

# 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, November 7, 2005 8:30 a.m. – 11:30 p.m. Jefferson County Airport, Broomfield

**Board members in attendance:** Gary Brosz (Director, Broomfield), Lori Cox (Alternate, Broomfield), Mike Bartleson (Alternate, Broomfield), Sam Dixon (Director, Westminster), Jo Ann Price (Alternate, Westminster), Ron Hellbusch (Alternate, Westminster), Lorraine Anderson (Director, Arvada), Clark Johnson (Alternate, Arvada), Jim Congrove (Director, Jefferson County), Karen Imbierowicz (Director, Superior), Alice Gutherie (Alternate, City of Boulder), Jennifer Bray (Alternate, City of Boulder), Jane Uitti (Alternate, Boulder County).

**Coalition staff members and consultants in attendance:** David Abelson (Executive Director), Rik Getty (Technical Program Manager), Barb Vander Wall (Seter & Vander Wall, P.C.), Erin Rogers (consultant).

**Members of the Public:** John Rampe (DOE), Shirley Garcia (Broomfield), Bob Darr (DOE), Marion Galant (CDPHE), Jeanette Alberg (Sen. Allard), Pam Tumler (GAO), Carl Spreng (CDPHE), Jerry San Pietro (retired RFETS employee), Bob Nelson (City of Golden), Hank Stovall (RFCAB/Broomfield), Ken Korkia (RFCAB), Marjory Beal (League of Women Voters - Jefferson County), Susan Vaughan (League of Women Voters - Jefferson County), Chuck Miller (Steelworkers), Amy Thornburg (USFWS), Mark Sattelberg (USFWS), Larry Kimmel (EPA), Joe Varley (Rep. Beauprez), Edgar Ethington (CDPHE), Rob Henneke (EPA), Frazer Lockhart (DOE), Scott Surovchak (DOE-LM), Joe Legare (DOE), Norman Warling (retired RFETS employee), Ron DiGiorgio (Steelworker), Al Nelson (City of Westminster), Roman Kohler (RF Homesteaders), Patricia Rice (RFCAB), David Kruchek (CDPHE), Kate Newman (Jefferson County).

### Convene/Agenda Review

Vice Chairman Gary Brosz convened the meeting at 8:35 a.m.

### Business Items

**1) Consent Agenda –** Lorraine Anderson moved to approve the consent agenda. Karen Imbierowicz seconded the motion. The motion passed 7-0.

**2) Executive Director's Report -** David Abelson reported on the following items.

- David first reported that the most notable news since the last meeting was that, as reported in the press recently, the remediation work at Rocky Flats has been deemed finished by Kaiser-Hill. DOE is currently in a 60-day period during which they will verify that the cleanup is, in fact, done. David noted that this is truly a time of transition at site and at the

Coalition as well. He highlighted the enormous amount of time and dedication to the cleanup, starting with workers, as well as on this Board. After recently visiting the site, David noted that the changes are stunning, which brings about the important challenge of making sure people do not forget about this site and what was done there. He pointed out that one of benefits of having a National Wildlife Refuge at Rocky Flats is that it will help ensure that people do not forget this history. He also noted that the community still needs to discuss with the agencies the issue of appropriate signage for the site.

- During the last month, there has been a flurry of activity regarding legislation pertaining to the acquisition of mineral rights at Rocky Flats. David noted that he had been receiving some conflicting information that he has been passing on to the Board. Contrary to earlier reports, Senators Allard and Salazar did not pull their minerals amendment that they hoped to attach to the fiscal year 2006 Defense Authorization Act. However, since there was an increased likelihood that that Defense Act may not called up in the Senate, they introduced, along with Representative Beauprez, a stand-alone bill. Rep. Udall introduced minerals bill 4181. David said this draft legislation is interesting, as it pulls together some concepts that have not previously been in one piece of legislation. It includes an authorization for all the minerals at the site to be acquired, and in contrast to the Allard-Salazar amendment, it does not define essential minerals but instead leaves it up to the agencies to define.
- The draft workers benefits legislation was not cleared, and will require floor debate. It was taken up last Friday, but no vote has been taken. Senator Sessions of Alabama is the subcommittee chair, and is arguing that these benefits are a contract issue, and therefore the federal government should not get involved. David thinks this is a major roadblock to the passage of this bill. There will probably be a vote soon, but it does not look good for getting the benefits legislation passed.
- David next reported on the status of Jerry San Pietro's written request for answers regarding his concerns about remediation issues. Jerry rewrote his concerns and sent them to the Coalition. David forwarded this letter to the Board, DOE, and USFWS, as well as sent copies the Congressional delegation. He asked DOE and DOI to respond to Mr. San Pietro. David thinks the information necessary to answer Mr. San Pietro's questions would require the review of hundreds of documents. DOE said it will be responding directly to Mr. San Pietro. To date, there has been great difficulty and confusion regarding communication methods with Mr. San Pietro. David noted that the Coalition is trying to act as conduit to ensure that Mr. San Pietro's concerns are addressed, but cannot be his advocate. DOE should be able to clarify some of the issues quite easily. Others will be more difficult and he will be curious to see how DOE responds.
- David has begun working with the Coalition's attorney on the Intergovernmental Agreement (IGA) for the LSO. They are currently looking at names and bylaws. He has also prepared some information for Karen, JoAnn and Lorraine so that they may start looking at potential staffing needs. To avoid any potential conflict of interest, he has provided them information and has stepped back to let the Board members make the decisions. He would like to spend a substantial amount of time at the next meeting on more details regarding the Coalition-LSO transition, including the LSO staffing needs. David also clarified that the LSO Plan that the Board will approve today does still need to be approved by DOE and he expects that there will be some level of disagreement on a few issues. One issue that needs further discussion is the future of the quarterly data exchange meetings.

### **Public Comment**

John Rampe (DOE) noted that DOE's response to Mr. San Pietro has been prepared and will be sent out as soon as he gives it a final review. John also noted that Kaiser-Hill declared on October 13 that they had completed their work under contract. DOE had 24 hours to let Kaiser-Hill know if this determination was reasonable. DOE responded that it was. The next step was for DOE deliver a punch-list of remaining work to Kaiser-Hill. This was given last Thursday and included 38 items for Kaiser-Hill to correct. None of the 38 items are related to waste management or remediation. Most had to do with issues such as reseeding, mulching and removing fence posts. The majority of these tasks have already been completed, and all may even be done at this point. The path forward for DOE now is to verify completion of the 38 punch-list items, as well as complete a review of all the necessary documentation, such as closeout reports, over the next couple of weeks.

Jeanette Alberg (Senator Allard) reported that it did not appear as if the Senate was going to take up the fiscal year 2006 Defense Authorization Act so Senators Allard and Salazar teamed with Rep. Beauprez to introduce the Allard-Salazar minerals amendment as a stand-alone bill. It now appears that the amendment will become part of the Defense Authorization Act. She noted that the benefits legislation is more controversial. Senator Allard was able to get it into debate, which was no easy task. He does not know yet where the votes will fall. One of the most difficult issues is that DOE-Headquarters opposes it.

Pam Tumler (GAO) noted that GAO has been working for the last several months on a review of the Rocky Flats cleanup effort. They have reviewed numerous documents and talked to many people. The final report will be out in March. GAO now would like to get opinions from the Coalition and the Citizens Advisory Board. They will be sending out an email survey on Board roles, opinions on cleanup, remaining concerns, and related issues. David is providing email addresses of current and past Coalition members to the GAO. The survey is currently being scrubbed by the methodologists, and should be sent out to the Board members in the next couple of weeks.

Ron DiGiorgio (retired Rocky Flats Steelworker) thanked Senator Allard for his eloquent presentation in support of worker benefits on the Senate floor last week. He also noted that he is a member of a new organization called the Steelworker Organization of Active Retirees (SOAR). He wanted to let people know that the Homesteaders are not the only workers organization out there and asked that this information be noted in the minutes. He also thanked the Coalition for all of its help over the years.

Gary Brosz noted that would be the last Coalition meeting for himself and Sam Dixon. Gary and Sam were both thanked for their dedicated service to the Board and were presented with commemorative gifts in appreciation for their work.

### **FY06 RFCLOG Budget**

David Abelson introduced a discussion of a partial-year budget for the Coalition in 2006. Today's discussion will be an initial review and the required formal hearing will be at the next meeting. He noted that this was the hardest budget he has had to draft because it is really a shot in the dark. He was forced to make assumptions, and many things were difficult to project. He believes the draft budget much higher than the Coalition will need, but will give the Board flexibility as it decides how to transition to the LSO. David does not foresee he and Rik being on staff for the full 3

months that is budgeted. Also, the office lease is included for 2 months, but will most likely be closing at the end of January, 2006. In talking with the landlord, David said they might be able to swap out equipment for part of the lease. He completely removed certain budget items, such as memberships, newspapers, and accounting time. Also, the insurance needs are changing, which is reflected in the draft budget. There is a \$25,000 contingency built into this budget as well. David recommends that the Board approve this budget.

Karen Imbierowicz noted that it does not look like the member local governments will be asked to contribute to this budget. David responded that that it true for the RFCLOG budget, but there may be a need to contribute to the LSO. Karen asked when they would know whether or not this would be needed since many municipalities are in their budget processes now, and she needs to know if there should be placeholder. David said he did not know the answer, but that some existing local government funding will be rolled over into the LSO. Lorraine Anderson said she thinks it is important to retain some independence from DOE, so she is going to recommend that Arvada set aside a placeholder for an LSO contribution. Sam Dixon asked David is he will be able to transfer the Coalition's subscription to the *Weapons Complex Monitor* to the LSO. David noted that this subscription comes as an email and he assumes it can be transferred to a new email address for the LSO. She also asked if Board members could have a detailed list of the Coalition's office assets. David said this is available and to let him know if anyone has any input regarding disposition of office equipment. He sees the biggest issue as what to do with the computers and all of the information that is stored on the computers. Staff is currently working on ways to be able to pass things on to the LSO. The office has a color laser printer, and will be buying scanner, and both will likely be transferred to the LSO. JoAnn asked if the office equipment was being leased. David said it is all owned.

David noted that he had not heard any changes to the budget, so the Board will see this same budget next month. Gary recapped that the Board heard suggestions that cities include placeholders in their budgets for the LSO, that the Board receive an updated list of office assets, and that the Coalition will be transferring its computer data to the LSO.

David pointed out that some of these issues that are now being discussed related to the development of the LSO will impact Northglenn and Golden, and these entities are not currently in the Board's communication loop. When necessary, he will start involving them in these discussions.

### **LSO Discussion**

The Board invited one representative from each of the interested groups to join them at the table. Joining the Board for the discussion were Bob Nelson from Golden, Roman Kohler from the Rocky Flats Homesteaders, and Margie Beal from the League of Women Voters-Jefferson County.

David introduced this topic by explaining that the action item is to approve the LSO Plan. DOE must then approve it, and they may not agree with everything. In terms of logistics, only Coalition Board members will be voting on the Plan, but the Board would like the comments of the other participants to be reflected in the minutes.

David reported that DOE is already questioning two parts of the Plan. The first has to do with the quarterly data exchange meetings. David added Westminster's suggested language to this version of the Plan, along with the reasoning behind the request. DOE does not want to host these

meetings. David has noted that Westminster and Broomfield have volunteered to continue their hosting duties. DOE would also like these meetings to piggyback with the regular public information meetings. David also noted that DOE-LM says there is no place in the LSO Plan for the quarterly data exchange meetings, with which he could not disagree more. David sees this as a delegation of responsibilities from the LSO to the cities, and that these meetings are not very exciting but are important. He asked if the Board would like him to continue to push back on this issue.

The second area of disagreement with DOE-LM is that the agency would like provision 2(c) in the LSO Plan moved to Section 4. David pointed out that if the LSO cannot understand the technical or legal basis of a decision and have that be a part of its transmittal, it would be like cutting the legs out from under the organization. He noted that he will be meeting with LM this week and asked if there were any other issues he should bring up.

Sam Dixon reiterated that, along with the quarterly data exchange meetings, it is also vital that the cities receive information and notifications directly from DOE. David noted that this provision is in the Plan and pointed out that in addition to the cities, there are also other organizations that will be in need of direct communication from DOE. David is concerned that DOE-LM is viewing the LSO more as a contractor than a grantee. JoAnn Price thanked the Board for its support on this issue and asked if there was a way the Board could also write a letter emphasizing the importance of these information exchange issues. David said that the Board could certainly do this.

Ron Hellbusch added that the WCRA, which includes Thornton and Northglenn, also supports these statements on the importance of the quarterly data exchange meetings. He pointed out that for those municipalities that have been involved at Rocky Flats since the FBI raid in 1989, the most important issue has always been water quality. Lori Cox stated that Broomfield holds the same position. The quarterly data exchange meetings serve a very specific purpose that the LSO would probably not be interested in managing. Broomfield would appreciate David standing the Board's ground on these two issues.

Margie Beal noted that the main concerns of the League of Women Voters are that people remember what Rocky Flats was and what is left out there. She concurs that data sharing sessions are critical, and supports what the Board is saying. She also supports the Plan.

Bob Nelson also stated that he supports the Board on this issue and would be concerned if DOE-LM tries to change the Board's opinions.

Roman Kohler stated that he has reviewed the LSO Plan and agrees with it completely. Although there is no representative here from the Rocky Flats Cold War Museum, having a member of this group on the LSO would be beneficial. He hopes that the museum continues to develop, because it will be a good way to keep the memory of Rocky Flats retained in the long-term.

Lorraine Anderson moved that the Coalition heartily endorse the LSO Plan to DOE. Karen Imbierowicz seconded the motion. She also said she was not clear about what would be in letter mentioned earlier by JoAnn. David replied that the letter could be a formal conveyance of the LSO Plan. It would highlight key issues in the Plan and provide some background for the recommendations. For example, it could explain the Board's change of thought regarding having a rotating seat between Northglenn and Golden. It could also explain the reasons behind why the Board is stating that non-elected members do not necessarily need to represent organizations. Karen added that the letter should address the Board's concerns that the LSO not be seen by DOE

as a contractor, but rather a grantee, and emphasize yet again the importance of the quarterly data exchange meetings. Gary Brosz reiterated that the Board needs to convey the importance of both the data exchange meetings and also timely notifications to the cities of all time-sensitive events, such as releases, mowing, and burning. The motion passed 7-0.

David suggested that the Board next move into a discussion regarding the process for non-elected representatives to apply for membership on the LSO. He said that Shaun had previously suggested that they look at processes already being used by local governments for citizen applications to boards and commissions. David would like some feedback on this issue either now or via email after the meeting. Ron Hellbusch asked if the Coalition will be making recommendations on Board membership. David said that board member selection is vested with DOE. However, DOE has said they will defer to the Coalition on this matter. It seems very likely that there will be an application process with an interview of some sort. Joann Price asked if the WCRA is on the list. David replied that he assumes they will apply. At this point, the Board needs to figure out the process and the LSO will take it from there. Ron Hellbusch asked if the Board is making recommendations today for non-elected members. Gary clarified that today they were discussing the process only.

Lorraine Anderson suggested that the application have a place for the applicant to indicate his or her interest in serving on the LSO, some indication of how many people they represent, or what interest they represent. She added that they also may need a short bio of the applicant. The Board would need to know what the applicant hopes to accomplish as a member, which could be asked as a series of open-ended questions. The Board would look at applications, and either interview all, or winnow the list down to a reasonable number. JoAnn Price asked if now was the appropriate time to discuss the roles of directors and alternates from the governments. David said they needed to get through the current issue first. Gary Brosz also noted that they need to discuss the duration of terms as well as the process that will be used for announcing openings. Karen Imbierowicz asked what the timeline is for receiving applications. David said this has not yet been determined. He is curious to see how long DOE-LM will take to issue a final LSO Plan. David suggested that while the Board is waiting for DOE approval, it should be already working to develop an application form and process. Staff will be working on this right away and the Board can look to start interviews in perhaps early to mid-January.

The Board moved on to a discussion of names for the LSO. David said two names have been suggested: 1) Rocky Flats Community Oversight Group, and 2) Rocky Flats Stewardship Council. He said the Board should think about sending these out to a broader audience for input. Part of the reason it should be discussed now is that a name will have to be used in the IGA which is currently being drafted. Ben Pearlman noted that the name really does not matter that much and recommended that the Board simply pick one and go with it. Lorraine suggested the Board vote on the name now, and that the LSO mission will be more related to stewardship than oversight. Sam Dixon stated that she agrees that stewardship is the more important function. Roman Kohler noted that 'council' sounds more formal than 'group'. Lorraine Anderson moved that the LSO be named the Rocky Flats Stewardship Council. Jim Congrove seconded the motion. The motion passed 7-0.

The next item for discussion was the issue of alternate directors and the question of whether the alternates must be an elected official or staff member, or whether the local governments will have the option of appointing whoever they wish to serve as an alternate. For example, Golden would like Bob to represent the City on the LSO, but he is not going to be on council any longer. David

said he is hearing that Coalition members would like alternates to be representatives of the governments, whether that is an elected official or staff/consultant. He asked for any more clarification.

Sam Dixon stated that she is concerned about being seen as giving instructions to the cities who have right to appoint whoever they want. David clarified that this would not be the LSO telling the governments how to designate their members, but rather the governments coming to an agreement and providing parameters for membership. Sam pointed out that there are many examples of citizens having the power to impose fines and grant licenses on groups such as liquor boards, and that local governments do have the ability to put citizens in positions of power. Lorraine said that the IGA will reflect how the future members agree to set up the rules for the LSO. She suggested that it be drafted similarly to the Coalition's IGA and that any government will be free to review and comment, or not sign it. JoAnn said that Westminster believes the Director should be elected, but regarding alternates, the city feels it needs some flexibility to choose who they feel best. David pointed out that the current IGA provides for a renewal every five years, and that there will be opportunities to make changes in the future. He suggested that, for now, the Board look at just the next five years. Gary stated that one of the reasons the Coalition has worked so well is that its directors did not come in with a bias because they must represent their entire constituency. If the LSO gets away from having official government representatives, he worries that it could become more of an advocacy group. JoAnn responded that it would be up to the city to select someone without an agenda.

Lorraine Anderson moved to approve Option 1, which limits alternates to elected officials or staff/consultants. Karen Imbierowicz seconded the motion. David clarified that Option 1 does preclude selection of non-staff members as alternates. The Board voted 6-1, with Westminster in opposition. David pointed out that for an IGA issue, the Board needs unanimous approval since all governments will need to sign the document.

Karen Imbierowicz stated that she can understand Westminster's concerns, but does not foresee the need for citizens to serve as alternates in the first few years. She also pointed out that the IGA can be amended at any time. Sam stated that the City of Westminster has quite often designated non-staff citizens to serve on various boards. Lorraine said there has never been an alternate on DRCOG who was not an elected official. David suggested that the Board could use the Option 1 language, but add to it 'unless otherwise defined by bylaws'. The Coalition has previously addressed issues related to the terms of directors through mechanisms in the bylaws. JoAnn asked if Westminster could take this option to their council and decide on it next month. Gary noted that the Board should really move forward on this issue and that the proposed language protects the interests of all governments. Sam said the last word she had from Westminster's mayor was that she did not like this provision. Karen asked if Westminster could abstain and talk about this at the next meeting. The Board voted 6-1, with Westminster in opposition. Gary asked Westminster to have this discussion in their council so the Board can move forward on this issue. JoAnn said they would. There was a process clarification in which Lorraine said she would be willing to accept a friendly amendment by Karen to include the phrase 'unless otherwise defined in bylaws'. Karen moved for a friendly amendment. Lorraine accepted the friendly amendment. The Board voted 6-1, with Westminster in opposition. David will send out this new language as well as proposed bylaws language to the Board.

### **Post-Closure Water Monitoring**

Rik Getty briefed the Board as a follow-up to a July presentation by John Rampe in which he

outlined the planned ground and surface water monitoring network at the site. Rik, along with staff from Broomfield and Westminster, has toured the site as well as attended regular meetings with the Integrated Monitoring Plan (IMP) group.

Rik began by showing pre-remediation (1995) and post-remediation (October 2005) aerial photos of the site. The differences between the two were very notable. Rik noted that the IMP has provisions for either increasing or decreasing the monitoring requirements in the future based on new data.

Lorraine asked about new information related to the identification of naturally occurring uranium at the site. Rik said he would cover that in his presentation. He then began a review of five topics related to water monitoring.

*1) Data from new groundwater wells near the former B771/774 area.* As a result of leaving foundations in place, the site agreed to perform ongoing groundwater monitoring in this area. Upon the first testing, contamination was found. It was determined that because these were not aseptic wells, the drilling itself tracked contamination down into wells, as they moved through contaminated soil to get to the groundwater. After the water was filtered, it was found to be below action levels.

Gary asked how the contamination was brought into the samples. Rik answered that to reach the groundwater, the well went through contaminated soils which were below action levels, but were contaminated enough to cause the groundwater action levels to be exceeded. Gary asked if the filtering process removes particulate plutonium. Rik said it does, but in groundwater they are only concerned about soluble materials which are not removed in the filtering process.

*2) New Site Wide Water Balance modeling predictions.* Since the removal of buildings and roads and other man-made features at the site, various parameters also needed to be changed related to water modeling predictions. Because the site is now predicting very low flows in most areas, most of the changes were related to the expected pond release schedule. This new modeling data may also impact the location of points of compliance in the future.

*3) New information on natural vs. anthropogenic Uranium in water.* The site has recently determined that a vast majority of the uranium that has previously been found onsite is naturally-occurring (one exception is the solar ponds area, which shows more depleted uranium). This new information came about after the site decided to take a new look at the existing data.

*4) VOC-containing seep discovered near former B991 area.* Once this was found, the site did some remediation, and added new well in this area. Gary asked if this was an aseptic well. Rik replied that the use of aseptic wells is more related to radiological contaminants. Rik also noted that there are three passive groundwater treatment systems in place at the site -- at the Mound area, the East Trenches, and the Solar Ponds.

*5) New groundwater wells at the completed original landfill.* After seeing the locations, Rik and the city staff that toured the area felt better about where they were located. The site has instituted some very robust measures to create berms that will divert surface water and minimize erosion. Initially, the IMP group was not going to have input on location of these wells, but after their concerns were raised, they were given an opportunity to provide input.

### **Public Comment**

Jeanette Alberg reported that she had received a phone call from Washington, D.C. and that the worker benefit legislation is scheduled to come up for vote tonight at 5:30 p.m. Eastern time.

Hank Stovall noted that since there seems to be some consternation about having only four non-elected members on the LSO, the group should consider letting these members select alternates as well. David said he will put this issue to the board, but it is his assumption that if the non-elected member represents an organization, they may have an alternate.

Scott Surovchak (DOE-LM) stated that he thinks DOE and the Board are saying the same thing with regard to the LSO. DOE wants to brief at least quarterly, but would like that to be in the context of the LSO. Gary Brosz said he also thinks they are in agreement. However, the LSO will probably choose to discuss issues at a level of detail different from the quarterly data exchange meetings. He wants to ensure that the detailed information exchange continues. He also wants to make sure the LSO is not the only forum in which these topics are discussed. For example, DOE should not wait for an LSO meeting to share information with the cities.

Scott replied that the way DOE does business now will be retained. He noted that the LSO meetings will probably be very short if they do not include quarterly data exchange information. There should not be all that much going on pertinent to the performance of the remedies. As long as city staffers show up at the meetings, he does not see this as anything other than a meeting format issue. He thinks the data would be of interest to everyone.

### **Big Picture**

David reviewed the schedule for the remaining Coalition meetings.

#### **December 5**

1. Transition issues,
2. Long term surveillance and maintenance plan
3. RFCLOG FY06 budget hearing

#### **January 9 (this may be the last Coalition meeting)**

1. Regulatory documents
2. Additional transition issues

#### **February 6: Possible meeting if needed**

Karen asked when the Board would see the Long Term Stewardship Plan. David answered that unfortunately there is no single document covering long-term stewardship. Lorraine reported that December 5<sup>th</sup> is a National League of Cities meeting on the east coast and some Board members likely will not be able to attend. David noted that only vote should be on the budget. Sam asked about a recent report that found a crack in the landfill and questioned why there were no criteria for assessing whether cracks need attention. David said staff would take this as a charge to look at what will compel an action, even if it is not a regulatory violation. Sam stated that the criteria need to be specified. Gary asked how these issues will get discussed. David responded that many

of these issues will come up under the new Stewardship Council.

The meeting was adjourned at 11:00 a.m.

*Respectfully submitted by Erin Rogers.*

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