

Rocky Flats Coalition of Local Governments

Boulder County City and County of Broomfield Jefferson County
 City of Arvada City of Boulder City of Westminster Town of Superior

Rocky Flats Coalition of Local Governments Board Meeting Minutes

Monday, April 7, 2003

8:40 - 11:25 a.m.

Mt. Evans Room in the Terminal Building
 Jefferson County Airport, Broomfield

Board members in attendance: Hank Stovall (Director, Broomfield), Tom Brunner (Alternate, Broomfield), Mike Bartleson (Alternate, Broomfield), Lorraine Anderson (Director, Arvada), Clark Johnson (Alternate, Arvada), Karen Imbierowicz (Director, Superior), Michelle Lawrence (Director, Jefferson County), Nanette Neelan (Alternate, Jefferson County), Lisa Morzel (Director, City of Boulder), Mike Weil (Alternate, City of Boulder), Paul Danish (Director, Boulder County), Jane Utti (Alternate, Boulder County), Sam Dixon (Director, Westminster), Ron Hellbusch (Alternate, Westminster).

Coalition staff members and consultants in attendance: David Abelson (Executive Director), Kimberly Chleboun (Program Manager), Melissa Anderson (Technical Program Manager), Joan Fritsche (Setzer & Vander Wall, P.C.).

Members of the Public: Dave Shelton (Kaiser-Hill), Terry Vaughn (Kaiser-Hill), Carol Deck (Kaiser-Hill), Mark Ferri (Kaiser-Hill), John Corsi (Kaiser-Hill), Dick Sexton (Kaiser-Hill), John Rampe (DOE), Rick DiSalvo (DOE), Liz Wilson (DOE), Patrick Etchart (DOE), Laurie Shannon (USFWS), Dean Rundle (USFWS), Mark Sattleberg (USFWS), Tim Rehder (EPA), Rob Henneke (EPA), Steve Gunderson (CDPHE), Patricia Rice (RFCAB), Al Nelson (Westminster), Shirley Garcia (Broomfield), Nancy Lemein (Arvada), Janel Rock (Broomfield), Bob Nelson (Golden), Phil Cruz (RFSOIU #1), Robert Lynch (RFSOIU #1), Dan Chesshir (RFSOIU #1), Aislinn Hamilton (Congressman Beauprez), Kristi Pollard (Senator Allard), Doug Young (Congressman Udall), Roman Kohler (Rocky Flats Homesteaders), Margaret Boyd (Boyd Solutions), Doris DePenning (Friends of the Foothills), Hildegard Hix (Sierra Club), Paula Elofson-Gardine (Environmental Information Network), Katy Human (Daily Camera), Katie Paris (Trust for Public Land).

Convene/Agenda Review

Chairman Lorraine Anderson convened the meeting at 8:40 a.m.

Business Items

1) Motion to Approve Consent Agenda - Michelle Lawrence motioned to approve the consent agenda. Hank Stovall seconded the motion. The motion passed 6-0 (Boulder County was not yet in attendance).

ADMIN RECORD

2) Executive Director's Report - David Abelson reported the following items:

- Refuge planning is progressing. The U.S. Fish and Wildlife Service (USFWS) is developing four alternatives ranging from emphasis on ecological restoration to emphasis on recreation. USFWS has been meeting with Coalition governments to discuss these uses, and will brief the Board on their preferred alternative at the June Board meeting.
- DOE waste shipments, which had stopped at the onset of the war, have now resumed.
- Donna Frost, the Coalition's consulting Accounts Manager, is no longer doing consulting work. Donna has trained the Coalition's new Accounts Manager, Jennifer Bohn, over the last three weeks.
- David has been working with other Community Reuse Organization (CRO) directors on securing needed FY04 funds for the Worker Transition Program. The President's requested funding is 46% of the FY03 funding request, but there are increased needs due to increased layoffs. Reps. Udall, Beauprez, and several others in the House signed a letter in support of FY04 funding over the president's request. A similar effort is occurring in the Senate. David will discuss this issue with the chief-of-staff of the Chairman of the House Appropriations Committee when he goes to Washington, D.C. in May.
- The Coalition's Quarterly Finance Report is available.
- Senator Allard will incorporate the questions David drafted regarding the Office of Legacy Management as part of the record from the hearing before the Senate Subcommittee.
- Kimberly Chleboun provided a memo on the status of the Energy Employee Occupational Illness Compensation Program Act (EEOICPA) since there has been recent concern over implementation of the program and a serious claims backlog. Reps. Udall and Beauprez are working with Rep. Strickland and other members of the House to address problems in the program via draft legislation. Phil Cruz (RFSOIU #1) agreed with the concerns cited and said there is a serious lack of confidence in the program. Hank Stovall asked for a summary of what is not working properly within the program. David said there are problems determining eligibility and dose reconstruction for radiation-related cancers, and there was understaffing and a threatened lawsuit which puts claims on hold. Kimberly added there was also a year for claims to build up while the implementation guidelines were being written. David said Reps. Udall and Beauprez and Senator Allard are aware of the problems, but it is a complicated problem and there is no quick fix. Hank said being aware and solving a problem are two different things.

Public Comment

Mark Ferri (Kaiser-Hill) explained the March 26th Building 776 ventilation system incident. Within the building is the Advance Size Reduction Facility which is 25-feet high. They needed to use a diesel-powered forklift on the equipment but were concerned about fumes and carbon monoxide. The engineers devised a plan to connect the exhaust directly to the building ventilation system, but as soon as they executed the plan the alarms went off. The building manager took conservative action and evacuated the entire building. They later determined there was an air reversal in the ventilation system due to a closed damper which had become disconnected over the years creating a broken duct linkage. All 33 workers in the vicinity were tested with a nasal smear. Three had results above decision level and were sent on for further bioassay and to the onsite lung counter. Of the other 30 workers, 20 did not have on respirators and were also sent for bioassay. Results should be available in three to four weeks. Mark said he felt confident none of the workers received an uptake near federal limits for worker exposure.

Dick Sexton (Kaiser-Hill) then described the March 31st incident in Building 371. A crew of six was preparing to hook up a portable air-blower in the attic and had not yet put on their respirators. As a

worker pulled out the air-blower hose he recognized it was not encased in a plastic sleeve because the last person who had used it had failed to leave it in a safe configuration. He advised the others workers of the potential for airborne contamination and they exited as another worker turned on the HEPA unit for air filtration. Nasal smears were performed on all six, and one worker had a slight indication of contamination, and another had just above the detection limit. All six went through the bioassay program although they do not expect any of them to exceed the federal limit.

Briefing on Rep. Udall's Draft Mineral Acquisition Bill

Doug Young (Congressman Udall) briefed the Board on the collective effort between Reps. Udall and Beauprez and Senator Allard to secure the underlying mineral rights at Rocky Flats so there will not be a risk of impacting refuge resources. These mineral rights are a contentious issue and are the main reason the Memorandum of Understanding between DOE and USFWS is still unresolved. Doug described two approaches to acquiring the underlying mineral rights.

Doug stated the first approach is to use the Land and Water Conservation Fund (LWCF) program. The LWCF is a pot of money created by Congress, capitalized by revenues from offshore oil and gas development. Money from the fund is to be used by eligible Federal agencies (USFWS is eligible, DOE is not) to purchase private property with the ultimate goal of transferring the property to the Federal government. For example, boundary issues and in-holdings on Forest Service and Bureau of Land Management lands are resolved through this mechanism. After researching mineral rights ownership at Rocky Flats with DOE, Rep. Udall's office determined it would cost \$15 million to \$18 million to purchase rights under this program. Since this is a fairly large number, Doug suggested multiple year installments over three to four years. Reps. Udall and Beauprez and Senator Allard are contacting the other members of the Colorado Congressional delegation to urge them to include a request to committee chairs for \$5 million for FY04. Doug noted there are some difficulties since this is a last minute request and not on the President's funding request. Also, it is awkward since the Site is in DOE ownership but the money would go to USFWS before the land is transferred. However, these are private mineral interests and if they wait until 2006 it is conceivable that the owners will have already moved forward to develop them.

Jane Uitti asked if Congress could earmark the money, pending transfer. Doug said if money is appropriated this fiscal year USFWS would keep it in an account and would be able to begin purchasing underlying rights immediately. Lisa Morzel asked if they would make it clear that the total amount required is \$15 million, even though they are only requesting \$5 million right now. Doug confirmed that the phased approach would be explained up front. Lisa asked if DOE and USFWS are favorable to this approach. Doug said the agencies are in a bind since they are not allowed to lobby, but there are internal Presidential reporting systems that could help support funding requests in future years. Paul Danish asked if they could purchase one third of the rights immediately, and Doug said that would depend on willing sellers. Hank Stovall asked about the appropriations process and Doug explained it is a soft request made individually by Congressional members to members of the committee. Kristi Pollard (Senator Allard) said Senator Allard had submitted his request for \$5 million for this fiscal year. The Board discussed providing a letter of support to the committee chairs as well.

Doug then discussed the other approach to mineral acquisition, the draft bill which would authorize the Department of the Interior (DOI) Secretary to issue mineral credits to holders in exchange for transfer of mineral rights at Rocky Flats. The credits could be used to develop mineral rights on the outer continental shelf and bid on public land projects within the United States. The draft bill would make it easier to perform these types of exchanges by removing the current limitation to keep the transaction within the state. The Board already drafted a letter of support for this approach, which was in the Board packet.

Lisa asked if Mineral Management Service would deal with these properties, and Doug said DOI would internally identify leasable areas. Hank and Michelle Lawrence asked if they had coordinated this effort with mineral rights holders, and Doug stated Rep. Udall had talked to Charlie McKay at the time the refuge bill was being discussed, but the mineral rights holders had not been involved in discussions regarding the current draft legislation. He noted this legislation would be a discretionary tool that "may" be used by the Secretary. Michelle asked him to reach out to the mineral owners since they are directly affected. Tom Brunner said in the overall cleanup big picture this amount of money is minimal, and it is a shame it had not been funded much earlier in the cleanup process. David Abelson presented a map which outlines high priority areas for purchase, and he noted active mines are not included in the proposals. The Board discussed support of both of these approaches and the letters reflecting this support. Paul Danish motioned to approve the draft letter supporting Rep. Udall's draft legislation, changing the signature from David Abelson to Lorraine Anderson, and also directed staff to draft a letter to the appropriators supporting the LWCF approach to mineral acquisition. Sam Dixon seconded the motion. The motion passed 7-0.

Briefing on RFCA Modifications

Rick DiSalvo (DOE) provided an update on the final Rocky Flats Cleanup Agreement (RFCAs) modifications. After considering public comment the agencies changed their proposal to include more original process waste line (OPWL) characterization, more plutonium-contaminated soil removal, and No Further Actions for Trench 7 (T-7), Trench 3/4 (T3/T4), and the Ash Pits. He emphasized that a compliant cleanup can be achieved within budget, scope and schedule constraints via the integrated risk-based approach.

Rick then reviewed the cleanup outlined in the RFCAs modifications. The risk-based approach includes: lowering the plutonium radionuclide soil action level (RSAL) to 50 picocuries per gram (pCi/g) to three feet; risk screen methodology for the subsurface; increased targeted sampling of the OPWL; incorporating the risk based rule change for closure of RCRA units; and, annual averaging for plutonium/americium at the terminal ponds. Originally the RFCAs modifications included removal of the contents of four Ash Pits, T-7, and the T/T4 "burrito" due to community interest in reducing the stewardship footprint. However, characterization and the subsurface soil risk screen indicate these areas do not require accelerated action. Rick reviewed characterization from the Ash Pits and how the subsurface risk screen works.

Rick also described the plutonium surface and subsurface proposal decided upon after hearing from the community.

- 0-3 feet: If soil contamination greater than 50 pCi/g, remove. Remove OPWL and related contaminated soil. If still greater than 50 pCi/g at three feet, apply risk screen.
- 3-6 feet: Remove (down to 1 nCi/g) if greater than 3 nCi/g over 80m² based on step out sampling, or if greater than 7 nCi/g. If "extensive" contamination between 1 and 3 nCi/g consult with community on risk before determining action. If implementing action, apply ALARA (one more scoop). Targeted characterization to reported/suspected OPWL leaks.
- Below 6 feet: Apply risk screen to determine if action needed. OPWL characterization to 8 feet in areas of known or suspected leaks, and remove valve vaults.

Rick then explained how and where characterization would be expanded, and highlighted these areas on a map of under building contamination and OPWLs. The Site plans to extend all targeted sampling to an eight foot depth, and add targets to the long piping run in the 800 area and to one piping run from Building 559. Rick also explained how step out sampling areas would be defined, and stated that a level

of 7 nCi/g on the initial sample would trigger an accelerated action. The basis for step out sampling remains 3 nCi/g over 80m². Finally, Rick stated DOE is committed to long-term stewardship and is committed to fulfill stewardship responsibilities and carry out obligations after closure. He pointed out the link between long-term stewardship and the subsurface approach to remediation. Lisa Morzel reminded him about erosion over geologic time and the importance of long-term monitoring in the areas where no further action has been proposed.

Conversation on Original Landfill

David Abelson began the conversation by explaining this is the fourth meeting in which the Board had discussed issues surrounding the Original Landfill. During this discussion David said he hoped to identify local government interests to forward to the Site to ensure they are duly incorporated into the remedy selection process. He emphasized the purpose of this discussion is not to determine what the remedy should be, but instead he preferred to define the Board's interests and needs. He asked the Board to keep the following questions in mind during the discussion:

- How much characterization is sufficient to prove DOE knows what is in the landfill?
- Can the landfill be stably closed in place over the long-term - and what information do you need to assess DOE's ability to stabilize the landfill?
- If you do not think the landfill can be stabilized, what then? Remove? Strong stewardship commitment? Other?

Paul Danish referred to the unexpected tritium in the landfill and said DOE would have a difficult time proving to him the landfill is safe if you do not know what went into it, and there is just too much uncertainty. David said that uncertainty and how to address it is part of the reason for this dialogue, and he is not looking for the Board to approve or endorse a remedy but to make sure the remedy is able to meet the interests of the Board. He said he is not convinced the Board can agree on a remedy, but the Board should be able agree on the interests to protect. Paul said that given previous presentations and the work that lead up to it, DOE is going to a breathtaking amount of work to convince itself that it is okay to leave an imperfect cleanup at the end of the day. He stated the communities' ultimate protection lies in decent error recovery when something goes wrong, and that will be found by Congress, not DOE. Paul emphasized that the important thing is not to enable a process which will leave potentially dangerous contaminants in place. He said he was weary of hearing exhaustive details and reassurances shot through with acronyms to make the process more and more opaque. David said Paul's concerns lie in the direction he is trying to go, and that Paul identified a key interest of making sure systems are in place to deal with contingencies and uncertainties that may arise in the future.

Lisa Morzel asked if there is recent technology that can determine contents at the bottom of a landfill and whether or not the contents are radioactive. Dave Shelton (Kaiser-Hill) said the way landfills are approached across the country is to review historical and performance data, and holes are not drilled in order to characterize contents. The best evidence is indirect, through the landfill's performance. Steve Gunderson (CDPHE) said the biggest question is with stability and maintenance.

Melissa Anderson then described interests the Board has voiced, consistent with Coalition interests expressed with other projects in the past, and particularly with the Coalition's end-state position:

- Protect water quality;
- Reduce uncertainty concerning landfill contents (know what to protect);
- Ensure stability of landfill (assuming landfill not moved offsite); and,
- Implement comprehensive long-term stewardship plan.

Melissa explained these interests in greater detail and also reviewed what additional information the Board might need to ensure these interests are met, including: technical data; more characterization; more information on tritium; proof the landfill can be stabilized; consequences of remedy failure; specific long-term stewardship and post-closure monitoring requirements; and, up-to-date cost estimates for each remediation alternative. David said the Board now needs to determine if staff has correctly identified Coalition interests and needs. Lorraine Anderson said the meeting was running overtime and asked the Board to relay to their staff their concerns regarding the Original Landfill so it can be discussed at the next Coalition staff meeting. Lisa asked that the Board finish the discussion at the next Board meeting. Paul agreed and explained that in terms of characterization, people in the past buried their mistakes in the landfill and he felt it was a barren exercise to continue to look, like sending a domestic Hans Blix looking for weapons of mass destruction. He said DOE will not find anything that will reduce uncertainties to a level he is comfortable with, but he cares what comes out of the landfill and what DOE will do about it. David responded that this is exactly the type of feedback he is searching for, and he believes that more than one person on the Board feels the same as Paul. He said it is very hard to agree on a remedy, but they should be able to agree on a strong stewardship plan. Paul said he would prefer to hear about error recovery as opposed to reassurances.

Round Robin

There was no additional Board comment.

Public Comment

Paula Elofson-Gardine raised concerns about: potential for leakage from OPWLs left in place; leaving the landfill and potentially hot contamination in place on the basis of a cost-estimate that may be exaggerated; the need for real-time monitoring so release incidents will not be discovered after the fact.

Big Picture

Lorraine Anderson referred to the Big Picture, which lists potential agenda topics for June including a review of refuge alternatives and discussions on the landfills. David added he would send a copy of the Coalition audit to the Board next week in preparation for the May review.

At 11:05 a.m. Lorraine Anderson motioned to move into Executive Session for the purposes of discussing personnel issues involving Executive Director evaluation, and receiving legal advice on such issues, as authorized under Sections 24-6-402 (4) (f) and 24-6-402 (4) (b), C.R.S. Lisa Morzel seconded the motion. The motion passed 7-0.

The Board reconvened from Executive Session at 11:25 a.m. and affirmed that no actions had been taken during Executive Session. Paul Danish motioned to approve Sam Dixon's proposal regarding the evaluation and bonus increase for the Executive Director. Hank Stovall seconded the motion. The motion passed 7-0. The Board directed Ms. Fritsche to revise Mr. Abelson's employment letter agreement to reflect the adopted proposal changes approved.

The meeting was adjourned by Lorraine Anderson at 11:25 a.m.

Respectfully submitted by Kimberly Chleboun, Program Manager

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