



August 2, 2011

Rocky Flats Site Proposed Plan Comments
U.S. Department of Energy
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RE: Proposed Plan for Amendment of Corrective Action Decision/Record of Decision

Ms. Moritz, Mr. Spreng, and Mr. Surovchak:

The City and County of Broomfield (Broomfield) is providing comments to the Proposed Plan for Amendment (Propose Plan Amendment) of the Corrective Action Decision/Record of Decision (CAD/ROD), dated June 3, 2011. In addition to the CAD/ROD amendment, the parties to the Rocky Flats Legacy Management Agreement (RFLMA), comprised of the Colorado Department of Public Health and the Environment (CDPHE), Environmental Protection Agency (EPA) and the U.S. Department of Energy (DOE) proposed Attachments 1 and 2 to the Proposed Plan that would modify the language in the RFLMA, revise the existing Environmental Covenant, and formalize the Soil Disturbance Review Plan for the site. Broomfield's comments also include justification for our opposition to the proposed modifications to the additional documents as provided in Attachments 1 and 2 of the Proposed Plan.

General Comments

When waste is left on site after remediation and is present above levels that would not be protective in an unrestricted use/unlimited exposure scenario, institutional controls are needed to control the integrity of the remedy by preventing or limiting exposure to remaining hazardous waste and constitutes. Because waste was left at Rocky Flats, Institutional Controls (ICs) are a necessary component of the completed and chosen remedy. The selected remedy, Alternative 2, included legally enforceable and administrative land use restrictions identified within the CAD/ROD and the RFLMA to ensure no new pathways for contaminants would be established by excavating at depths greater than three feet within the Central Operable Unit (COU). Excavation would potentially complete pathways that could negatively impact surface water quality via fate and transport or increase health risks to the worker through acute or chronic inhalation exposures.

The proposed amendments to the CAD/ROD and RFLMA would have the following effects:

- remove the additional layer of protection that currently minimizes digging at depths greater than three feet within the COU;
- eliminate the public process for input in any future revisions to the institutional controls or modifications, removal, replacement or relocation of any engineered component of the response action;
- eliminate the commitment to maintain the ICs in *perpetuity*, and;
- eradicate the final site configuration that ensures a minimal three foot layer of protection above residual contamination within the COU by eliminating the requirement to restore the soil surface to pre-existing grade or higher.

Broomfield worked in good faith to support the site closure and ensure long-term stewardship controls were in place to protect the impacted downstream communities. Specifically, we worked diligently and directly with the RFLMA parties to:

- develop a vigorous long-term vision and stewardship plan to ensure contamination would remain on-site by means of a contingency plan and utilizing terminal ponds to contain and/or treat on-site migration;
- develop a decisive monitoring plan to ensure the remedy is functioning per design to prevent off-site migration of contamination;
- ensure institutional controls were established for perpetuity to prevent unacceptable exposure to human health and prevent migration of residual subsurface contamination and/or contaminated subsurface features to protect surface water quality; and
- ensure after excavation for remedial purposes that the final soil surface grade is restored to preexisting grade to maintain the current depth to subsurface contamination or contaminated features. (The requirement to return the excavated site to the final grade feature serves as a protective cap to contain buried residual contamination and infrastructures.)

One of Broomfield's key concerns is that the proposed language will eliminate a formal CAD/ROD amendment process requiring a public process for comment prior to any taken action. The current language simply requires the RFLMA Parties to notify the community after an action as been

approved. We do not support unlimited action that potentially negates the goals, objectives, and rationale of the CAD/ROD and RFLMA without future public input.

The proposed modifications to the ICs would:

- remove the requirement to maintain an environmental covenant that binds the DOE and incorporates use restriction for the COU in perpetuity (Emphasis added.);
- allow excavations for purposes other than remediation in areas where residual contamination, subsurface infrastructure, and/or buried trenches are located;
- eliminate the requirement to restore the ground surface to pre-existing grade following excavation and soil disturbance activities;
- give the DOE the freedom to re-design, modify, remove, or relocate any engineered components (i.e. groundwater treatment units, landfill caps, etc.) at the site without future public input; and
- remove the public process to comment on formal amendments to the CAD/ROD that may modify or terminate ICs or amend RFLMA Attachment 2, Legacy Management requirements to implement the CAD/ROD.

For reasons stated above, the proposed changes to the CAD/ROD are considerably less protective than the restrictions that Broomfield supported during closure.

Broomfield has the following concerns, comments, and requested clarifications on the changes to the CAD/ROD and RFLMA. We request a formal response to our general comments and the numbered items that follow.

1. Information Incorporated into this Proposed Plan

The following statement is included on Page 4 of 16 under the heading, "Information Incorporated into this Proposed Plan":

Because there is no change to the remedy, this Proposed Plan incorporates by reference the July 2006 Proposed Plan and the September 2006 CAD/ROD.

Broomfield disagrees with this statement based on two fundamental issues. First, the selected remedy was chosen based on the addition of ICs to prohibit excavation, use of groundwater, drilling and other intrusive activities below a depth of three feet that were not remedy-related. Second, the objective of the CAD/ROD was to prevent unacceptable exposure to residual subsurface contamination that would generate potential new pathways and risk to the worker.

- 1.1 Provide the risk assessment process that will be performed to evaluate acceptable exposure or unacceptable exposure.
- 1.2 How will risk assessments to groundwater and surface water be evaluated?
- 1.3 How will excavations be evaluated to determine impact to the remedy?
- 1.4 How will excavations be evaluated for impact to ecosystems?
- 1.5 How will risk assessment be documented?

1.6 If there is a failure of the ICs, what is the process to reevaluate the remedy?

2. Table 1. Clarification of IC Descriptions

IC-2

Prohibiting excavation that is not associated with the remedy below three feet reduces the potential for worker exposure and negative impacts to surface water via fate and transport of contaminants remaining at the site. The rationale for IC-2 is stated as:

Contaminated structures, such as building basements, exist in certain areas of the Central OU, and the CRA did not evaluate the risk posed by exposure to this residual contamination. Thus, this restriction eliminates the possibility of unacceptable exposures. Additionally, it prevents damage to subsurface engineered components of the remedy.

Since the language in the Proposed Plan Amendment removes the prohibition, it increases the potential for generating new pathways both short-term and long-term. A risk assessment of potential migration of contamination from structures, mainly constructed of concrete, after degradation of the concrete material was never performed. To comply with the objective and rationale of the Remedial Investigation/Feasibility Study (RI/FS), Broomfield requests DOE evaluate the risk posed by exposure to this new pathway that will increase risk to human health and the environment both short-term and long-term through degradation of the concrete in the future.

- 2.1 Clarify that a risk assessment will be performed short-term by an Industrial Hygienist or Safety Manager for each excavation.
- 2.2 As groundwater erodes the remaining concrete or other structural material, provide the risk assessment both short-term and long-term for complete pathways for the contaminant of concern and potential contaminant of concern before there are any modifications to the ICs.

The current process CDPHE and DOE has in place for Contact Records does not replace or constitute a formal risk assessment. Broomfield requests that future Contact Records for soil disturbance or excavations include, as minimum, the items listed below. Additionally, all of this information should also be included in the Rocky Flats Administrative Record.

- Identification of remaining subsurface structures, trenches, and potential for subsurface contamination in the area;
- Historical information about any former IHSS, Area of Concern (AOC), groundwater depth, identity of contaminants of concern within the area of excavation;
- Document current site survey of the area and final site survey of the area to ensure a three-foot cover is maintained;
- A completed Job Safety Analysis (JSA) with the following information shall accompany the Contact Record:
 - Personnel Protective Equipment needed;
 - Criteria and procedures for requesting a radiation technician;

- Identification of equipment readings, if applicable;
 - Waste disposal criteria;
 - Information and analytical results required during the activity;
 - Identification/Documentation as to why the excavation is required; and
 - Review of the JSA by a certified Industrial Hygienist and/or qualified Safety Professional.
- 2.3 Provide the rationale if the above-requested information is not included in the Contact Record or the Administrative Record.

IC-3

The language of the existing IC-3 reads, in part:

No grading, excavation, digging tilling or other disturbance of any kind.....is permitted, except in accordance with an erosion control plan (including Surface Water Protection Plans submitted to EPA under the Clean Water Act).....Any such soil disturbance will restore the soil surface to preexisting grade.

The language in the Proposed Plan Amendment allows for soil disturbances that **will not restore** the soil surface to pre-existing grade or higher. The intent behind the three-foot depth was to ensure that a minimum cover of three feet would be maintained to prevent contamination surfacing over time, due to the life expectancy of the contaminants and potential impact to human health and the environment. The Actinide Migration Report stated soil contamination at 10 picocuries per gram (pCi/g) would negatively impact surface water quality. The proposed language contradicts the rationale in the RI/FS to restore the soil surface to preexisting grade. The rationale for IC-3 states:

Certain surface soil contaminants, notably plutonium-239/240, were identified in the fate and transport evaluation in the RI as having complete pathways to surface water if disturbed. This restriction minimizes the possibility of such disturbance and resultant impacts to surface water. Restoring the soil surface to preexisting grade maintains the current depth to subsurface contamination or contaminated structures.

- 2.4 Please provide Broomfield with an example of when DOE would have to excavate more than three feet and not be able to restore the surface to pre-existing grade.
- 2.5 Restructuring of the channels and ditches are all associated with erosion control to protect the remedy and contain contamination migration. There is no justification for the proposed change to IC-3 other than the proposed dam breaching. Provide us previous examples of excavations at depths greater than three feet for ditches and culverts post-closure.
- 2.6 In the event the surface is not restored to existing grade, an additional IC should be added to address this maintenance activity. Clarify why the RFLMA Parties would not simply add an IC for maintenance for erosion control or for protection of the remedy and maintain the current ICs?
- 2.7 Removing this restriction altogether increases the potential for actinide migration and potential worker exposure via inhalation. Will air monitoring equipment or other forms of monitoring be used to characterize soils being brought to the surface from subsurface depths?

- 2.8 Broomfield does not understand how a worker would know if he or she were protected without exposure data from either air monitors or technician's radiation equipment. What type of air monitors or technician support will be required during excavation? How will this information be documented or recorded into the Administrative Record?
- 2.9 If soil is not restored in the COU to existing grade, how will the three-foot cover be maintained for the life of the contaminant within the COU?

IC-7

The current language for IC-7 states:

Activities that may damage or impair the proper function of any engineered component of the response action, including but not limited to any treatment system, monitoring well, landfill cap, or surveyed benchmark are prohibited.

The Proposed Plan Amendment adds the following sentence to IC-7:

The preceding sentences shall not be construed to prohibit the modification, removal, replacement or relocation of any engineered component of the response action in accordance with the action determinations in RFLMA Attachment 2.

As proposed by the RFLMA parties, changes to the ICs may be made without the public comment process. IC-7 proposed language would allow the RFLMA parties to potentially relocate, remove, or cease treatment of contaminated groundwater. Broomfield clearly sees these types of actions as a fundamental change (emphasis added) to the remedy and would therefore require a change to the Proposed Plan and the CAD/ROD. As defined in the EPA guidance document titled, *A Guide to Preparing Superfund Proposed Plans, Record of Decision, and Other Remedy Selection Decision Documents*, examples of a fundamental change would include a change to a primary treatment method. This would entail the issuance of a revised Proposed Plan and the RFLMA that highlights the change. The amended portion of the CAD/ROD is evaluated using the nine criteria. Broomfield is very concerned the RFLMA Parties are undermining the language identified in their rationale for the proposals.

- 2.10 Clarify how the RFLMA Parties can propose language that would not require a formal modification to the CAR/ROD or RFLMA if guidance defines a change to the remedy as a fundamental change. Treatment units are being modified as of this quarter to meet surface water standards.
- 2.11 Provide the classification per the above guidance for replacing, relocating, reengineering or removing a treatment unit or point of compliance.
- 2.12 Clarify why the RFLMA Parties do not consider the major reengineering of the Solar Ponds or changes to remedy at the Mound Treatment unit as fundamental change.

Per the 2006 CAD/ROD:

Imposing the institutional controls obviates the need to conduct a post-remediation analysis of residual risk on a release site basis.

If the RFLMA Parties move forward with their proposals, Broomfield will ask to have a post-remediation analysis of residual risk on a release site basis performed for the site. A formal contingency plan should be part of the risk analysis to ensure contamination remains on-site and measures are in place to control contaminated surface water from leaving the site.

2.13 Provide a schedule for DOE to complete a post-remediation analysis.

2.14 Provide the details of the public process for such an important risk analysis of the site.

Broomfield is very apprehensive about the removal of the language in the environmental covenant that states:

*... use restriction for the COU will run with the Property in **perpetuity** and be binding on DOE an all parties having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns, and any person using the land.*

This text is being deleted as part of the Proposed Plan Amendment based the opinion that the requirements have been met for the Present Landfill and the modified ICs would incorporate the ICs for the entire COU for perpetuity. Once again, with the life expectancy of the contaminants at the site, the word **perpetuity** should remain within the document. With the language proposed by the RFLMA parties to exclude the surrounding communities from the public process to comment on such issues, there is no commitment that the ICs will remain in place on a long-term basis. Broomfield requests that the word "**perpetuity**" be included in the final modification to ensure that the layered controls remain in place to protect downstream communities.

2.15 Provide the justification for not including the word "perpetuity" in the modifications.

2.16 Define the process for modifying any of the ICs.

2.17 To ensure the public is involved early in any decision process pertaining to the remedy, will the public be apprised of any proposed modification prior to final approval?

Broomfield understands the importance of the ICs and had a reassurance in the 2006 CAD/ROD language that DOE would not be able to modify or terminate the institutional controls without the approval of EPA and CDPHE, by formal amendment to the CAD/ROD. Broomfield supported the closure and the then-identified long-term stewardship criteria and obligations. We are now at opposing junctures with the revised language and cannot support the proposed changes.

3. Proposed Changes to Public Comment and Review

We ask for clarification of the following proposed language that diminishes our ability to provide input to future changes to the IC, which are a vital aspect of the remedy.

Proposed language: *Institutional controls will be modified or terminated in accordance with the requirements of CERCLA and CHWA, including CERCLA and CHWA implementing regulations and guidance in effect at that time. The public will also be notified of the modification or termination and*

be given an opportunity to review and comment, pursuant to RFLMA requirements for public notification and public comment in effect at that time.

Once again, Broomfield is very concerned with the above open-ended language. Based on the definition in the EPA Guide to Preparing Superfund Proposed Plans etc., communities will be notified of the modification after they have been approved. The public would be allowed to review and comment, pursuant to RFLMA requirements for public notification and public comment in effect at that time. Broomfield is very concerned the RFLMA Parties have the latitude to deem a modification as a minor change and the public process would be circumvented. Based on the modified language, all future changes to the ICs will not require a change to the CAD/ROD, therefore future changes will be either non-significant (minor) or significant. Both of these types of changes would not require a public comment and review process and would thus exclude the impacted communities from providing input.

- 3.1 Clarify what the Parties envision the RFLMA requirement for public notification and public comments.
- 3.2 Provide an example of when the communities would have an opportunity to participate and comment prior to approval of modifications to ICs. The current process for Contact Records does not allow for public input and removes the public from discussions related to such an integral part of the remedy.
- 3.3 The language is silent on requirements for public notification and public comment for the CAD/ROD. Are you assuming there will be no further need to modify the CAD/ROD? Provide us with the rationale for your assumptions.

4. Nine CERCLA Evaluation Criteria for CAD/ROD Table 3

We ask that the RFLMA Parties expressly consider the Nine CERCLA Evaluation Criteria – Community Acceptance. The importance of community approval promotes open communication and the success of long-term stewardship activities. The modified Proposed Plan that was adopted during regulatory closure states:

The public expressed substantial support for Alternative 2, though numerous comments were submitted on individual aspects of the alternative, including environmental monitoring, ICs and physical controls, and public involvement.

Broomfield supported Alternative 2 knowing the ICs would be in place for perpetuity to ensure enhanced protection of the remedy and protection of downstream communities' water quality. Based on the comments from the community, we do not see how the RFLMA parties can justify the proposed modifications to the CAD/ROD and the RFLMA.

- 4.1 Please provide the process the RFLMA Parties used to evaluate the nine CERCLA criteria during their review process.
- 4.2 If the majority of the community is opposed to the modifications, how can the regulators justify moving forward with the proposal?

5. Justification and Examples of Work Performed by DOE to Abandon the Three-Foot Excavation Prohibition

During the public meetings for the Proposed Plan Amendments, DOE provided the following examples to justify the need to modify the ICs:

1. DOE excavated soil in a borrow area to use fill material for low spots around groundwater wells south of building 371. This was not a necessary action for excavation; DOE could have imported soil to fill the low spots around the wells.
 - 5.1 Justify how the regulators would approve an activity that did not meet the objectives and rationale for the current ICs?
 - 5.2 Clarify why borrow material was not imported and the regulators allowed the ICs to be violated?
2. The 991 hillside slumped and DOE had to regrade the hill for safety and erosion controls. The work had to be performed to protect Sentinel well 45605 and adjacent Mound treatment unit.
 - 5.3 Please provide the depths to which the soil was disturbed in order to regrade the hillside to its previous configuration. Provide the final grade for this activity and the amount of material that was excavated below three feet of grade.
3. DOE breached Dams B-1, B-2, B-3 and B-4. This activity was not warranted by DOE. It was not remedy-related and did not add any value to the protection of the remedy.
 - 5.4 Breaching the dams violated the ICs. Provide justification for this violation. Clearly the objectives and rationale were not met. To ensure against future failures in the process, how will the regulators prevent future violations?
4. Road repairs and maintenance work identified in the Proposed Plan did not require excavation of more than three feet. However, the project did not restore the area to pre-existing grade as is required by the current ICs.
 - 5.5 Provide an example of an excavation of more than three feet depth for a road repair.

Of the four examples cited by DOE, only two activities were warranted to protect the remedy. In both cases, the 991 hillside and road maintenance were implemented for erosion controls to protect the remedy and safety reasons to stabilize the 991 hillside. Broomfield does not understand the need to make such drastic changes for activities that are associated with erosion controls, protection of the remedy, and control of contaminant migration. We propose language be modified in the CAD/ROD to include erosion control measures as an additional IC if excavations are at depths greater than three feet. DOE would have to provide examples of some activities that would meet the new IC category.

6. Proposed Modification To RFLMA Attachment 2, "Legacy Management Requirements" – Attachment 1

- 6.1 Please clarify why the word "shall" was changed to "will" in section 4.0 Institutional Controls. Broomfield request the word "shall" be maintained in the language as listed below:

DOE shall employ administrative procedures to control all site modification, maintenance, or other activities requiring excavation within the Central OU in accordance with the institutional controls to prevent violation of the restrictions listed in Table 4. DOE shall ensure that all such site activities will not compromise the integrity or function of the remedy or result in uncontrolled releases of or exposure to subsurface contamination, in accordance with the land use restrictions in Table 4.

Under the same heading, we have the following requests for clarification and questions regarding the administrative procedures to control all site modification, maintenance, and other activities requiring excavation:

- 6.2 Please clarify what the administrative procedures are, how they will be controlled, how they will be evaluated, and how often they will be reviewed.
- 6.3 What professions or experts will evaluate the risk to the worker and/or monitoring criteria for a specific activity?
- 6.4 How will this information be captured in the Administrative Record?
- 6.5 Who will evaluate the activity to determine if the restriction is violated?
- 6.6 How will the public be informed of the proposed activity prior to approval and implementation of the activity?
- 6.7 What measures will DOE employ to determine whether uncontrolled releases are occurring for inhalation, wind dispersion, and contaminant migration to the surface that would potentially impact surface water on a short-term or long-term basis?

7. Information in Soil Disturbance Review Plan

Broomfield has several concerns with the language that is being proposed for the Soil Disturbance Review Plan. Specific language taken directly from the Soil Disturbance Plan is listed in italics below followed by Broomfield's comments, concerns, and requests for clarification.

CDPHE will approve the proposed activity only if it determines that the proposed activity will not result in an unacceptable release or exposure to residual subsurface contamination and will not damage any component of the remedy.

- 7.1 Please clarify how subsurface soils that may be contaminated are going to be characterized when excavations occur. The majority of the COU subsurface was not characterized. Areas where buildings, valve vaults, or direct remediation occurred such as the 903 Pad have extensive characterization. The remaining areas did not have associated contamination levels identified for specific remediation depths greater than three feet.
- 7.2 Provide the process EPA and CDPHE will implement if unknown subsurface contamination, containers, structures or other unexpected items are encountered during the excavation.
- 7.3 How will groundwater be addressed, contained and dispositioned during and after such occurrences?
- 7.4 Provide the documented process for determining and defining "unacceptable" by CDPHE.
- 7.5 Will reviewing of the rationale and objectives of the ICs be the only factors evaluated to determine if the activity is unacceptable or not?

Contaminated soils may be returned to the excavation, provided the rationale and objectives of the institution controls are still met.

When excavating at depths greater than three feet, there is an increased risk of bringing higher levels of contamination to the surface and exceeding the 50 pCi./g cleanup standard.

- 7.6 Please clarify how the soils will be characterized to ensure there is a mechanism in place to protect surface water quality.
- 7.7 If CDPHE allows contaminated soils above the cleanup standard to remain on the surface, will a map of the location and description of the site be included in the site's Annual Report or other document?
- 7.8 Will accumulative risk analysis be performed of the additional residual contamination on the surface short-term or long-term?
- 7.9 How will this information be captured in the Administrative Record?

Contaminated soils not returned to the excavation must be managed in accordance with regulatory requirements.

- 7.10 Provide the current regulatory citations discussed in the modification being evaluated by the regulators to ensure contaminated soils do not remain on the surface.

DOE will document the elevation created by any soil-disturbance activities that does not return soil surface to preexisting grade or higher in order to ensure that the minimum three-foot cover thickness above any contaminated structure is maintained.

Broomfield wants to emphasize that the three-foot cover needs to be maintained within the COU after all excavations. Other forms of contamination remain within the COU such as residual contamination in the soils, buried trenches, evaporation solar pond materials, abandoned process lines, and valve vaults. To focus solely on remaining structures gives a false sense of allowing excavation throughout the COU and increasing the risk for carrying residual contamination to surface.

- 7.11 Provide the process to determine the levels of contamination within the excavation areas and how they will be measured.
- 7.12 Identify the documents that DOE will use to identify activities that do not return soil surface to preexisting grade or higher.
- 7.13 How often will the information be provided to the public?
- 7.14 How will all of this information be captured in the Administrative Record?
- 7.15 Will maps of the locations become part of the Contact Record and the Administrative Record?

This Soil Disturbance Review Plan also applies to any onsite borrow source.

Broomfield strongly opposes using onsite borrow for fill material. There is an adjacent site DOE can use for borrow material. This approach and proposal contradicts the rationale and objectives of the

ICs. This language gives DOE the ability to excavate at depths greater than three feet throughout the COU.

- 7.16 Justify why the regulators would increase the risk for complete pathways by allowing increased excavations at a depth greater than three feet? Broomfield requests the use of borrow material on site be prohibited. The modified language needs to be removed from the proposed language.

Broomfield is very concerned about the lack of details in the Soil Disturbance Review Plan. If there is not agreement among the regulators, how will the process proceed? To ensure transparency and address public concern about the process, Broomfield requests the following actions be included in the proposed language for the Soil Disturbance Review Plan:

- Provide interested public members with a copy of the proposed activities in conjunction with CDPHE and EPA prior to approval;
- Provide the adherence to complying with the objectives and rationale of the ICs;
- Once the Contact Record and Soil Disturbance Review Plan have been approved, ensure all documentation becomes part of the Contact Record and Administrative Record, and the information is provided to the local communities;
- Ensure that DOE provides a map to the local communities, no less than annually, that identified all ICs activities, final surface contamination levels, if any, and final surface grade, and

The additional information requested above does not place any additional burden on DOE and would dramatically increase and enhance the public process between the communities and the RFLMA Parties. Per RFLMA, *Public participation is an important part of the CERCLA process. DOE invites the general public, special interest groups, and local government to participate early in the discussion of Rocky Flats activities and the decision-making process.* We are not asking to be part of the decision-making process for the Contact Records; we are only asking to be informed of upcoming proposed activities prior to approval.

- 7.17 Clarify if the above mentioned proposed language will be included in the final modification to the CAD/ROD and the RFLMA. Provide justification if the language is not incorporated in the modifications.

8. Institutional Controls for the Central Operable Unit Table 4

Rather than duplicate our comments of the proposed changes to the ICs for the Proposed Plan, Broomfield's comments for the proposed language in Table 4 of the RFLMA are identical to the **Regulatory Status, Table 1. Clarification of IC Descriptions** section of this letter above.

Closing Remarks

Institutional controls are a necessary part of the remedy at the Rocky Flats site due to the complexity of contaminants and the site features. Leaving residual contamination onsite as part of the remedy involved uncertainties associated with the contaminants future form and migration. Broomfield supported Alternative 2 of the 2006 Proposed Plan based on the additional layering of protection from residual contamination in the soils, underground features, and trenches.

Codifying the ICs, which identified prohibited activities within the CAD/ROD and the RFLMA, ensured the remaining risks via completed pathways from subsurface to surface would not be allowed. The language in the CAD/ROD and the RFLMA provided additional protection for downstream communities to protect surface water quality in addition to the terminal ponds which could contain contaminated water. The RFLMA Parties are now proposing to remove the two key layers of protection for our community. Broomfield is concerned since closure, plutonium 239/240 and uranium contaminants have been observed intermittently in surface water above the surface water standard upstream of the terminal ponds. To increase excavation below depths of three feet would increase the potential for risk and exposure to human health and the environment.

Institutional controls are only as reliable as the legal and management system that support them. The proposed language is too vague and there are uncertainties associated with the implementation of the ICs. Broomfield considers this modification as a step that increases the potential risks rather than providing greater protection. Broomfield has still not seen a formal contingency plan to contain contaminated water on site and the current modification to the ICs increases our concerns regarding the long-term stewardship at the site.

We appreciate the opportunity to comment on these two important documents. Broomfield has been actively involved with Rocky Flats activities for decades and will continue to be involved as a directly impacted community. We request that you address our comments individually and address our questions in response to comments for both the CAD/ROD and the RFLMA. We look forward to working together for a unified vision of long-term protection of human health and the environment. If you have any questions regarding our comments, please contact David Allen, Deputy Director of Public Works at (303) 438-6348.

Sincerely,



Charles Ozaki
City and County Manager

cc: The Honorable John Hickenlooper, Governor
The Honorable Michael Bennet, U.S. Senate
The Honorable Mark Udall, U.S. Senate
The Honorable Jared Polis, U.S. House of Representatives
The Honorable Ed Perlmutter, U.S. House of Representatives
Doug Young, Governor Hickenlooper's Office

Carolyn Boller, Senator Udall's Office
Zane Kessler, Senator Bennet's Office
Andy Schultheiss, Representative Polis' Office
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Mike Smith, Westminster Director of Public Works
David Willett, Northglenn Director of Public Works
Bud Elliot, Thornton Deputy City Manager – Infrastructure
Josh Nims, Woman Creek Reservoir Authority
David Abelson, Rocky Flats Stewardship Council