WESTMINSTER

January 29, 2007

City of Westminster
Department of
Public Works
and Utilities

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Westminster, Colorado
80031

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U.S. Department of Energy Office of Legacy Management
Attention: RFLMA Comments
Rocky Flats Site
11025 Dover St., Suite 1000
Westminster, Colorado 80030

RE: Rocky Flats Legacy Management Agreement (RFLMA),
dated December 6, 2006

Dear Mr. Plieness:

The City of Westminster is providing comments to the above mentioned document. As a downstream community that has been involved with Rocky Flats for many years, we will continue to be intimately involved with post-closure activities. We thank the Department of Energy Office of Legacy Management (DOE), the Environmental Protection Agency (EPA), and the Colorado Department of Public Health and Environment (CDPHE) for their commitment to maintain an open-door-policy with our community and other governments downstream of Rocky Flats.

City staff has very thoughtfully and thoroughly reviewed this crucial long-term stewardship document and has both general and specific concerns. With remaining residual contamination on-site, Westminster wants to ensure the site will remain in a safe configuration to protect human health and the environment for the life of the remaining contaminants. Westminster acknowledges the RFLMA has captured the key aspects of a comprehensive long-term stewardship program; however, we have a few concerns or comments that still require additional consideration now and/or during the periodic 5-year review. Westminster's key concerns continue to be long term monitoring, to ensure protection of our downstream watershed and open communication among the regulators and the downstream communities. As a downstream community, continuous open communication, both formal and informal dialogue with the RFLMA Parties, is fundamental for the long term success of the wildlife refuge and the monumental clean-up project. Attachment 1 contains the reference to the RFLMA document and Westminster's specific comments.

Thank you for the opportunity to comment on this crucial long-term stewardship document. Westminster expects that we will continue to be involved, informed, and allowed to participate in any decisions pertaining to long-term stewardship activities at

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the site. As a downstream community, it is fundamental for the success of the wildlife refuge and the monumental clean-up project to continue both formal and informal direct dialogue with the RFLMA Parties. We would like an opportunity to review and discuss your responses to our comments. If you have any questions, please fell free to call our representative, Shirley Garcia, at 303-438-6329.

Sincerely,

Jim Arndt, P.E.
Director of Public Works and Utilities

cc: JoAnn Price, City Councillor, City of Westminster
Ron Hellbusch, Special Projects Coordinator, City of Westminster
Lori Cox, City Council, City and County of Broomfield
Dorian Brown, Director of Public Works, City and County of Broomfield
Mike Bartleson, Deputy Director of Public Works, City and County of Broomfield
Kathy Schnoor, Superintendent Environmental Services, Broomfield
Shirley Garcia, Environmental Coordinator, City and County of Broomfield and City of Westminster
Shelley Stanley, City of Northglenn
David Allen, City of Northglenn
Lee Johnson, Woman Creek Reservoir Authority
Jeanette Alberg, Area Representative, Senator Wayne Allard
David Hiller, State Issues Counsel, Senator Ken Salazar
Doug Young, District Policy Director, Congressman Mark Udall
Carl Spreng, Colorado Department of Public Health and Environment
Mark Aguilar, Environmental Protection Agency
Scott Surovchak, Legacy Management
Rocky Flats Stewardship Council

ATTACHMENT 1

Westminster acknowledges the RFLMA has captured the key aspects of a comprehensive long-term stewardship program; however, we have a few concerns or comments that still require additional consideration now or during the periodic 5-year review. Quotes or titles from the draft document, Rocky Flats documents, White Papers, regulatory citations, or EPA Guidance are italicized in this letter to distinguish sited language from Westminster's comments and recommendations.

1. **AMENDMENT OF AGREEMENT AND MODIFICAITON OF ATTCHMENTS**
   - We do not support all of the language in Part 10 of the agreement. As stated, if an amendment is not a "significant" change to the agreement, the RFLMA Parties' only requirement will be to provide a public notice of the amendments to the Agreement to the public. It was our understanding that anytime an amendment was made to Attachment 2, the document would be released for public review and comment.
   - The proposed language in this section would exclude the public and impacted downstream communities from engaging in dialogue to evaluate any revision or modification if it is considered a "non-significant" change. Without having a clear definition of "significant" or "non-significant" in the document, public participation will be greatly diminished. As a minimum, any revisions to Attachment 2 or institutional controls should be considered a "significant" revision to the plan.
   - *Public notice is required with the exception of Attachment 3 of the document.* Attachment 3 is not included in the draft. Please clarify what will be included in Attachment 3 and when will it be available for review and comment.
   - We are concerned the consultative process as identified in the plan is in total contrast to the working relationship downstream communities had with the Rocky Flats Clean-up Agreement (RFCA) Parties during remediation of the site. We want to clarify we are not asking to make final decisions associated with any future remedy problems at the site. We are however requesting to be apprised of any discussions associated with any issues as they are discovered or solutions prior to the final decision being made.
   - We have complete confidence in the RFLMA Parties, however downstream communities have to evaluate the RFLMA decisions based on impacts to our watersheds. We thank the RFLMA Parties for their commitment to provide us with finalized contact records once they are approved. We request the opportunity to discuss the contact records as needed via unscheduled technical meetings.
2. **LONG-TERM MONITORING AND SURVEILLANCE PLAN**
   - Surface Water Discharge - In the event DOE is discharging surface water from the site, we hope to have a sampling process similar to what the City and County of Broomfield currently has to sample surface water quality at the site boundary on Woman Creek.
   - Westminster wants to ensure security is maintained at the site to protect the POC (Point of Compliance) at Woman Creek. We have voiced our concerns that the POC is located within the refuge and there will be a high potential for the general public to access the equipment at the surface water monitoring station. Because there is a probability that the station may be damaged or vandalized, we ask the RFLMA Parties to evaluate the security mechanism to protect the station.
   - We were disappointed in the response to comments that the terminal ponds will not be sampled annually to evaluate the water quality in the ponds. Not withstanding the responses from the RFCA Parties, we still believe there is value in sampling the terminal ponds annually to evaluate the water quality in the ponds. As a minimum, the terminal ponds should be sampled during the 5-year review to evaluate the remedy holistically to determine if any area is not being captured by the current monitoring system.
   - SW Performance (SW018) Upstream of FC-2 wetland area as identified in Table 2 will be sampled semiannually for Volatile Organic Compound (VOC). Based on several discussions from 2003 – 2006 to allow the remaining B771 and B774 contaminated foundations, it was agreed to

have groundwater monitoring include plutonium as one of the analytes in this area. With the potential for the 771/776 tunnel to serve as a conduit for groundwater transport to potentially emerge as surface water and the high potential for erosion in this area, it was agreed (via the Integrated Monitoring Plan process) to include VOCs and plutonium for the list of analytes for SW018. Table 2 only identifies VOCs for this station. Based on the uncertainties in this area, sufficient data should be reviewed prior to deleting plutonium as an analyte from this station. We understand plutonium sampling will be captured in the site sampling guide, but that is not an enforceable document. LM would be able to revise their site document without the approval of the other RFLMA Parties. Please revise the document to include plutonium in Table 2 of the document for SW018.

- Solar Pond Plume Treatment System (SPPTS) Discharge Gallery serves to evaluate water downstream of the SPPTS unit that is not being treated and captured. Data from the Discharge Gallery is used to support the data quality objectives of the groundwater treatment systems and surface water systems in this area. Based on years of data reflecting sporadic elevated levels of nitrate and/or uranium in this area, this monitoring station should be added to Table 2 of the document to ensure the station is maintained for the long-term. Recent elevated readings as of January 19, 2006, reflected nitrate levels at 673 mg/L and the temporary standard is 100 mg/L. We are concerned the Discharge Gallery will not meet the surface water standard of 10 mg/L in 2009 and LM does not have a plan or made a commitment to obtain this standard. To ensure water quality is maintained and evaluated in Walnut Creek the consultative process would serve to determine the need and fate of this surface water station. We ask that Table 2 be revised to include the SPPTS Discharge Gallery and associated analytes of nitrate and uranium to make the monitoring regulatory criteria.
- GS-51, located south of 903, is an automated surface water monitoring station operated to evaluate the 903 Pad and the Lip Area. This station has been operated to determine source evaluation for elevated plutonium readings at SW027. As recently as of June 2005, this station provided data which DOE provided to the RFCA Parties pursuant to Attachment 5 of RFCA. We understand the 903 area has been stabilized and vegetation has had an opportunity to mature to prevent erosion, but this station provides valuable information about the remaining residual contamination in this area. With the high potential for erosion and uncertainties of contaminant migration in the near future, GS-51 should be added to Table 2 to ensure this station will not be removed without the approval of the other RFLMA Parties. This station can provide valuable information after major storm events to evaluate the performance of the remedy and determine if source material remains stabilized. Please revise Table 2 to include this station to monitor for plutonium and americium.
- Former SW056 now GW 45605, is a sentinel well, adjacent to French drain remnants and drain interruption just south of the former Building 991. This well is identified in Table 2 and is to be sampled semiannually for evaluation of groundwater plumes and associated VOC contamination. Due to severe subsidence in the area the well has been forced into an almost horizontal position that prevents samples from being taken. We ask that a plan be drafted with an identified schedule to replace the well to monitor groundwater in this area. We would also like to see a plan with criteria to determine when and if stabilization will be performed in this area to address the severe subsidence. We have heard repeatedly from the RFCA Parties that this is not an environmental issue. The purpose of this well is to evaluate potential impacts to Walnut Creek. Without data interpretations from this well, LM cannot provide an evaluation of all potential impacts to our watershed from groundwater in this area.
- Groundwater Boundary wells 41691 on Walnut Creek and 10394 on Woman Creek are identified in Table 2 of the document and we thank the RFLMA Parties for including the wells in the table. We concur with the Parties that they do not have to notify the impacted downstream communities per Figure 7 of the document. We do not want to add additional regulatory criteria to LM. We would like, as a courtesy, to be notified in the event there are elevated levels of VOCs, uranium, or nitrates at the boundary wells to ensure our watershed is protected downstream and determine if we need to take any physical actions.

- The City of Westminster would like to thank the RFLMA Parties for their commitment to discuss technical issues post-closure with staff as needed to address issues related to water quality.

3. **ADMINISTRATIVE RECORD**
   - **Administrative Record (AR)** – *Specifically, DOE shall maintain the CERCLA Administrative Record for the final CAD/ROD in conformance with the requirements of CERCLA section 113, including the requirement that the Administrative Record be available at or near the facility.* Please clarify if LM intends to have a facility to access the record at or near the facility in addition to the electronic version. If LM has considered any facilities, we would like to be apprised of locations they are currently considering. The intent of the CERCLA requirement is that the record be not only available, but useable by the public.
   - **Rocky Flats Reading Room**. We request LM work with us in the event the records and literature are transferred to another repository. Legacy Management has committed to work with us in the decision making process to determine the best location for the administrative record. If any of the other materials currently being stored in the Reading Room are not to be archived by LM, we ask to have the opportunity to have the material transferred to us.
4. **PUBLIC INVOLVEMENT PLAN**
   - We would like to thank LM for continuing public involvement dialogue among state and federal regulators, stakeholder organizations, elected officials, members of the general public, and downstream communities.
   - We ask as the Plan is revised to keep us apprised of any changes.
   - We especially want to thank the Parties for listening to our issues and concerns. We ask LM to continue in the spirit of the Public Participation Plan. *DOE invites the general public, special interest groups, and local governments to participate early in the discussion of Rocky Flats activities and the decision-making process.* We thank the RFLMA Parties for the supportive language in the plan.
   - We would like to thank LM for making communication in the contact record available to use following signature approval by the parties, however, we are concerned dialogue with us may be hindered based on the fact a decision has been made. Our input may add no value to the final decision or any dialogue post-approval. We are not asking to make final decisions, but rather provide an opportunity for us to dialogue with the Parties and voice our evaluation of proposed solutions and impacts to our watershed as a downstream community.
   - We thank the RFLMA Parties for their commitment to meet with technical staff on a quarterly basis *as warranted* to review and discuss quarterly data and information.
   - We support Legacy Management's Strategic Plan, with the exception of a few comments we addressed in our letter and believe this agreement to be consistent with the goals and objectives of the Strategic Plan.
5. **EMERGENCY RESPONSE CONTACT**
   - We realize how it is very important to establish a response mechanism with local emergency responders in the unlikely event of an emergency at the site. *LM will make notification to established points of contact; regulators, local elected officials, community officials, and congressional offices would also be informed in a timely manner if such a situation arises.* We also ask the name of our technical staff be added to the list of contacts within the Public Participation Plan.
   - Technical staff evaluates potential impacts to our community and responds to questions from our constituents. Staff would therefore also need to be notified of any emergency at the site.
   - We recommend the list be updated at LM's Annual Report meeting.
6. **INFORMATION CONTACTS APPENDIX A**
   - Revise the list to reflect the current list of contacts.
   - We understand how difficult it is to maintain a current list of contacts, but we ask the Community Involvement and Public Affairs Officers to keep us apprised of revisions within their organizations as they occur.