OFFICE OF THE CITY AND COUNTY MANAGER

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October 1, 2010

Mr. Raymond M. Plieness, Director
Mr. Thomas Pauling, Director Designate
U. S. Department of Energy, Office of Site Operations
2597 B 3/4 Road
Grand Junction, CO 81503

RE: Rocky Flats Site - Follow- up to DOE Letter of September 23, 2010 and Meeting with DOE on September 27, 2010

Dear Mr. Plieness and Mr. Pauling:

Thank you for your letter of September 23, 2010 and for meeting with my staff and me on Monday. We appreciated the statement in your letter that the Department of Energy, Office of Legacy Management (DOE-LM) welcomes input from neighboring cities on the stewardship of the Rocky Flats site. The meeting Monday was a success in that both DOE-LM and Broomfield had the opportunity to better understand each other's position with regard to the proposed actions, which are addressed in the draft Environmental Assessment (EA) for the site and the proposed changes to the Rocky Flats Legacy Management Agreement (RFLMA).

We are pleased by your statements at the meeting on Monday that DOE has stopped action on efforts to install new Points of Compliance facilities until next Fall at the earliest. As you are aware, one of our most urgent concerns is the uncertain time frame for finalizing the EA. We would like DOE-LM to continue with the current operating and monitoring regime until such time that our critical concerns about the proposed new Points of Compliance and the breaching of the dams are addressed by a working group that includes the downstream communities most affected by these proposed decisions.

The maps you provided at the meeting on Monday indicating the locations and some of the concentrations of contaminants at the Rocky Flats site were partially responsive to my request concerning the agency's knowledge of the locations of what contamination remains at the site. There was general agreement that the potential for contaminants to migrate offsite through soil or water erosion, or more extreme events like flooding, still exists. This is evidenced by the current remedy on site, which includes institutional and engineering controls, groundwater treatment systems, and an extensive monitoring program. These collective and inter-related measures are intended to protect human health and the environment. This recognized risk is the precise reason why Broomfield is requesting that the current sampling protocols at the site remain in place for a much longer period of time and that any changes, such as those addressed in the draft EA and the proposals related to the Points of Compliance, be studied in greater detail prior to finalizing the EA and prior to proceeding with the proposed changes to the RFLMA.

We understand from your letter and our meeting on Monday that your newest proposal is to develop an Adaptive Management Plan (AMP) timeline to be included in a decision on the Environmental Assessment (EA) and that you see the AMP process as the method for addressing the "critical concerns" of the downstream communities. We also understand that the agency wants to finalize the EA, first, however, and then proceed with the AMP process. While we appreciate the opportunity for further

input, as we stated at the meeting, our major objection is that the agency wants the AMP process to occur **after** the decision on the EA has been made. We submit that organizing an AMP process or working group process after the EA decision is finalized is backwards. We also are concerned that implementing the AMP process as part of the EA decision may preclude discussion with respect to the proposed RFLMA changes. We fail to see how the downstream communities can have any meaningful input related to the proposed actions which are addressed in the draft EA or the proposed RFLMA changes if the AMP or some similar working group process takes place after DOE has finalized the EA, which includes dates to breach the existing dams. We ask that you engage with us and the other downstream communities in the working group discussions before finalizing the EA.

It is Broomfield's position that the proposed actions, which are addressed in the draft EA and your suggested changes to the Points of Compliance that are addressed in your suggested changes to the RFLMA, are premature. We ask that you postpone the decisions on the dam breaching and the changes to the Points of Compliance to allow time for a working group to be established to address these issues in more detail. We are receptive to the concept of implementing the AMP process; however, we view this as one of the many tasks that the working group would need to address before decisions on the EA or RFLMA changes are made. As such, we ask that you leave the current remedy of testing water before it is released from the Rocky Flats site in place until these issues can be resolved through a working group that includes DOE-LM, the Colorado Department of Health and Environment (CDPHE), the Environmental Protection Agency (EPA), the U.S. Department of Fish and Wildlife, and representatives of the downstream communities.

As we told you at the meeting on Monday, Broomfield's major concerns and requests are:

- That DOE delay indefinitely the decision on the EA and the changes to the RFLMA until a working group can resolve our outstanding concerns. DOE's timeline for making the EA decision is jeopardizing the possibility of creating a viable working group that allows credible input from the affected downstream communities and is forcing Broomfield to consider its legal options if a decision on the EA is made prematurely. We believe the issues in both the draft EA and the changes to the RLFMA should be discussed in total and that the breaching of the current dams, the changing of the Points of Compliance, and the changing of protocols related to water quality testing must be considered together and with input from those most directly affected.

- That a working group of DOE, CDPHE, EPA, U.S. Department of Fish and Wildlife, and the representatives of the downstream communities be established now to address our ongoing concerns about changes to the current sampling protocols and methodologies at Rocky Flats. We believe this working group should be independent of the Rocky Flats Stewardship Council to truly facilitate consensus building with asset holders that are directly impacted by the site. The working group would make recommendations for any proposed changes to the current water monitoring criteria at Rocky Flats, including dam breaching proposals, new Points of Compliance, and changes in water testing protocols. The working group would also help develop a contingency plan for major events, like floods, fires, or failure of the remedy. This working group could work on a timeline that is reasonable to allow the full exchange on these critical issues.

We believe that delaying the agency's decisions related to the draft EA and the RFLMA and the establishment of the working group as described above will facilitate meaningful input from the downstream communities. If time is allowed for this process, the long-term stewardship of Rocky Flats will be benefited and consensus among affected communities and DOE can be achieved. We believe that a collaborative approach will make it easier to implement future changes at the site.

On a personal note, I want to thank you, Ray, for working with Broomfield over the years on issues concerning the Rocky Flats site. We have appreciated your willingness to listen and consider the concerns of the downstream communities. Best of luck in future endeavors. We thank Tom Pauling for coordinating and participating in the meeting on Monday and we look forward to a meaningful working relationship with Tom. We have appreciated the steps both of you have taken to address the important concerns of downstream communities. It is our understanding that you are going to respond to our ongoing concerns and that you are going to take a week or two to talk with your staff and potentially with representatives of CDPHE and EPA, before communicating with us again. We look forward to continue working with you.

Sincerely,

George DiCiero
City & County Manager

Enclosures

pc: Lori Cox, Broomfield's Representative on the Rocky Flats Stewardship Council
Bill Tuthill, Broomfield City and County Attorney
Charles Ozaki, Broomfield Deputy City and County Manager
Kevin Standbridge, Broomfield Assistant for Community Development
Rosann Doran, Broomfield Public Information Officer
Jennifer Hoffman, Assistant to Broomfield City and County Manager
Alan King, Broomfield Public Works Director
David Allen, Broomfield Deputy Public Works Director
John Watson, Berenbaum Weinshienk, PC
Doug Young, Senator Udalls' Office
Zane Kessler, Senator Bennet's Office
Andy Schultheiss, Representative Polis' Office
Bill Holen, Representative Perlmutter's Office
Dave Geiser, DOE-LM
Scott Surovchak, DOE-LM
James Martin, USEPA
Carol Rushin, USEPA
Larry Svoboda, USEPA

Vera Moritz, USEPA
Martha Rudolph, CDPHE
Howard Roitman, CDPHE
Joe Schieffelin, CDPHE
Carl Spreng, CDPHE
Steve Berendzen, USFWS
Josh Nims, Women Creek Reservoir Authority
Brent McFall, Westminster City Manager
Cathy Sugarts, City of Westminster
William Simmons, Northglenn City Manager
David Willett, City of Northglenn
Shelley Stanley, City of Northglenn
Bud Elliot, City of Thornton
David Abelson, Rocky Flats Stewardship Council
Mark Johnson, Executive Director, Jefferson County Public Health