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**PUBLIC MEETING ON INTER-AGENCY
FEDERAL FACILITIES AGREEMENT
AND CONSENT ORDER**

**February 13, 1990
7:00 p.m. - 9:00 p.m.
Westminster Recreation Center**

APPEARANCES:

Mr. Kenneth H. Torp	Moderator
Mr. Nat Miullo	Environmental Protection Agency
Mr. Gary Bauman	Colorado Department of Health
Mr. Richard Schassburger	Department of Energy

INDEX

<u>SPEAKER</u>	<u>PAGE NO.</u>
Ms. Nancy Heil	10
Ms. Barbara Moore	11
Mr. Evan Freirich	14
Mr. Gale Biggs	19
Ms. Melinda Kassen	21
Ms. Penelope Pegis	27
Mr. Kim Grice	28
Ms. Paula Eloffson-Gardine	32
Mr. Joe Tempel	37
Dr. Eugene DeMayo	41

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(Whereupon, the record of the ongoing proceedings was initiated)

MR. TORP: A couple of other additional things. There is a sign-in sheet. If you wish to make comments, please do sign in. It will affect how long we run this meeting and what we need to allow for time for each commenter so that everybody has a chance to get heard.

If your comments, your oral comments, duplicate what someone said prior to you, it might take a little bit of time. However, it's at your option, if you simply refer to that and say, "I agree with so and so."

Ground rules. I come from the university, so we have to have ground rules. But seriously, they may help us through the next hour or so while we're here and save some time down the road. The first one, I think is the ground rule of the landlord here, and that is that in this room, there is no smoking. Okay.

The other ground rule is that if we don't hear the comments that you give and we can't fully understand them, it would be best that we don't actually try to speak and listen at the same time. My experience has led me to this conclusion

that you can't, in fact, speak and hear at the same time.

So if you can, let's listen to the people that

1 comment, that came out here on a snowy night.

2 If you get into a digression in your oral comments;
3 that is, recognizably outside of the purpose for which we
4 are here -- if you start telling stories about your uncle or
5 what happened to the Broncos in that game, I will probably
6 intervene and ask if there is an immediate material
7 connection to the subject upon which you are soliciting
8 comments.

9 Are there any other ground rules that you all might
10 have?

11 Okay. One other ground rule, in the back of the
12 room is some coffee, and when it's ready, feel free to drink
13 it. You can just get up and get it yourself. It's a
14 personal gift from Sonya back there because the federal
15 government won't allow us to buy coffee, as I understand it.

16 Okay. A quick review of the agenda, and then we'll
17 get into your part of the meeting, which is your opportunity
18 to be heard on this important subject.

19 One little footnote before I go into the agenda.
20 It's kind of personal, and I maybe shouldn't do this. But I
21 would just like to take my hat off to all of you who are
22 here from the public to make comments on a snowy night like
23 this.

24 Okay, agenda. We'll get through this and be a
25 little bit late because of the snow; but after I stop

1 talking, and once I stop, I'm not going to start again, Nat
 2 Miullo is going to talk a little bit about the disposition
 3 of your comments and what happens to what you say here, so
 4 that you will have some assurance that it doesn't evaporate
 5 into thin air or simply disappear.

6 And then we'll go into public comments. Given the
 7 number of people here, I don't think it's necessary, unless
 8 somebody has an oration to deliver, to limit the time for
 9 those comments. If you have a written version of it, the
 10 Chairman would appreciate receiving that; and as I
 11 mentioned, the written comments will be given the same
 12 consideration as the oral comments.

13 And you can feel free to come forth to make your
 14 oral comments in addition to, instead of, or different from
 15 written comments. Okay.

16 If it's necessary to get beyond 8:30, we may need to
 17 take a break. Physiology sometimes intervenes;, and then
 18 we'll continue public comments, if necessary right through
 19 to the end of the public meeting, which is at 10 o'clock. I
 20 suspect it will beat that. And on the way home, drive
 21 safely, drive carefully.

22 Are there any questions about the agenda, format,
 23 the ground rules, my rules, your rules?

24 Okay. No comments, no questions at this point?

25 Okay. Nat Miullo has comments about the disposition of what

1 you're here for. /

2 MR. MIULLO: Thank you. I'd like to re-emphasize
3 the appreciation for those members of the public coming out
4 tonight. We didn't plan this weather.

5 Many times in this process, we've seen where a lot
6 of public interaction has come and there has been sort of a
7 black hole for input from the public, and nothing ever comes
8 of it, or it just gets lost.

9 This process we all hope will be a little different.
10 This hearing and the whole process that we've gone through
11 are specifically aimed at responding conscientiously and
12 completely to public comments on this hearing. So we
13 think the public's involvement is extremely important,
14 especially with this facility.

15 The agreement that you're going to talk about
16 tonight has a few sections about what's supposed to happen
17 to the comments and what's supposed to happen to this draft
18 and what's supposed to happen to the final document.

19 There is found in Part 53 of the legal portion of
20 the agreement, Pages 96 and 97 (and in addition, about three
21 pages back from that portion of the draft agreement), the
22 Notice of Intent to Execute Rocky Flats Agreement - has some
23 language that deals with what's supposed to happen with this
24 draft agreement.

25 ~~The big thing, or the simplest way I can present it,~~

1 is that we, the parties, the Department of Energy, the
 2 Colorado Department of Health and the EPA, tried to put as
 3 much pressure on ourselves as we could to get this agreement
 4 going and initiate it and get it started as soon as
 5 possible, so that the clean-up effort could go forth.

6 There are two scenarios that could happen after you
 7 have given us your comments. Scenario A under the
 8 agreement, or the proposed agreement, is that the parties
 9 determine there are no significant [conflicts] comments, and
 10 this agreement should go forward as it is.

11 If that's the case, then we are required to sign
 12 this agreement, the three parties are required to sign this
 13 agreement within 14 days of that determination, and it will
 14 be a joint determination by the Department of Energy, the
 15 Colorado Department of Health and EPA.

16 The next scenario that occurs would be that if the
 17 parties determine that there is a significant issue which
 18 requires modification of this draft agreement, then we must
 19 all come together and determine that those modifications are
 20 satisfactory to all of the parties.

21 The third scenario is one that I don't like to
 22 contemplate that could occur, so I don't even mention it as
 23 a possibility; but it could occur, and that is if the
 24 parties come to some disagreement on the modification that
 25 must be included in this document that you'll be commenting

1 on, then those parties may not need to execute this
2 agreement, and we would walk away from the three-party
3 cooperative agreement.

4 You will come up tonight, you will be giving some
5 verbal comments; and up until the closing date of the
6 comment period, which is February 21st, you will be able to
7 send written comments to the EPA, and to myself.

8 For those of you who want to contact me and discuss
9 your written comments before next week is finished, I have a
10 new telephone number at EPA. They've been moving me around
11 a lot, and it's another brilliant management decision
12 of the federal government to change my phone number several
13 times during a public comment period. It is now 294-1134,
14 in case you need to contact me to discuss some of your
15 written comments prior to the final date for the submittal
16 of the written comments.

17 Every single comment that is made here tonight, and
18 every single comment that is made in writing to EPA, will be
19 responded to. EPA has taken on the lead role of
20 assimilating those comments, bringing them together, putting
21 them into a transcript, and developing responses to those
22 comments.

23 A Responsiveness Summary will be developed out of
24 this hearing and the written comments. That Responsiveness
25 Summary will be developed by EPA. It will include input of

1 the three parties, and each and every comment will be
2 responded to.

3 In addition to each comment, we'll have a summary at
4 the end, which informs the public through the Responsiveness
5 Summary what impact, if any, that comment will have on this
6 draft agreement, and how we're going to change this
7 agreement.

8 We anticipate that we will develop this
9 Responsiveness Summary, get approval on the Responsiveness
10 Summary from the three parties, and release the
11 Responsiveness Summary to the public, and then go about our
12 business of amending the agreement, so that the timing of
13 this thing should occur so that the response gets into the
14 hands of the public so that they can see how we decided to
15 respond to the comments, change the agreement, change the
16 clean-up procedure, impact the schedules, or whatever, and
17 then go about the final process of amending the agreement
18 and getting the three final signatures that are necessary to
19 make the final agreement go forward. That's the anticipated
20 process.

21 We do not have an idea right now as to how many days
22 that will take. It depends entirely upon the severity, the
23 immensity and the importance of the comments we receive here
24 today because it is extremely important that we address the
25 more important things that might be brought up by the

1 public.

2 That's an idea of how we plan to go forward. This
3 agreement was designed to force us to come to some kind of
4 resolution by March 15th. Until we can gauge the comments,
5 we will push to make that date. If that's not possible
6 because of the extent and the scope of the comments, we will
7 keep the public informed as to our progress through, if
8 possible, informal meetings with several groups that might
9 be interested to help in the conversation and that kind of
10 thing.

11 If there is a more preferred route, then please feel
12 free to make that comment tonight or in writing.

13 And with that, I think we'll go on to the next
14 agenda item.

15 MR. TORP: Okay. The first person who signed up is
16 Nancy Heil from the City of Westminster.

17 MS. HEIL: My name is Nancy Heil, H-E-I-L. I'm a
18 Westminster City Council member, and I'm making comments
19 tonight on behalf of the City of Westminster.

20 The City of Westminster generally supports the
21 proposed inter-agency agreement, as we believe this will
22 bring about the clean-up of Rocky Flats in an orderly
23 fashion. The agreement properly spells out which agent will
24 be responsible for the oversight in each of the operable
25 ~~units and provides a time line for the activities which must~~

1 take place at each site.

2 The IAG (interagency agreement) also represents a
3 cooperative approach to actually solving the problem at
4 hand, which is cleaning up the environment and protecting
5 the health and safety of the workers at the plant, and
6 residents of the surrounding community.

7 Westminster offers the following comments and
8 recommendations relating to the proposed IAG.

9 First, Westminster believes that the IAG should
10 contain a provision for the construction of an interceptor
11 canal around Standley Lake. We believe that the three
12 agencies planning the IAG, along with the City of
13 Westminster, realize that such an interceptor canal is the
14 most effective means to protect Standley Lake from
15 contamination and to restore public confidence in the
16 subject water supply.

17 The interceptor canal would route Rocky Flats
18 effluent and run-off around Standley Lake, not only during
19 scheduled discharges, but also provide protection from
20 unknown discharges, accidents and spills.

21 The IAG would be an ideal place for the three
22 agencies to recognize the need for such a canal and provide
23 schedules for its construction.

24 Westminster believes that the schedule for
25 evaluating off-site contamination should be accelerated.

1 There is a need to answer, once and for all, whether the
2 off-site areas present a threat to the public and what
3 should be done to clean up the site, if necessary, allowing
4 four years to simply develop the plan, with an unknown
5 additional length of time to actually implement the clean-up
6 is unacceptable.

7 There does appear to be a danger that off-site areas
8 would be re-contaminated if they are cleaned up prior to the
9 clean-up of on-site areas. It is also likely that there
10 would be more of a chance for human contact with off-site
11 areas, rather than those on plant-site. So it is important
12 to verify that these areas are safe.

13 Efforts should also be made to speed up the entire
14 clean-up process. Studies have already been underway for
15 five years, and the deadline from the IAG allows another ten
16 years. Westminster believes that work should be done in a
17 more timely fashion.

18 There's a real need to involve the local government
19 much earlier in the clean-up process so that they may be
20 involved in developing the solutions, rather than just being
21 allowed to comment on the solutions developed by Rocky
22 Flats.

23 Westminster believes it would be able to contribute
24 a great deal to the process and identify early on what
25 solutions might or might not be advisable.

1 For instance, the Hillside 881 clean-up calls for
2 discharge of the effluents from the treatment process to the
3 interceptor trench, where it will eventually reach Standley
4 Lake.

5 This is totally unacceptable to Westminster, and we
6 would have been able to help develop a preferred alternative
7 to that discharge if we had been involved in this
8 decision-making process at the front end.

9 These are the major comments which the City of
10 Westminster wishes to make this evening. We will be
11 submitting these, as well as additional comments, prior to
12 the February 21st deadline, and thank you for this
13 opportunity.

14 MR. TORP: Thank you. Are there any
15 questions from the panel?

16 MR. MIULLO: Just as a point of
17 clarification, you mentioned the intercept for Standley Lake
18 should to come through the mechanism in the IAG for interim
19 remedial actions. Some of them are specifically spelled
20 out. Is it the intention of the City to specifically
21 request that the IAG look at that option as an interim
22 remedial action to prevent known contamination coming from
23 the site?

24 MS. NEIL: I would like our water person to
25 address that.

1 MR. TORP: Would you state your name and
2 spell it for the record?

3 MR. KAUNISTO: My name is Dave Kaunisto,
4 spelled K-A-U-N-I-S-T-O. And In response to Nat's question,
5 I think we would like that to be looked at as part of the
6 IAG.

7 MR. TORP: Any other questions and
8 clarification from the panel? No?

9 Thank you very much.

10 The next person signed up is Barb Moore. Again,
11 would you state your name and spellawt?

12 MS. MOORE: My name is Bara Moore, M-O-O-R-
13 E. I am a concerned citizen. I am also on the Rocky Flats
14 Clean-up Commission.

15 There are two sides I will address on the IAG in
16 tonight's hearing. Number one, the Federal Facility
17 Agreement and Consent Order, also known as the IAG, is
18 riddled with loopholes which favor the parties of the
19 agreement.

20 If the construction of buildings is to serve as an
21 example, what I see is a plan that allows DOE and EG&G to
22 shove their deadlines through to escape their completion of
23 background studies of soil surveys. They may find legal
24 loopholes in the IAG that will explain why they don't have
25 to do their homework.

1 The building site for 881 is not a known waste site
2 so construction proceeded after a quick monitoring of the
3 site. They escaped having to follow strict regulations
4 because the building site is not a known waste site. The
5 excavated soil was treated like clean soil and dumped in the
6 landfill. If the soil was clean, it no longer is clean now.

7 The sub-contractor did not need to be provided with
8 a copy of the IAG agreement because the site is not a known
9 waste site.

10 Number two, the IAG does not address where recovered
11 radioactive waste will go for ultimate disposal. With
12 plutonium production due to start up again, the waste that
13 will be generated there, coupled with the recovered waste,
14 will create competition for available storage space until
15 WIPP is open. We need to now where this waste will be
16 stored.

17 Number three, regarding quality assurance of
18 sampling and tests. Chapter 5, Part 37, states, "If quality
19 assurance is not completed within the time frames specified
20 in the statement of work and subsequent work plans, raw data
21 or results shall be submitted upon the request of EPA or the
22 State within that period and quality-assured data or results
23 shall be submitted as soon as they become available." This
24 is not acceptable.

25 Why bother doing quality assurance at all? What

1 good will it do if the results of data sampling show a high
2 beryllium count in respirable dust six months after workers
3 have cleaned the site without adequate protection?
4 Encouraging DOE to drag its feet on quality assurance
5 results is a time bomb waiting to explode. I would
6 recommend that the parties amend the IAG to specify when
7 quality assurances are due and design an enforcement
8 mechanism to force DOE to complete the quality assurances as
9 they become due.

10 Number four, administrative record. Chapter 5, Part
11 44, says, "DOE shall maintain the administrative record at
12 Building 60 at the Rocky Flats plant." If it is not going
13 to be kept there, then amend the IAG to state exactly where
14 the administrative record will be kept and maintained.

15 Number five, Attachment II, Articles 5 and 6 state,
16 "Any individual may obtain a copy of the public meetings by
17 submitting a written request." This needs to be amended to
18 read "Upon receipt of written request, DOE will within 14
19 days mail out said copy of meeting."

20 Number six, The IAG goes into great detail about
21 dispute resolution, which provides a method for EPA, the
22 State and DOE to settle any disputes they may have in regard
23 to how to carry out the terms of this agreement.

24 Sure, EPA, State and DOE are responsible to carry
25 out this agreement. But it is John Q. Public that will

1 ultimately pay for this clean-up. What does John Q. get for
2 his money? He gets the opportunity to voice his objections
3 as to how the cleanup is taking place. However, John Q. may
4 as well tell his objections to his goldfish for all it
5 really matters.

6 If the parties to the IAG decide not to take our
7 comments and suggestions into consideration, guess what?
8 They don't have to. The only real dispute resolution John
9 Q. has is to spend more of his own money and take EPA,
10 State, and DOE to court.

11 I urge that the parties include a citizen dispute
12 resolution in the IAG. If a citizen dispute resolution is
13 not provided, then EPA, State, and DOE should not be
14 surprised if the Courts are assisting the parties in writing
15 and re-writing every little thing.

16 Possibilities exist that so much time would be spent
17 in litigation, there would not be enough time to get through
18 all ten OU sites. I challenge DOE, State, and EPA to
19 demonstrate your desire for gaining public trust and
20 confidence by unanimously agreeing to a citizen dispute
21 resolution in the IAG.

22 To conclude, it is obvious to me a lot of hard work,
23 time and tax money was spent creating the IAG. I find it
24 alarming that the parties did not find it obvious that John
25 Q. Public was needed in the beginning. The parties and the

1 public would have benefited from John Q.'s contributions.

2 If the parties want the public trust, then I say
3 that the parties should first trust the public. Prove to us
4 that the parties are listening by sending Responsiveness
5 Summaries out on a timely basis, but more important by
6 actually using some of John Q.'s ideas and suggestions.
7 Demonstrate to us that our words are not falling on deaf
8 ears.

9 MR. TORP: Thank you, Barb.

10 Are there any questions from the panel or
11 clarifications of what Barb said?

12 Sir?

13 MR. TORP: Will you have a copy for us?

14 MS. MOORE: I will submit them.

15 MR. TORP: The next person is Evan Freirich.
16 Come on up, and you'll have to spell your name for Geneva.
17 Thank you.

18 MR. FREIRICH: My name is Evan Freirich,
19 E-V-A-N, F-R-E-I-R-I-C-H.

20 Members of the panel, members of the
21 audience, my name is Evan Freirich, and I'm testifying here
22 tonight as a private citizen. I'm also proud to be
23 affiliated with Rocky Flats Clean-up Commission.

24 To me, what the IAG is really about is power. The
25 ~~parties to the grievance, the Department of Energy --- are~~

1 the Department of Energy, the EPA and the State of Colorado.

2 It is through these parties indirectly that the
3 public is represented. This, by and large, is the way of a
4 representative form of government, and probably to give the
5 public direct power over these matters would be inefficient
6 and unworkable.

7 But with Rocky Flats, you have a unique problem
8 because for the last 40 to 50 years, for a variety of
9 reasons, the public's proxy in these matters, the parties
10 have abused the public's trust by being not only negligent
11 in the handling of this facility, but also at times hiding
12 the truth about the damage that was done.

13 This has led to, I believe, a conclusion on the part
14 of the majority of the public that our government cannot be
15 trusted to handle the problem of Rocky Flats in a way to
16 protect the public's best interest.

17 The manifestation of this crisis of confidence is
18 obvious, class-action lawsuits, public demonstrations, civil
19 disobedience and the increasing importance of these issues
20 at the ballot box.

21 As a participant in many of these activities for the
22 last 12 years, I would have never believed the public's
23 interest could effectively be represented by the government
24 at Rocky Flats.

25 But as of late, there have been some extremely

1 promising signs; and at this point, I would like to applaud
2 some of the changes that have taken place. First, I would
3 like to applaud Admiral Watkins and the Department of
4 Energy, the Ahearne Commission and Tiger teams have shown
5 that not only are there substantial safety and environmental
6 problems at the plant, but also that if the problems are to
7 be addressed in the future, the plant needs to be more
8 concerned about worker safety and environment rather than
9 production. Getting rid of Rockwell was a concrete step in
10 that direction.

11 Second, I would like to applaud the EPA. For the
12 longest time, EPA was a non-player out at the Flats. This
13 was due to the lack of funding and jurisdictional problems.
14 Nat Miullo of the EPA would at times, with the necessary
15 assistance of the FBI, have forced there to be a new candor
16 regarding the plant.

17 The EPA is looking over everyone's shoulder now, and
18 I credit them with the increased accountability of the DOE
19 to the public.

20 Finally, the Colorado Department of Health is
21 suffering from much of the same problems of the EPA, no
22 money and no clear jurisdiction. They have played their
23 political cards well. They claim to be able to monitor much
24 of what comes out of the plant and have the funding to do
25 some long-term health studies.

1 /I applaud you all because I want you to know that as
2 a long-time critic of the plant, I do believe these efforts
3 have been sincere and will result in a safer environment for
4 all of us.

5 So now that I have patted everyone on the back, I
6 want to say that even if there have been many improvements,
7 I do not believe that the efforts that EPA, DOE, or CDH to
8 date will be able to restore the public's confidence such
9 that, as we proceed with the clean-up at the plant, the
10 public will understand and believe what is being done will
11 result in any significant change.

12 To convince the public Rocky Flats is going to be
13 cleaned up properly, the Government must open its doors to
14 the public and let them see and understand the changes that
15 are happening on the inside.

16 To accomplish this, two things must happen. First,
17 the public must be given -- the public must be given direct
18 access to all phases of the clean-up process.

19 Second, increased funding must be made available to
20 the public to effectively participate in the process. By
21 direct access, I mean members of the public should have
22 access to all clean-up-related information in a timely
23 fashion. Not only should EPA, CDH, and DOE be able to have
24 input on the drafts, work plans, et cetera, but all that's
25 presented to the public should be in the loop, and I do have

1 the list of documents in the IAG package.

2 And I'll go on and say that it's not -- the problem
3 is not that we don't get access to enough information.
4 Although I've heard it stated it is because we really don't
5 have the vehicles and the resources to respond effectively
6 to it. We don't have the time. None of us do have to read
7 all these documents. I need a bigger house to store these
8 in. I need a secretary to do my typing. And I think that's
9 true for about half of the other IAG people in this room.
10 There's just no way we're going to be able to respond to
11 that volume.

12 In addition, members of the public should be able to
13 inspect the clean-up site and do their own monitoring, and
14 they should -- I think the public should have a
15 representative on various dispute resolution committees and
16 other oversight clean-up committees.

17 No, I have not advocated giving the public any
18 regulatory authority, merely to monitor the process and make
19 recommendations when appropriate.

20 To accomplish this, DOE and other agencies must fund
21 these citizen-based efforts. To a certain extent, Rocky
22 Flats Clean-up Commission is a prototype of this idea funded
23 by the Superfund legislation in the amount of \$50,000.

24 The Clean-up Commission is totally autonomous from
25 Rocky Flats regulators. ~~Our only connection is through our~~

1 funding, which comes from EPA. The only restriction placed
2 upon the use of this money is that we can't do original
3 research or institute legal actions. By funding, the public
4 should be able to hire its own consultants and maintain a
5 small, oversight staff to liaison with the agencies for
6 clean-up of the plant.

7 Too often I have heard that the library at Front
8 Range Community College is going to have the funding that
9 needs to be done. Too often I hear the issue that there
10 isn't enough money to go around. What we are talking about
11 is a one-to two-billion dollar clean-up.

12 Right now we pretty much have to rely on our
13 government proxies. That might be fine under normal
14 circumstances. But frankly, I don't think John Q. Citizen
15 is really going to forget the history. You really need to
16 give us an opportunity to understand what you are trying to
17 do and present those views along to the public.

18 The amount of money I figure this would come to is
19 \$50,000 per operating unit. That's a rough estimate. In
20 most places, a Superfund site is one operating unit. Here
21 at Rocky Flats we have 10 operating units. I have heard
22 other stories where it is worse. Fifty thousand dollars is
23 a good enough guess at this point.

24 In addition to that money, I would hope to see
25 private money match it. I have worked as a fund-raiser for

1 about ten years. I know that to try and get money from the
2 private sector is almost impossible. It just won't happen.

3 But I think we could probably find funding for about
4 10 percent. I think that's important. It will encourage
5 the autonomy of this public-citizen effort to do an
6 independent evaluation because I am seriously concerned.

7 Frankly, when we do say that what you do is good,
8 people will accuse us of being bought off. Public
9 evaluation of its progress is the only hope that we have to
10 restore the public's confidence. If a half of a million
11 dollars can't be found, then even if you do clean up Rocky
12 Flats, the people won't believe it. It is like a haunted
13 house. No matter if you say there is no danger, in your
14 heart you are still afraid.

15 I look forward to your responses. I would be glad
16 to answer your questions. Thank you.

17 MR. TORP: Nat, you had a question?

18 MR. MIULLO: Well, first of all, thank you
19 very much for your comments. I appreciate them, and I'm
20 sure that other members do.

21 You stated that you would like to see increased
22 funding to the public groups. I just would like to ask, are
23 you aware that that's something that probably cannot be
24 addressed to this inter-agency agreement that would probably
25 ~~be a national issue brought up to the Congressional~~

1 organization?

2 MR. FREIRICH: Well, I think that, for
3 instance, it's a contract thing for the work that can be
4 done, is a contract for the clean-up, I don't see a reason
5 why some of those contracts -- you know, I'll give you an
6 example. We, I know, have raised an issue regarding 881,
7 regarding putting enclosures over some of the areas so that
8 we could keep the dust down as we go.

9 MR. TORP: Other questions or clarifications
10 from other panelists? No?

11 Thank you very much.

12 MR. FREIRICH: Thank you.

13 MR. TORP: The next person to offer comments
14 is W. Gale Biggs of Boulder. Thank you.

15 MR. BIGGS: My name is Gale Biggs. I'm
16 speaking as a Director of the Rocky Flats Clean-Up
17 Commission. My concern is with the dust loadings out there
18 and the contaminations in the soil.

19 I have asked questions as to what percentage of
20 plutonium emissions comes from the facility in terms of
21 reintrained dust and that which comes out of the vents
22 themselves.

23 The answers that I have been getting, and most
24 everyone agrees that the majority of the plutonium comes
25 from reintrained dust. The numbers range from 60 percent to

1 99 percent. That says that even if every building was shut
2 down, every fan turned off and every vent plugged up, that
3 you would still cut off less than half of the plutonium
4 emissions coming from Rocky Flats.

5 That's staggering. That says to me that, if I might
6 expand just a little bit on my comments, that the whole
7 Rocky Flats facility needs a comprehensive dust control
8 plan. I don't think they have one. They do need one.

9 I have to share Barbara's concern that simply moving
10 that building directly out of the unit does not exempt it
11 from the constraints of ordinary construction techniques.
12 They are moving dirt. They are disrupting dirt that may
13 have plutonium in it.

14 It needs to follow very rigid guidelines.
15 Construction vehicles need to be decontaminated. Simply
16 running a counter by them and saying they are clean, and
17 then allowing them to go off-site scares me. This is why I
18 started asking the questions as to what written procedures
19 are there for this operation.

20 I came away very disappointed. For instance, it
21 states in the construction write-up that all construction
22 will be stopped when the wind speed is above 15 miles an
23 hour. I asked to see the protocol and how that would work,
24 and there wasn't any. There is no action, it is just all
25 talk.

1 There were no studies done to define how often the
2 wind was above 15 miles an hour, and how many hours that it
3 occurred. How can you write protocols if you don't even
4 understand the conditions? So that's something that needs
5 to be taken care of.

6 Personally, I think 10 miles an hour is better than
7 15. You start getting dust blowing about 10 miles an hour.
8 Incidentally, this is defined as a 15-minute average
9 because that's the way they collect their data out there.

10 I guess that's my major concern that we need to see
11 more detail in what is happening out there. We need to have
12 more written protocol simply because some construction
13 activity is just outside the boundaries of the unit doesn't
14 mean it is exempt from the rigid requirements that should be
15 required for all this. Thank you.

16 MR. TORP: Questions from the panel? Thank
17 you again.

18 The next person to sign up is Melinda Kassen.

19 MS. KASSEN: My last name is K-A-S-S-E-N.
20 I'm the senior attorney with the Environmental Defense Fund,
21 located in Boulder, Colorado. We have had the opportunity
22 to review some of the federal documents, requested with
23 other weapons complex facilities.

24 I would like to say at this point it is
25 substantially better than its predecessors. But I am going

1 to talk about things that it lacks ✓

2 First of all, I have a written document, which is
3 about 12 single-spaced, typed pages. That's been handed in.
4 Those are our written comments.

5 I would like to highlight a couple of things from
6 those comments and also talk about one thing that I know is
7 not in the IAG and is not going to be in the IAG, but I
8 think, as a practical reality, that you all need to be
9 thinking about it. It was alluded to by Barbara Moore
10 earlier, and that is that there needs to be someplace to
11 send the waste that you are going to be cleaning up. That
12 has got to be a part, not only of the schedules, but also
13 probably as a statement of work because treatment for the
14 WIPP is likely at this point.

15 You're going to see a facility that requires more
16 than just a site barrier. Treatments of waste-bound for
17 Nevada and treatments to deal with the land band. All of
18 those things are going to affect the schedules that are in
19 the IAG. I think that it is important for the agencies to
20 recognize that.

21 But what I really want to talk about in this
22 context, I guess, is public participation. About six months
23 ago I sat down with one of the people who was negotiating
24 this agreement and was asked the raging legal debate about
25 RCRA versus CERCLA and which one is better and would

1 authorize the State or would put EPA in charge of the clean-
2 up with the ultimate authority.

3 And I think that's like choosing between the devil
4 and the deep blue sea. It's not a good choice. It has to
5 do with history, and part of that may be changing; but as a
6 practical matter, the answer is, I don't like either of
7 those choices. But I don't really think that that is a
8 choice.

9 One of the things that this IAG does better than
10 others is give a voice to the public, but it doesn't go
11 anywhere near far enough for what has to happen to make the
12 community comfortable with this agreement, and I think that
13 there are mechanisms available to allow the community to
14 participate in a way which would be productive and
15 retroactive and not simply a drain pushing the schedule
16 back.

17 There are some specifics. I know that EPA and DOE
18 don't believe that this is necessary, that this could be a
19 consensus refiled with the Court. If that were true, then a
20 public group could intervene and as an intervener, get all
21 the documents and be able to communicate directly with the
22 judge in the event that there was some type of a dispute.

23 That's not available. I know that the federal
24 agencies don't want that to happen, but there are other
25 mechanisms.

1 If you look at the Community Relations Plan, there
2 are a whole lot of things which the Community Relations Plan
3 doesn't list as being important; these are things that the
4 public should be notified about. There are things that
5 could be included.

6 When DOE asks for a variance from RCRA requirements,
7 that refers to the dispute resolution, actions as to which
8 either EPA or CDH are asked to grant extensions of
9 schedules. All of those things are things that the public
10 should be told are happening.

11 It is not necessarily the case that in each instance
12 there should be an opportunity for public comment. I
13 understand that could hold the schedule up. However, there
14 has to be a mechanism so the public can understand what's
15 happening to this agreement and the fact that this agreement
16 probably by nature is going to change.

17 There are provisions in the IAG for modification to
18 the agreement itself. Different from modifications to the
19 RCRA permit. If the IAG is amended, the public has to be
20 notified and allowed to comment on what happens.

21 I think I mentioned the Statement of Work. That's
22 the nuts and bolts. That's the nitty-gritty of how these
23 things are going to happen; and there is no provision in the
24 Community Relations Plan for those Statements of Work to be
25 ~~given the public before they are finalized, or for there to~~

1 be mechanisms by which the public can comment on the /
2 Statements of Work.

3 There is also the issue of both the OU-specific and
4 site-wide risk assessments. I think those risk assessments
5 are in part going to drive the clean-up because that's one
6 of the ways regulatory agencies make a decision about what
7 the standards are going to be for clean-up.

8 There is less flexibility under RCRA than there is
9 under CERCLA. But I think those are critical documents.
10 First of all, I think that the parties to the agreement
11 should understand or should recognize that there are other
12 groups out there from the agreement in principle and from
13 efforts even at the national level to have these kinds of
14 risk assessments done.

15 You don't necessarily need to re-invent the wheel,
16 but it is critical from a community relation standpoint and
17 in terms of cleaning up this plant to the level that it
18 should be cleaned up, that there be independent review of
19 those risk assessments and that the public be involved
20 before those risk assessments become final in the sense that
21 they get used to drive the numbers and standards for clean-
22 up.

23 Sampling data, document availability -- there are no
24 provisions in the IAG. It may simply be an oversight, but I
25 assume that the parties would want all of that information

1 under the new approach being heralded out of DOE and
2 heralded out of EG&G.

3 I would assume that the parties want the public to
4 be able to look at the sampling data and to be able to look
5 at all of the documents.

6 Paragraph 237 in the IAG is still a concern. That's
7 the paragraph about classified information. I think that --
8 the Health Department works very hard to make sure that the
9 first part B did not have classified information. It still
10 remains in the secondary documents.

11 My concern, as a lawyer, is that although I
12 understand -- first of all, it is going to be hard to do
13 that, at least in part, at least some of the OU's coming up,
14 to keep all of the classified information and UCNI stamps
15 out of Statements, of Work, out of the historic information
16 documents.

17 There is a definite legal clash on one hand between
18 national security considerations and on the other hand
19 between both RCRA and CERCLA's precept that public
20 involvement, that meaningful public comment on these
21 documents and on the clean-up, is necessary.

22 You can't comment on something that you can't see.
23 That's pretty clear. I just urge all of the parties.
24 Nationally, DOE has different levels of how often they use
25 the classified stamp and how often they use the UCNI stamp.

1 I would urge the parties to this agreement to make
2 sure that those stamps are used in as limited a way as
3 possible so that the public can have access, not just to all
4 the information in the primary documents, but also to have
5 access to all of the information in the secondary documents
6 because frequently that's where the data -- that's where the
7 information is that is going to help you to understand
8 whether what is being proposed is correct or not.

9 The second thing that I want to talk about is
10 schedules, and whether the schedules conform to what the
11 public wants. Well, from the standpoint of the environment
12 in the one part of the schedule, what is particularly
13 distressing is that the off-site contamination is sort of
14 lumped in with all of the other sites that are not
15 immediately scheduled.

16 You have essentially four levels of concern. You
17 have 881, which is happening now. You have the 903 pad and
18 trenches, which will happen in '93. And sub-units with
19 inoperable units. You have interim action happening with
20 1993, 1994 time frames.

21 Then you've got this cluster of all the remaining
22 sites. There is no schedule to do interim action. There is
23 no schedule to do anything.

24 And then you've got the low priority, which I
25 gather, at least the parties have some question as to

1 whether there is going to be substantial contamination. All
2 that is required there is a document from DOE which says,
3 "We looked at it, and I don't think we need to do anything
4 because it's not all that bad."

5 I suggest to you that in terms of public feeling of
6 safety about this plant, that it is critical to pull the
7 operable units and the off-site contamination out of the
8 plant and get that one up front so that that can be cleaned
9 up because the contamination -- the concentration of
10 individual pollutants may be higher in some of the ground
11 water that are on-site.

12 And although the contamination in the soil may be
13 higher on-site, there are people living in proximity, if not
14 on top, of some of those individual sites within the off-
15 site area. And I think that it's critical so that I can
16 stop getting calls from people who are wondering whether
17 it's safe to move here. You have got to get the
18 contamination off-site, and I would urge you to move that
19 operable unit up.

20 There are other things that I talked about in our
21 formal written comments, but that's all I wanted to say
22 publicly, so if you have any questions?

23 MR. TORP: Do you have questions or
24 clarifications?

25 (No response.)

1 The next person to talk is Penelope Pegis.

2 MS. PEGIS: I'm Ms. Pegis. I grew up in
3 Golden. I have been battling cancer for 15 years, as have
4 many of the people that I grew up with, including adults and
5 peers and many deaths.

6 I don't have any idea what the situation is out here
7 in Westminster. I am sure it is phenomenal. Those issues
8 are barely being touched on. The off-site stuff has got to
9 be critical. What is already on-site on Rocky Flats land,
10 you know, has to affect the drinking water and the soil and
11 the down-wind stuff that's going on daily.

12 For many, many years this has been going on. The
13 agencies that you represent have either been deceiving us,
14 poisoning us, or allowing us to be poisoned without doing
15 anything about it.

16 It is very disturbing to me that the only reason
17 that this is now happening is because the lid got ripped off
18 this. If that hadn't happened, this would still be going
19 on. And who knows what's really going on up there.

20 My understanding of the IAG, as Barbara mentioned in
21 her talk, you know, the agencies represented and the sub-
22 contractors and EG&G can do whatever they want up there.
23 Because there is room in the loopholes, that frightens me.

24 The one good thing that I can see of all of this is
25 that the day when the agencies can operate with impunity are

1 gone. That's all I have to say. Thank you.

2 MR. TORP: Any questions?

3 (No questions.)

4 MR. TORP: The next person is Mr. Kim Grice.

5 MR. GRICE: My name is Kim Grice. My family
6 lives seven miles east of Rocky Flats. My address is 10161
7 Wolff Street, Westminster 80030.

8 I am the Chairman of the Committee Against Radio-
9 Toxic Pollution, Director of Rocky Flats Clean-up
10 Commission, Member of Rocky Flats Alliance, Member of W-470
11 Concerned Citizens, and member of Colorado Association of
12 Realtors.

13 The public should be aware that many of these
14 remedial actions at Rocky Flats are nothing more than
15 containment measures. How can we clean up Rocky Flats when
16 this facility keeps discharging contaminants into our
17 environment?

18 The Three-Party Agreement between DOE (ammended from
19 EG&G by Kim Grice after proceedings.), EPA, and CDH has
20 intentionally omitted independent citizens' oversight. We
21 are told if citizens have a dispute with this agreement or
22 its compliance, we are forced to use legal recourse to
23 settle our complaint.

24 This is unacceptable. The public wants to be
25 ~~involved in oversight to assure compliance. Who's going to~~

1 make sure that all parties to this agreement have the
2 public's best interest in mind, especially when DOE
3 (ammended from EG&G by Kim Grice after proceedings), EPA and
4 CDH start acting like the three stooges?

5 For example, on November 9, 1989, public comment was
6 given on the 881 Hillside interim remedial actions.

7 On January 12, 1990, EPA's Mr. Duprey approved the
8 commencement of EPA's clean-up crews' activities. To date,
9 EG&G has constructed a 30-by-75 feet foundation for the 881
10 Detox Building. There are major failures with premature
11 remedial action.

12 The responsive summary to 881 was not received for
13 review by commenters until after clean-up began. We were
14 not given the opportunity to determine assimilation of our
15 comments.

16 The Community Relations Plan is not in effect. We
17 strongly recommend that all remedial action halt until the
18 public can participate in a forum to respond to clean-up
19 actions.

20 There seems to have been no oversight of this first
21 remedial action by EPA or CDH.

22 No soil samples and characterization and amount of
23 respirable dust were taken at the site. We doubt that the
24 contractor was in compliance with OSHA standards. It's
25 questionable that sufficient monitors were in place. The

1 excavated soil from the site was deposited at new landfill
2 without determination of radioactivity. Workers are
3 suspected of not wearing RAD badges. Dust levels at site
4 during construction has not been monitored, and there may
5 not have been a dust permit in place for this site. Where
6 is the oversight?

7 It states any party issuing a formal press release
8 to the media shall advise the other parties at least 48
9 hours before. We recommend that the Superfund Citizens
10 Group called the Rocky Flats Clean-up Commission be also
11 informed 48 hours before an issuance of such press release.

12 In Attachment 2, Federal Facility Agreement,
13 Statement of Works, Section 2-A, called Community Relations,
14 it states that information shall be made readily available
15 to the public to ensure meaningful participation. We highly
16 recommend that the Rocky Flats Clean-up Commission receive
17 all primary documents given to repositories.

18 Section 2, A.5, called Public Notifications states,
19 "Public notice announcing of public meeting shall be placed
20 in a newspaper of general circulation in the area where the
21 meeting is to be held." We recommend a notice of public
22 meetings should be published in both the Rocky Mountain News
23 and Denver Post since each serve different readers.

24 Most importantly, these notices should be published
25 in the weekly local papers serving the communities adjacent

1 to Rocky Flats, like the Arvada Sentinel, which serves
2 19,250 readers, Westminster Sentinel, which has 20,170
3 readers and Broomfield Enterprise, which has 12,850. These
4 public notices should be published a minimum of two times in
5 each local paper.

6 Secondly, location of all public meetings pertaining
7 to Rocky Flats clean-up should be held within eight miles of
8 the facility to enable affected citizens a better
9 opportunity to attend.

10 Section 5, called Plan for the Prevention of
11 Contaminant Dispersion states, "In order to minimize the
12 potential for windblown dispersion of dusts containing
13 hazardous substances or other harmful materials from all
14 sites, DOE is to submit a plan of prevention during high
15 wind conditions of 40 miles per hour or more."

16 We recommend that a plan include the prevention of
17 any visible particulate emissions from the clean-up sites at
18 any wind speeds.

19 We also recommend that site-specific air monitors be
20 mandatory. A minimum of four monitors should be placed at
21 90-degree quadrants and not more than 100 yards away from a
22 site. The height should not be less than 6 feet, nor more
23 than 15.

24 No. 12, called Discharge Limits for Radionuclides,
25 states that DOE shall design a work plan to implement

1 discharge limits as specified.

2 We recommend that the new 1990 Colorado Water
3 Quality Standards be used temporarily until more stringent
4 standards can be promulgated that more realistically reflect
5 background contaminant levels found in other front range
6 lakes and streams.

7 We also recommend that the Safe Drinking Water
8 Regulations found in Section 144.15, Section 141.25,
9 Section 141.26 be implemented. These sections prescribe
10 that the lower level of detection used for reporting gross
11 alpha to be three PCI per-liter and four PCI per-liter for a
12 reporting gross beta.

13 The new State standards for radionuclides should not
14 be considered as acceptable background contaminant levels
15 for sediments in Standley Lake and Great Western Reservoir,
16 so that these lakes need not be remediated.

17 In closing, there should be zero discharge of
18 contaminants to the environment during remediation. No
19 interceptor canal should be built to flush Rocky Flats toxic
20 waste down Big Dry Creek. A new plant-wide environmental
21 impact statement should be required.

22 The citizens need to be given independent oversight
23 authority. The Rocky Flats Clean-up Commission is mandated
24 under the Superfund TAG Program as the citizens'
25 representatives.

1 We highly recommend that the parties find a way to
2 give citizens oversight authority.

3 MR. TORP: Thank you. Are there any
4 questions or clarifications from the panel?

5 (No questions.)

6 MR. TORP: The next person is Paula
7 Elofson-Gardine.

8 MS. ELOFSON-GARDINE: Concerned Technicians
9 For a Cleaner Colorado. Also, I'm a Director for the Rocky
10 Flats Clean-up Commission, and I'm Secretary for that group.

11 I have basically 12 items to bring to your
12 attention. First of all, I think all of us have been
13 disgusted by the debacle of the 881 decision. Why should we
14 bother to read all of these documents and provide meaningful
15 comment if it is like throwing reams of paper down a wind
16 tunnel and nothing ever comes back?

17 We must have a little legitimate response prior to
18 the decision-making with a shortlag time available for us to
19 respond back. There is no meaningful interaction of the
20 community as long as this is ignored.

21 The Emergency Response Plan is in dire need of
22 assistance. We insist that there be citizen representation
23 involvement with the emergency response planning with the
24 State Emergency Preparedness Office. We understand that the
25 Emergency Plan will be addressed, and we would like to see

1 that there be a representative from the TAG group involved
2 with that so that we can be interfacing with the community.

3 Of course, we hope in the community there will be
4 some notification to the public when an incident happens.
5 Failure to address community interaction through the
6 Technical Assistance Grant, known as the Rocky Flats Clean-
7 up Commission is a problem.

8 Specifically, we would like to know that decisions
9 are not made prior to the responding to public comments.
10 And also we recognize that there has been more of a problem
11 with the Health Department with them than with DOE and EPA,
12 which is kind of surprising since our Colorado Department of
13 Health is supposed to be taking care of the region and the
14 community.

15 We would like to see an increase in funding for the
16 CDH so that they can hire competent people to take care of
17 these problems. I don't mean standard relations. I mean
18 people we have confidence in, not hot dog salesmen, as Kim
19 suggested.

20 We would like to make sure that the readings are
21 available for review and note that there is a lack of
22 inappropriate risk analysis taken into consideration with
23 the ARARs and synergistic effects of all contaminants,
24 whether they be radiotoxic or hazardous waste. The ARARs
25 are not realistic. We would like to see that the citizens

1 are taken into consideration.

2 Also, we understand that they are using FIDLERS for
3 spot-checking for readings, and we would like those also to
4 be available to the public for review.

5 Part 49 of this agreement, Force Majeure, Page 91, I
6 find that to be particularly disturbing that they list any
7 event arising from factors beyond the control of the
8 facility and under the agreement, including, but not limited
9 to, Acts of God, fire, war, insurrection, civil disturbance,
10 explosion, unanticipated breakage or accident to machinery,
11 equipment or lines of pipe despite reasonable diligent
12 maintenance.

13 Here's where I stop. Reasonable diligent
14 maintenance. This is an oxymoron in this case. With over
15 200,000 deferred-work-maintenance hours at the facility with
16 this humpty-dumpty falling apart, I find that to be an
17 insult to this agreement, that they're given this easy out
18 because this facility is literally falling apart at the
19 seams.

20 I don't think that they should be given this easy
21 out because everything is falling apart there. That means
22 that the next time they have a big blow like the '57 fire,
23 "Gee that wasn't our fault." "Sorry about that." "We won't
24 be held responsible." BS. I would like to see that
25 deleted.

1 / And contamination from various operating units is
2 not necessarily confined to that particular OU. Re-
3 suspension and migration of radiation and hazardous
4 materials must be controlled throughout remediation from
5 start of construction of any necessary facilities to
6 completion of the entire operation.

7 Time lines given for various OU plans are very
8 ambitious. Many time limits will not be met, and already
9 there are some that are in violation of limits that they
10 have not been able to meet. Not only that, but the Kill a
11 Tree Program with voluminous documents all the way down the
12 next few years will put some strain on the ability of many
13 people to respond meaningfully to this.

14 Many of us on the Clean-up Commission have a
15 tremendous ability to digest materials and spit it back, if
16 you will, but even for us, that could be a pretty ambitious
17 task. I am very concerned about the meeting that we had in
18 which EG&G came and spoke with us. There was an
19 undercurrent of, "Well, we have a problem." "Too bad, we
20 have to push on." I don't believe that that is a reasonable
21 expectation. We don't want quantity over quality. We want
22 the public to be protected. If there is a problem, we want
23 it taken care of, even if it means pushing back time lines.

24 This has got to be done with quality and care, with
25 every protection possible. ~~It is important that the public~~

1 not be led into a false sense of security or confusion in
2 regards to off-site contamination. The damage has been
3 done.

4 With all the various reports from the Rocky
5 Flats facility, it is very clear we have a significant
6 off-site contamination problem that will have to be
7 addressed. And let's not let the people in Westminster and
8 Broomfield feel that they are safe if they have an
9 interceptor ditch.

10 This stuff has already gotten into the sediments of
11 the lake and tributaries around there. Let's not take
12 everybody for the local stooge here because it is out there,
13 and it is not normal to have to have plutonium in your
14 drinking water and whether or not they discharge around the
15 lake at this point is irrelevant. It is already in the
16 lake.

17 So let's be real about that and not be given a false
18 sense that if everything goes around the lake, that
19 everything is okay. It is still there. It is clear that
20 remediation activities in the past have caused migration of
21 contaminants.

22 And I cite the 903 pad barrel removed remediation
23 with the readings going sky high. We want to make sure that
24 there's enough protection for the public in terms of doming
25 the site, using temporary structures around there so that

1 there can be more definitive protection, that not only
2 assures the public that there is containment that contains
3 re-suspension and contaminants that everybody would be a lot
4 more comfortable with. I don't think anybody is comfortable
5 with them ramrodding with the back-hoe out there.

6 In the final analysis, is all this an exercise in
7 futility? As long as the Rocky Flats Nuclear Weapons
8 Facility continues to operate, it continues to generate
9 waste and discharge hazardous and radioactive emissions into
10 our air, water, and soil. The only way to have real clean-
11 up is to close this nuclear dump.

12 Thank you.

13 MR. TORP: Any other questions?

14 MR. MIULLO: I don't want to lead you
15 anywhere, but would it be fair for someone like myself
16 observing your comments to say you're more interested in
17 quality production of the clean-up effort, public
18 involvement, rather than pushing the clean-up schedules as
19 opposed to other comments we heard tonight, specifically
20 from the City of Westminster, that says they want the
21 schedule compressed and expedited?

22 MS. ELOFSON-GARDINE: Yes. I think as long
23 as we have -- if we are really going to make an effort to
24 clean this up, it needs to be done right. It is not just a
25 public relations thing. It needs to be done right.

1 Just because we have had the FBI out there and
2 everybody going, Oh my God, it is a mess, it has been there
3 for 35 years. Who are we kidding? Just because there is
4 political pressure right now to hurry, hurry, hurry, doesn't
5 mean that we lose our senses. Let's do it right. Quit
6 playing games.

7 MR. TORP: Thank you. Other questions from
8 the panel?

9 (No questions.)

10 MR. TORP: The next person to comment is Joe
11 Tempel from the Rocky Flats Clean-up Commission.

12 MR. TEMPEL: My name is Joe Tempel. I would
13 like to applaud the three agencies for coming together to
14 describe your life in the next 10 years and ours, too.

15 And I would like to dispel the myth that the
16 citizens are here just to hold things up. I think the
17 citizens are here to assure a quality job, and I think we
18 can have quality and speed at the same time.

19 So I don't think we should confuse citizen
20 involvement with slowing the process up. And I think until
21 we do learn quality control measures and what a quality
22 report is and what a quality clean-up is, it will appear
23 that things are being slowed down. But because we live
24 here, I think we demand that quality to protect our health
25 and safety. If this were just a messy gas station with a

1 leaky gas tank, we might get by with a few less concerns
2 about how we go about cleaning it up, but we are dealing
3 with radio nuclei, and that instills fears in the hearts of
4 a lot of people around the Denver Metro area.

5 So I recognize that you may have to go overboard in
6 your actions and clean-up and do things that maybe aren't
7 necessarily needed, but I think to regain the trust of the
8 public, you may have to go overboard in some of those things
9 to instill a certain amount of trust in the public.

10 I am surprised that EG&G are not a signatory to the
11 agreements since they will be held responsible for carrying
12 out the agreement. If they can be held liable, I would like
13 to see their name on the agreement.

14 And speaking in terms of the quality control, I
15 think we had a little bit of a test drive with the 881
16 remedial action, and I'm not going to repeat what went on
17 before, but I think we had enough sense of problems that
18 appeared there, that we learn from it, and let's move on and
19 do it better next time.

20 But I want to mention a few things that weren't
21 mentioned already this evening, and in our public hearing
22 comments on 881 we asked for a copy of the Health and Safety
23 Plan to be submitted to us; and to my knowledge, this still
24 hasn't been produced, or we haven't received it, nor have
25 the agencies that should have seen it.

1 This includes the job safety analysis, a work permit
2 and an excavation permit. These are things that should have
3 addressed a lot of our concerns with dust control, and these
4 have not been reviewed by the Rocky Flats Clean-up
5 Commission yet. And to my knowledge, none of these
6 documents have been reviewed by the agencies that should
7 have seen these documents.

8 At a minimum, before construction begins, Notice of
9 Construction should be sent to EPA to help the department
10 and the public, something to let them know when the clean-up
11 is going to happen so that these agencies can appear on-site
12 to begin their monitoring.

13 As I understand -- well, I know we weren't notified
14 until we read it in the newspaper. We've already mentioned
15 the decision documents, Responsiveness Summary that we
16 hadn't received before the clean-up began.

17 I should also mention, and you're well aware of
18 this, that the IAG is already out of date with the operable
19 unit two, and the intrim remedial action for 903 has not
20 been put back in the schedule. It's not been met there. So
21 at a minimum, that should be revised.

22 I recognize that during the next year, over half of
23 the documents that will be produced at the plant with regard
24 to the clean-up will consist of the work plan. At least the
25 Rocky Flats Clean-up Commission would like to review these.

1 work plans with other agencies.

2 We don't want to hold up the process, but we do feel
3 this is an important point for our input because the next
4 time we see a document would be a year later, and if we want
5 certain tests to be performed during that year, we would
6 like to have an opportunity to review these plans, not slow
7 up your process.

8 Let me mention another thing that I'm sure you're
9 concerned with, but something that will be very obvious
10 soon. I've just been in this business for a year. I know
11 how much information is out there. But when we start a
12 clean-up, there has to be some way of logging what is going
13 on at the site.

14 With our experiences with 881, we are not fully
15 convinced that the contractors are logging when they are
16 taking tests, when they wet the site; they need to document
17 everything they do on the site, and all of this information
18 should be computerized and accessible to the public, but
19 mainly the agencies who are responsible.

20 Maybe this is going overboard, but again, I
21 think this has to be. In order to regain the trust of the
22 public, you have to document that you are doing the right
23 thing out there. We don't have that feeling at this time.

24 I'm also concerned that the agencies don't have
25 ~~appropriate enough upper-management people to review all of~~

1 these documents; and I count that with about 30 here in the
2 next year, we can kind of stumble along and do our best.

3 We've asked for more money, but we at least feel
4 that the agencies should be funded at an adequate level and
5 be able to hire staff at an upper-level management level,
6 not just an entry-level. We deserve someone who can step in
7 running, and not have to stumble along a year or two. Nat
8 can tell them everything he knows about Rocky Flats.

9 As far as the Community Response Plan, we feel that
10 this plan needs to be accelerated. I mentioned at the
11 workshop that we need an interim Community Response Plan,
12 just to have something in place until you have completed all
13 of your surveys, interviews and done a complete analysis and
14 developed a complete plan of what that should consist of.

15 In the interim, I think we would be happy to work
16 with you on developing that interim plan so that we have
17 something in place between now and a year from now when that
18 plan would be completed.

19 I would like to applaud Barb's comments on the need
20 for a citizen dispute resolution process since that is the
21 major part of this clean-up, to involve the citizens. We
22 don't want to sue, we don't have money to sue, EG&G can't
23 sue. We think that there could be a process developed to
24 resolve those conflicts outside of the Court.

25 And finally, I would like to compare with Melinda's

1 comments about moving up the off-site analysis, not leaving
2 it until the very end. Again, this is one of the fears in
3 the community that there is pollution off-site.

4 I'm aware that the Health Department is doing soil
5 tests around the Metro area. This analysis should be
6 completed in a hurry and fears dispelled so that we can deal
7 with the facts, and not fiction.

8 That's all I have.

9 MR. TORP: Thank you, Joe. Questions from
10 the panel?

11 (No questions.)

12 MR. TORP: Let me encourage anyone who has a
13 written version, if you wish to leave it with us, please do
14 so.

15 The next speaker is Eugene DeMayo.

16 MR. DeMAYO: My name is Dr. Eugene DeMayo,
17 D-E-M-A-Y-O. I am the Chairman of the Rocky Mountain
18 Chapter of the Sierra Club and also a Director of the Rocky
19 Flats Clean-up Commission.

20 This IAG definitely is a needed document. Of
21 course, I will find a few things to say that indicate that
22 it could be improved. But I'm happy to see that something
23 has come out that we can work with, and I don't feel like
24 just throwing it away and starting over.

25 ~~Specifically, in Chapter 1, Part 4, No. 20, there is~~

1 a portion/of the page there that indicates that any action
2 completed under this agreement will be the final action at
3 an operable unit and that any site not addressed by this
4 agreement cannot be claimed in the future to need any clean-
5 up.

6 Given the lack of comprehensive knowledge about
7 these sites, it seems more likely than not that new
8 information could be required in order to protect the public
9 and the environment or reassessment at any of the sites,
10 even well beyond the completion of the agreement.

11 This section I think should be improved in order to
12 allow a re-evaluation taking place if new information
13 requires that. On Section 3.13.105, Page 33, it says that,
14 "In the event. . . the U.S. Supreme Court rules that RCRA
15 Section 6001, waives the federal government's sovereign
16 immunity from State-imposed fines and penalties. . ."

17 This section is a little bit inappropriate in that
18 it requires that the Supreme Court rule on this particular
19 issue on sovereign immunity and that lower Court rulings
20 would have no effect on this agreement. It seems a little
21 presumptuous that the agencies involved here could overrule
22 the Court. I suggest that this section be reworded to allow
23 renegotiation of this agreement even if the U.S. District
24 Court or Circuit Court finds that sovereign immunity is
25 waived by RCRA.

1 Section 2.18.121, Page 40, discusses that DOE will
2 not need a RCRA or CHWA permit for any portions of
3 remedial/corrective action which are conducted entirely on-
4 site. It is not clear what is meant by entirely on-site.
5 This should be clarified and should specify that no
6 emissions, via any route, water, air, blowing soil, will
7 leave the site in order that they will not require a permit.

8 Section 5.30.185, Page 68, is a good section. I
9 would hope that that would be left intact in the final
10 agreement.

11 In the section allowing EPA to get out of this
12 agreement if they can't agree with DOE on what kind of money
13 should be given to them, basically, if an agreement can't be
14 enforced, there's money to provide the personnel to enforce
15 it.

16 On Page 86, Section 5.44.231, a copy of the
17 administrative records should also be kept in the Front
18 Range College library along with the other documents
19 concerning Rocky Flats that are kept there.

20 Administrative records, in the current draft only,
21 are required to be kept in the Rocky Flats Reading Room. I
22 prefer not to go there, and at the Monitoring Counsel's
23 office in Golden, which is where the rest of the documents
24 are being kept for the public.

25 In the Attachment 2, II-A, Page 14, community

1 outreach and/or community interviews should specifically be
2 required to include community groups that focus on Rocky
3 Flats issues. The community's most interested and
4 knowledgeable citizens are likely to be members of these
5 groups.

6 Obviously, three, four, or five of those groups are
7 represented here; and, if you interview people at random
8 around town, I think you'll find a lot of them are fairly
9 uninformed about the issues involved with Rocky Flats,
10 although it may be a bit biased to check with groups who are
11 informed. Certainly it would have a better reflection of
12 what the public feels about the issues surrounding Rocky
13 Flats.

14 On Page 16, it doesn't specify, and probably should,
15 that public information meetings should be required to be
16 held on week-day, evening hours. There are plenty of
17 meetings that go on in the middle of the day, but some of us
18 who are volunteers cannot give up our livelihood to get
19 involved.

20 Page 17 of Attachment 2 discusses a copy of the
21 meeting record. This should not require a written request.
22 A phone call request to the DOE Community Relations contact
23 should specifically be considered adequate.

24 I don't know about you guys, but sitting down and
25 writing a letter for a document takes as much time as

1 reading it, or you end up with requests on Post-it notes.

2 I will have further comments in writing, but that's
3 about as far as I got in the document, and I had to go to
4 work.

5 MR. TORP: Thank you. Are there questions
6 from the panel?

7 (No questions.)

8 MR. TORP: Is there anyone else here who
9 wishes to make a comment who has not yet signed in? If not,
10 I would like to recognize the effort of all of you who came
11 out this evening. There is a sign-up sheet if you would
12 like a copy of the transcript. Do that before you leave.

13 The meeting stands adjourned.

14 (The meeting was concluded at 9:00 p.m.)
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