

EA  
Admin Record



## WESTMINSTER

May 2, 2013

City of Westminster  
Office of the  
City Manager

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Scott Surovchak  
Department of Energy  
Office of Legacy Management  
11025 Dover Street, Suite 1000  
Westminster, Colorado 80021  
Sent via email: [scott.surovchak@lm.doe.gov](mailto:scott.surovchak@lm.doe.gov)

Dear Mr. Surovchak:

The City of Westminster ("Westminster" or "City") appreciates the opportunity to comment on the proposal to remove sampling locations GS01 and GS03 in September 2013.

By way of background, Westminster's primary drinking water supply, Standley Lake, is located downstream of the former Rocky Flats Plant Site ("Site"). Westminster helped lead efforts in the 1990's to construct the Standley Lake Protection Project and thereby prevent flows leaving the Site from reaching the City's drinking water supply. Although the Standley Lake Protection Project severed the hydrologic connection between activities on the Site and Standley Lake, water leaving federal property continues to flow through portions of Westminster adjacent to Walnut and Big Dry Creeks. Westminster continues to actively monitor and comment on proposals involving the Site and, in this instance, stands in opposition to the current proposal to prematurely remove sampling locations GS01 and GS03.

The City of Westminster believes there is a strong technical basis to maintain these locations at this time. Specifically, during the less than two year period of flow-through operations at the terminal dams, there have been no high-intensity runoff events across the site. While some areas might expect lower runoff response due to recent response actions (i.e., wattles installed in the SW027 drainage in response to April 2010 reportable condition), there have been no sharp runoff peaks across the site at any station since initiation of flow through. The AMP sampling locations and the flow-through configuration has not yet been tested under such conditions. This is a basis to continue the monitoring at GS01 and GS03 to evaluate concentrations at the fenceline relative to the WOMPOC and WALPOC locations in response to such events. DOE has presented no analysis of data to justify removal of GS01 and GS03.

Following the AMP meeting on April 25, 2013, Cathy Shugarts, representing the City, discussed with you her differing recollections regarding your position related to long-term monitoring at the Indiana Street locations. In reviewing past meeting minutes, she discovered a number of references (attached) to statements you have made in public forums since 2010 about DOE's commitment for long-term continued monitoring at the GS01 and GS03 locations, whether they were regulatory



requirements or not. She sent you those references on Monday. Tuesday you responded via email indicating that the discontinuation of the monitoring was based on data collected in the last two years. However, in the redlined version of the proposed AMP, the only reason for dropping the monitoring sites is that they are no longer POCs.

As you are well aware, Westminster was instrumental in DOE's efforts to engage downstream communities in the AMP process. Westminster was prompted to do so by your assurances that GS01 would be monitored until the dam was breached at Pond C-2 or until highway construction eliminated the sampling location or prohibited access. As such, this is an important issue for us.

The City of Westminster also fully supports and agrees with the comments provided by the Woman Creek Reservoir Authority (WCRA). We believe it is too early to eliminate the sampling locations at the Indiana Street fenceline. As detailed in the Woman Creek Reservoir Authority letter, there has not been enough data collected in the full range of flow regimes. We are also very disturbed that DOE is proposing these changes after assuring the City of Westminster that the sampling and analysis would continue for another 7 – 10 years.

We look forward to your responses at the May 9, 2013 meeting requested by the WCRA.

Sincerely,



J. Brent McFall  
City Manager

Cc: Carl Spreng, Colorado Department of Public Health and Environment  
Vera Moritz, EPA  
David Abelson, Rocky Flats Stewardship Council  
Mike Smith, Director of Public Works & Utilities  
Mike Happe, Utility Planning & Engineering Manager

[http://rockyflatssc.org/RFSC\\_meeting\\_minutes/RFSC\\_minutes\\_8\\_16\\_10\\_FINAL.pdf](http://rockyflatssc.org/RFSC_meeting_minutes/RFSC_minutes_8_16_10_FINAL.pdf)

Excerpt from RFSC meeting minutes - August 16, 2010

Jeannette asked Scott to clarify the timeframe for continued monitoring at Indiana. Scott said that since DOE had modified its dam breach plan based on public input and was now going to operate Pond C-2 in a flow-through configuration, they would continue to operate the Indiana monitoring points. He said this would most likely continue as long as they were operating C-2 in flow-through. Shirley asked what DOE's objectives were for the flow-through period. Scott said this would be found in the EA, with some augmented language from the previous version. He said the primary reason to operate in flow-through configuration was to allow habitat to establish itself. He said it also provides a period of time in which they can look at long-term water quality impacts.... Lisa Morzel asked Scott for clarification about whether DOE was keeping the Indiana POCs as data points and for how long. Scott said they were keeping them and it would probably be for 7-10 years, or as long C-2 is in flow-through. Shelly Stanley asked where the public would see this in writing. Scott said it would not be a RFLMA change, because it was not related to any regulation, but said it would be added to the Rocky Flats Site Operations Guide. Sue Vaughan asked if they found a reportable condition at Indiana after these changes have been made whether DOE was bound to take any action. Scott said they would definitely look at the problem, but it would not be a regulatory compliance issue. Lisa Morzel asked what the site would do about contacting downstream communities in this scenario. Scott said they would have no obligation regarding notification, but would look at what was reasonable.

[http://www.lm.doe.gov/Rocky\\_Flats\\_AMP.pdf](http://www.lm.doe.gov/Rocky_Flats_AMP.pdf)

Excerpt from AMP meeting notes summary - January 13, 2010

DOE – Offered months ago to continue to monitor at Indiana locations regardless of RFLMA MOD, at least until the Parkway construction eliminates monitoring locations.

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[http://rockyflatssc.org/RFSC\\_meeting\\_minutes/RFSC\\_minutes\\_2\\_7\\_11\\_FINAL.pdf](http://rockyflatssc.org/RFSC_meeting_minutes/RFSC_minutes_2_7_11_FINAL.pdf)

Excerpts from RFSC meeting minutes - February 7, 2011

David Abelson asked Scott about the possibility of looking at monitoring points more as data points. Scott said that under the AMP process, anything is fair game. He reiterated that, although it will not be a regulatory requirement, he will continue to monitor at Indiana Street. Broomfield still does not think this is enough.

David Allen said they are not comfortable that DOE would be able to make a unilateral decision to discontinue this non-regulatory monitoring. Scott said that DOE is looking at even adding data points and have made a commitment to continue to monitor in these areas. Lisa Morzel asked if there will be anything binding DOE to maintaining these data points. Scott said that is what AMP is all about. David Abelson pointed out that the AMP is not part of a NEPA decision, and does not require regulator approval. He said it is a management tool and can be discarded unilaterally by DOE. Scott said he did not think that is how the Department of the Interior sees it. He said the criteria for opting out will have to be described, like RFLMA. He said it is part of the NEPA process. David Abelson asked for a clarification from the downstream communities that their concern is that DOE will have the unilateral discretion to discontinue monitoring without sign-off by the regulators. He asked if they also believe fines need to be an option for the regulators. David Allen said that ideally they would like to have this, but their main concern is a requirement to continue monitoring.

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[http://www.lm.doe.gov/Rocky\\_Flats\\_AMP.pdf](http://www.lm.doe.gov/Rocky_Flats_AMP.pdf)

Excerpt from AMP development working group meeting Notes Summary - March 3, 2011

#### 7: Monitoring programs

- BF wants to continue monitoring at identified locations for 2-5YR cycles, wants to

keep the existing monitoring locations, regardless if they are changed under RFLMA.

Indiana St. monitoring

- DOE – does not see replacing Indiana St. locations in event they have to be removed

due to Jefferson Parkway construction. Won't seek to maintain locations on nonfederal

land and doesn't want to reinstall monitoring locations outside of NPL site.

- BF – If parkway authority built monitoring stations, would DOE monitor, operate and

maintain the new locations?

- DOE – would agree to operate for some time, probably not 2-5YR cycles, but for

some period of time as long as have access. If property changes hands, that changes the legal status. Federal government needs agreement to access private land.

[http://rockyflatssc.org/RFSC\\_meeting\\_minutes/RFSC\\_minutes\\_4\\_4\\_11\\_FINAL.pdf](http://rockyflatssc.org/RFSC_meeting_minutes/RFSC_minutes_4_4_11_FINAL.pdf)

Excerpt from RFSC meeting minutes - April 4, 2011

David Allen raised a point that the motion should refer specifically to the current standards at Indiana Street. He said that the second part of motion could be read to say that the Board supports moving the POC's to wherever DOE proposes. Sheri said she did not want to get too specific. David Allen said to remember that there were currently five POC's for surface water, and the two at Indiana have different monitoring and reporting requirements than the other three. He suggested revising the motion to say that any relocated POCs should carry the same reporting requirements that currently apply at Indiana Street. Jeannette said she would support the original motion, because the second part allows for additional input in future. David Allen said they were still working through the issue of 30-day rolling average. Lisa Morzel asked if they were talking about the eastern boundary of refuge lands, after the 300 foot right-of-way for the Parkway was removed. Marc Williams said he agreed with this approach. David Abelson noted that the motion lacked a discussion of continued monitoring at the eastern edge of the Federal boundary, even though the Board has supported retaining these 'data points' even if they are no longer POCs. Jeannette said that if this letter did not mention Indiana, it would not mean the Board cannot address it in the future. David said that these issues were being addressed in the AMP, so there was a time factor at play. Jeannette said that the letter could be approved and then submitted at the June meeting. David said he wondered why there was not a #3 that called for DOE to continue to collect water quality data at the eastern edge of the federal boundary. Lisa Morzel suggested adding a friendly amendment to clarify this point. The motion passed unanimously; Shirley Garcia abstained. Because DOE

would be issuing its decisions prior to the Stewardship Council's June 6<sup>th</sup> meeting, the Board decided not to send a letter.

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[http://rockyflatssc.org/RFSC\\_meeting\\_minutes/RFSC\\_minutes\\_6\\_6\\_11%20FINAL.pdf](http://rockyflatssc.org/RFSC_meeting_minutes/RFSC_minutes_6_6_11%20FINAL.pdf)

Excerpt from RFSC meeting minutes - June 6, 2011

Because the meeting was running behind schedule, Chairman Briggs asked if anyone had question about this topic. David Allen asked if the monitoring points on Indiana were going to remain as Points of Compliance, or Points of Evaluation. Scott Surovchak said they will continue to be POCs and will later become part of the AMP. He said they will remain at the same locations until the Jefferson Parkway is constructed.