2019 Meeting Dates and Notice Resolution: The 2019 meeting dates proposed by the executive committee are February 4, April 1, June 3, September 9, and October 28. Jim Dale moved to adopt these meeting dates and meeting resolution; Jan Kulmann seconded the motion. The motion was approved 14-0.

Policy Regarding Disposal of Personal Information: Barb Vander Wall began by explaining that under a new state law, the Stewardship Council is required to adopt a policy regarding the disposal of personal

information. She said there was one typo in the resolution as presented – “District” should instead read “Stewardship Council.” Mark McGoff motion to adopt the resolution; Roman Kohler seconded the motion. The motion was approved 14-0.

Letter to DOE re: Original Landfill: The Stewardship Council agreed to forward to DOE concerns governments, organizations and an individual have about the management of the Original Landfill. Lisa Morzel clarified that the comments should refer to chemical analyses, not a single chemical analysis. David Abelson said he would make the necessary change. Lisa moved to approve the cover letter forwarding the concerns to DOE; Jeannette seconded the motion. The motion was approved 14-0.

Consent Agenda: Approval of Minutes and Checks: Lisa Morzel asked that in the section concerning the discussion of the surface water monitoring that the minutes be changed to reflect that George Squibb entered the meeting during the conversation. Jeannette motioned to accept the minutes with that change noted; Lisa seconded the motion. The motion was approved 14-0.

Executive Director’s Report: David Abelson started by welcoming the new Board members: Mark Lacis (Superior), Ken Lish (Superior), Matt Jones (Boulder County), and Sophie Porcelli (Northglenn). David next discussed the upcoming change from Rik Getty to Melissa Weakley as the technical advisor to the Stewardship Council. David said Rik had done a tremendous job for the Stewardship Council, noting his commitment to the organization and highest level of integrity he brings to the position. David said Rik will be missed. In the early 2000s, Melissa served as the technical advisor for the predecessor organization, the Rocky Flats Coalition of Local Governments. He’s excited to have her back.

David next discussed the Stewardship Council’s 2018 financial audit, explaining one is not required by law or the grant with DOE, but the Stewardship Council secures one annually. He next said staff would send the annual dues notices to the governments. Annually, each government contributes \$1000 to the Stewardship Council. He continued by explaining that DOE was funded and thus not subject to the partial federal government shutdown. EPA was closed, although it did not appreciably affect communication with DOE and CDPHE.

David turned to the October-November 2018 proposal to develop oil and gas resources under Rocky Flats. He said that though that particular proposal had (at least for now) been withdrawn, there remained a need for the Stewardship Council members to discuss the issue. He addressed a few items and said there would be ample time at the meeting to discuss the suite of issues.

Finally, David turned to the petition to make the Rocky Flats Grand Jury documents publicly available. He explained that it is his understanding based on the petition that in order to have the documents released, the petitioners must show that the information is needed for pending or anticipated litigation. He explained that based on his reading of the petition that a general public interest, while important for public discourse, would not meet the necessary legal standard. Mark Lacis, an attorney, said he does not practice criminal law but that it is his understanding that simply because there is a public interest does not mean that the grand jury information can become public. He cited the ongoing investigation by Robert Mueller as an example.

DOE Quarterly Report (3rd quarter 2018)

Quarterly reports are required under the Rocky Flats Legacy Management Agreement (RFLMA) to document that the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) remedy continues to provide effective protection. Components of the remedy for Rocky Flats include:

maintain two landfill covers; maintain three groundwater treatment systems; monitor surface water and groundwater; maintain physical controls; and enforce institutional controls.

Surface Water, George Squibb

George reported that at GS59, routine surface water grab sampling in Woman Creek, downstream of the Original Landfill (OLF), showed mean concentrations for all VOCs and mercury below applicable RFLMA water-quality standards. The most recent composite sample started on July 31, 2018, and is still in progress. At the Present Landfill (PLF), routine water quality sampling showed concentrations for all analytes below applicable RFLMA water-quality standards. George reported that no RFLMA Point of Evaluation (POE) analyte concentrations were reportable during the quarter. He reported that there were no RFLMA Point of Compliance (POC) analyte concentrations reportable during the quarter.

Jeannette Hillery asked about a comparison of nitrate levels around North Walnut Creek as the nitrate has to come from somewhere. George responded that North Walnut Creek is closest to the old Solar Ponds and that the nitrate level is around 1 mg/l at the point of compliance on Walnut Creek (called WALPOC). The water quality standard is 10 mg/l.

Public Comment: None

Groundwater Monitoring and Operations, John Boylan

John reported that the RFLMA monitoring network consists of ten Resource Conservation and Recovery Act (RCRA) wells that are monitored quarterly to evaluate the potential impacts from OLF and PLF. Nine Area of Concern (AOC) wells and one Surface Water support location are monitored semiannually. These areas are located in drainages downstream of contaminant plumes. The plumes are evaluated for discharging to the surface water. Twenty-seven Sentinel wells are monitored semiannually to examine contaminant levels downgradient of the treatment systems, on edges of plumes, and in drainages. They also look for plumes migrating to surface water and treatment system problems. Forty-two Evaluation wells are monitored biennially within the plumes, near source areas, and the interior of the Central Operable Unit (COU) to evaluate whether monitoring an area or plume can cease. Nine treatment system locations are monitored, seven semiannually and two quarterly. He reported that only RCRA wells were monitored this quarter. The results were generally consistent with previous data and will be evaluated as part of the 2018 annual report.

Routine maintenance was performed at Mound Site Plume Collection System and the East Trenches Plume Treatment System. Routine maintenance was also performed at the Solar Ponds Plume Treatment System (SPPTS). At the SPPTS, DOE began a project to convert "Big Box" lagoon from a full-scale interim test to a long-term nitrate treatment component. To do this, Navarro staff removed the original solar array that was installed in 2002 and no longer useful. They next prepared a procurement package for tasks to be done in the Big Box. The project is to be performed in the fourth quarter, and the scope is minor upgrades within the Big Box.

Matt Jones asked what happens to the nitrate. John responded that bacteria in the lagoon convert the nitrate to nitrogen gas. Jim Dale requested that John present a separate septic tank briefing in the future.

Public Comment: None

Site Operations, Jeremy Wehner

Jeremy reported that signs were inspected on August 1, 2018, and all were in good condition. Three site inspections were performed at OLF and one weather-related inspection was done. There was some minor erosion, and maintenance was completed. The settlement monuments were surveyed on September 5th, and vertical settling was within limits. The geotechnical slope stability evaluation was completed in September. Slope stabilization design will begin in the fourth quarter. The East Subsurface Drain continues to function as designed. The Seep 10 siphon operated during the quarter. Since the initial startup in April, approximately 720,000 gallons were diverted by the end of September. This water would historically come to the surface and run across the slump area to the EPC. The temporary groundwater intercept system was restarted August 10 after mechanical repairs. Since the seasonal startup in April, approximately 180,000 gallons were diverted by the end of September.

At the PLF, a quarterly inspection and a weather-related inspection was conducted. The landfill was in good condition, and no maintenance was required.

At the former building areas of 371, 771, 881, and 991, a weather-related inspection was conducted following a rain event. This was also considered the quarterly best management practice inspection for these areas. Routine inspection for erosion and subsidence was performed, and no new issues were identified.

At North Walnut Creek Slump, continued geotechnical evaluation was performed, and continued data collection from piezometers was performed where possible. Slump monitoring points were surveyed each month of the quarter. The slump continues to move; along the scarp line, maximum movement had reached approximately 8 inches vertically with up to a 5-inch crack width. The crack was bladed, filled, and tamped in July to limit direct water infiltration. No maintenance was conducted on the site roads, but maintenance is being planned for November.

David Allen asked if the 180,000 gallons of water diverted in September was included in the 720,000 gallons diverted. Jeremy stated it was not as they are separate quantities.

Public Comment: In follow up to prior concerns about monitoring of water at the subsurface drains around the Original Landfill, Bonnie Graham-Reed asked DOE whether it was conducting water monitoring there. Jeremy stated that there are a number of groundwater monitoring wells in the vicinity that have been tested, and that data indicates the contaminants of concern are below the standards. Although the water was not tested after being collected in the pipe, surface water monitoring is conducted at multiple locations downstream. He also reminded the group that the water that is collected was already coming to the ground surface at Seep 10, and the reason it is collected and put into a pipe is to prevent it from re-infiltrating into the slump area. David Abelson told Bonnie that the issue she was raising was the focus on the parties' comments to DOE that was discussed at the start of the meeting. He noted that she shared their concerns.

Ecology, Jeremy Wehner (substituting for Jody Nelson)

Jeremy reported that that the following activities took place during the quarter: Preble's mouse mitigation monitoring; wetland mitigation monitoring; revegetation monitoring; forb nursery monitoring and planting of wildflower seeds in August; photopoint monitoring; weed mapping; vegetation mapping; tree and shrub survival counts; and prairie dog surveys. He reported that 210 elk were counted.

Public Comment: None.

Board Roundtable:

The Board opened a discussion regarding the permit submitted (and now withdrawn) by an oil and gas company to drill approximately 30 wells, which could have potentially included horizontal drilling under Rocky Flats. David Abelson provided a high-level overview of the permit and some of the questions he has about the process. Of note, David stated that a permit is required to dig below three feet in the Central Operable Unit. He also noted that an open question is whether a private party could force pool the federal government.

Lisa Morzel outlined the Boulder City Council's legislative priorities, a few of which pertain to mineral rights at Rocky Flats. The points critical to the discussion include that the Office of Legacy Management continue to be fully funded so that monitoring not only continue, but that funding be provided for monitoring above and beyond the present level. The National Wildlife Refuge program must continue to be fully funded. The Central Operating Unit boundaries must be maintained and separate from the Refuge. Although the federal government has acquired various minerals under Rocky Flats, this does not mean that these minerals cannot be developed; therefore, the agency should retire the minerals to ensure that they can never be developed, and Congress should authorize funding to acquire additional minerals that are currently under private ownership.

David Allen commented on the necessity of the retirement of mineral claims and the importance of the acquisition of the essential minerals. He stated that it is important that there be additional funds to acquire minerals and retire them. Access to those minerals will then be extinguished. He stated that fair market value should be used for the acquisition.

Mark Lacis said that the application submitted was for well sites within the Superior Town limits. The land is owned by Century Link. The plan is to drill south then under Rocky Flats. The Town Council adopted a six-month moratorium on oil and gas drilling to get something on the books. He stated that Superior supports a veto on drilling under Rocky Flats and requested that the Stewardship Council speak to the state COGCC in support for no exploration and drilling under Rocky Flats. Matt Jones discussed that force pooling forces people to be a partner in the fracking process, that it is corporate eminent domain, and state law exists to support it. Matt said COGCC has never said no to a permit request. He thinks the federal government should be involved and that state laws should be fixed.

Lindsay Masters stated that if the mineral rights are obtained, they will be federal mineral rights. The CDHPE restrictive notice of no drilling below three feet only applies to the COU. Libby Szabo commented that maybe the company really did not want to drill under Rocky Flats, but that the statewide ballot issue regarding local governments' rights to curtail drilling may have forced companies to file the permits before the 2018 November election. Mark Lacis stated that he heard there are twenty mineral rights owners under Rocky Flats. He discussed that that the Stewardship Council should be proactive rather than reactive.

Lisa Morzel stated that buying out the mineral rights is the best way to go to stop the fracking into Rocky Flats. Mark Lacis stated that Weld County has most of the oil and gas fracking, but that they are running out of resources causing the companies to move into Boulder County and south. Summer Laws asked if the mineral rights are bought by the federal government, can forced pooling be done with the federal government. Mike Shelton asked if the federal government can be held to state law. He stated that Broomfield is designating Designated Outdoor Activity Areas (DOAA). He suggested that Stewardship Council staff ask USFWS about DOAA.

David Abelson offered that as a starting point the Stewardship Council needs to develop a list of questions about the regulatory framework and risks of drilling, and direct those questions to DOE, CDPHE, EPA and USFWS.

Mark stated that his worry is that small startups do not know procedures. He believes that the alarm needs to be sounded, that all players (DOE, CDPHE, EPA and USFWS) need to know the issues and that an environmental impact study is vital. Mark stated that COGCC has its process and ignores the rest, and that there should be standard requirements for all applicants. Lindsay Masters stated that COGCC needs to work with CDPHE. Mike Shelton stated that USFWS needs to be informed of Stewardship Council's concerns. David Abelson stated that USFWS is aware of the concerns of local governments, but has no prohibition on drilling on their lands.

Mark raised the idea of a motion that in short provides the Stewardship Council opposes fracking under Rock Flats. Lisa Morzel said she would second the motion if one were formally offered. David Allen wants to understand the federal process for development of mineral rights. Jeannette Hillery stated that although she is supportive of the intent of such a motion, she suggested that the member governments discuss the issue with their individual boards and commissions. She stated that there needs to be more background information such as what should be put in an application, then what is the process with each individual government. David Abelson reminded the Stewardship Council that Westminster has not appointed any elected officials to the Board and said it would be unfair to their staffer present, Cathy Shugarts, to vote on such motion at this meeting without letting her first get direction from City management. The Board agreed.

Murph Widdowfield reminded everyone that BLM must approve a permit, and that the CDPHE has the most influence in the state. Matt Jones stated that they need a better understanding of tools and more information about the federal law. Jim Dale asked why anyone would want to drill under Rocky Flats, and that it does not pass the smell test. Pat O'Connell asked what is the process between now and the April meeting. David stated that the Executive Committee will work on the process and get back to Stewardship Council with questions.

David Abelson offered that the executive committee develop an initial set of questions for DOE, CDPHE, EPA and USFWS and circulate that to the Board for eventual approval (as modified) at the April meeting. Mike Shelton said that there is much to figure out, and the Stewardship Council should focus on getting questions answered. Mark Lacis stated that a statement should be issued to sound an alarm. Regional governments should come together and send a letter to appropriate government agencies should be sent.

David Abelson reminded everyone if there is no unanimity amongst the local governments, it may not turn out the way people want. David Allen agreed that unanimous support needs to be maintained, and that the only issue is Rocky Flats, not a broader statement about fracking. Kim Griffiths asked if this is the venue to discuss drilling under Rocky Flats. Lisa Morzel recounted the unanimous opinion to oppose prescribed burns was critical to USFWS withdrawing that action. She stated that there are competing interests with the Stewardship Council, and it must figure out the differences and how to go forward.

Mark McGoff asked if the motion was still open, how to go forward, and who writes it. Joyce Downing stated that the executive committee will meet and bring back questions to the Board. David said the motion needs to be concrete. Mark Lacis said he would draft the motion. David Allen stated that the

motion should take a position but it should not be a policy statement. Mike Shelton said the motion should have no broad anti-fracking statement but should be specific to Rocky Flats cleanup. Mark Lacin stated that he will keep a motion narrow.

Big Picture: David Abelson reviewed the proposed topics for the next two meetings. The Board agreed to continue discussing oil and gas development at the April meeting, and possibly the June meeting. The Board also agreed to examine the proposed soil sampling to be conducted by local governments by examining the proposed methodology at the April meeting and the results at the June meeting. The April meeting will also include a discussion of the Original Landfill.

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

Prepared by Sandy Thomas