

Rocky Flats Coalition of Local Governments Board Meeting Minutes
Monday, June 7, 2004
8:30 – 11:30 a.m.
Mt. Evans Room in the Terminal Building
Jefferson County Airport, Broomfield

Board members in attendance: Gary Brosz (Director, Broomfield), Lori Cox (Alternate, Broomfield), Mike Bartleson (Alternate, Broomfield), Lorraine Anderson (Director, Arvada), Paul Danish (Director, Boulder County), Jane Uitti (Alternate, Boulder County), Sam Dixon (Director, Westminster), Ron Hellbusch (Alternate, Westminster), Nanette Neelan (Alternate, Jefferson County), Karen Imbierowicz (Director, Superior), Devin Granbery (Alternate, Superior), Shaun McGrath (Director, City of Boulder), Lisa Morzel (*ex-officio*), Hank Stovall (*ex-officio*).

Coalition staff members and consultants in attendance: David Abelson (Executive Director), Kimberly Chleboun (Assistant Director), Rik Getty (Technical Program Manager), Barb Vander Wall (Seter & Vander Wall, P.C.), Jennifer Bohn (Financial Consultant), Linda Cassaday (L.L. Cassaday Co.).

Members of the Public: Dave Shelton (Kaiser-Hill), John Corsi (Kaiser-Hill), Carol Deck (Kaiser-Hill), Joe Legare (DOE), Karen Lutz (DOE), Scott Surovchak (DOE), Laurie Shannon (USFWS), Amy Thornberg (USFWS), Dean Rundle (USFWS), Mark Aguilar (EPA), Rob Henneke (EPA), Edgar Ethington (CDPHE), Steve Gunderson (CDPHE), Shirley Garcia (Broomfield), Al Nelson (Westminster), Patricia Rice (RFCAB), Bob Nelson (Golden), Jeanette Alberg (Senator Allard), Kimberly Cadena (Rep. Beauprez), Dan Chesshir (RFSOIU #1), Phil Cruz (RFSOIU #1), Chuck Miller (USWA Local 8031), Ron DiGiorgio (USWA Local 8031), Roman Kohler (Rocky Flats Homesteaders), Alisha Jeter (Broomfield Enterprise), Richard Valenty (Colorado Daily), Hildegard Hix (citizen), Anne Fenerty (citizen), Fran Stearns (citizen).

Convene/Agenda Review

Chairwoman Karen Imbierowicz convened the meeting at 8:33a.m.

Business Items

1) Motion to Approve Consent Agenda – Lorraine Anderson motioned to approve the consent agenda. Gary Brosz seconded the motion. The motion passed 5-0 (Boulder County and the City of Boulder were not yet present).

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

- David brought copies of the Health Advisory Panel report from 2000, an independent analysis of offsite exposures, in light of recent interest in independent verification.
- David's deposition for the Cook case has been postponed most likely until mid-July. The defense attorneys are also reviewing Coalition documents to determine if there are any items of interest.
- David will be leaving for vacation immediately after the Board meeting, returning July 8th.
- DOE distributed copies of their white paper on the Building 991 fire lessons-learned.
- Senator Allard and Rep. Udall sent a letter to Jessie Roberson May 20th requesting her written commitment that Rocky Flats will not be considered officially closed until all orphan waste streams have been removed offsite.
- The most recent Senate language creating Legacy Stakeholder Organizations in the FY05 Defense Authorization bill calls for the organization to be comprised of elected officials or their designees. The bill still needs to be approved by the Senate and then go to conference with the House. The House does not have a similar provision. David expects the language will remain in the bill, although it may possibly be modified. He also noted it is unclear whether the language provides for non-elected members to be involved, thus the RFCAB sent a letter to Senator Allard, Rep. Udall and Mike Owen expressing strong concern. Shaun McGrath said he construed the language to possibly include non-elected members. David said others have read it that way also, but his primary goal is in local control and process. Lisa Morzel said it is important to keep the organization free of special interest groups. The Board discussed it further, and David said he will continue to work on it.
- Last week DOE notified the Coalition of a water quality exceedance of 0.18 - 0.42 pCi/L at GS-10, a point of evaluation upstream of the B-series ponds. There are generally exceedances this time of year, but no source has yet been identified. The difference in this exceedance is that the plutonium was elevated, whereas in the past it was the americium that was elevated.
- David presented the issues tracking matrix created by Coalition staff in response to a request by the Board. He described the matrix and how the format was decided upon and noted he had received positive feedback from local government staff but also heard consistent concern about limiting the amount of time spent on it. Lorraine Anderson asked about tying the matrix back to the Coalition work plan, and also stated that although she liked the matrix she wanted to make sure its value outweighed staff cost in creating and maintaining it. Karen Imbierowicz suggested the Coalition staff track how much time they spend on the matrix and the Board will revisit its value in August.
- David noted the Executive Committee had proposed a short August meeting followed by a retreat at which the Board could discuss Coalition processes.

Public Comment

Frances Stearns said she attended a recent Democratic convention at which there was talk of putting Rocky Flats long-term stewardship on the platform as there is skepticism in the public

over cleanup. She asked the Board about the Health Advisory Panel report, and David Abelson clarified that it is in reference to offsite exposures, beyond the Rocky Flats boundary. Frances also asked about the Coalition's position on Congress reclassifying atomic waste standards so DOE would not have to remove some onsite waste. David explained that Rocky Flats does not have large tanks of high level waste like Hanford and South Carolina, and that the Coalition does not get involved in issues that do not affect Rocky Flats. Frances asked about the Energy Communities Alliance position on this issue, and David suggested she contact them for more information.

Dan Chesshir asked if the Coalition had status on information referenced in the Defense Authorization bill regarding effects of accelerated closure on pension and medical benefits. Jeanette Alberg said Senator Allard wants a report on all DOE closure sites and the specific numbers in order to find out how big of a problem it might be, and then he will begin to determine how to address it.

Ron DiGiorgio said Reps. Udall and Beauprez have been unsuccessful thus far in trying to get Rocky Flats established as a Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act. He said the Coalition's support would be helpful. Kimberly Chleboun stated DOE had published the final rule which outlines how sites can qualify as SEC, including information for workers at a site filing a petition to request this status. She asked if the workers had formerly filed such a petition yet. Chuck Miller said he was not aware of this final rule, but he would look into it.

Coalition 2003 Audit

Linda Cassaday provided an overview of the audit she performed in accordance with general auditing standards. The Coalition did not have enough in federal funds to qualify for a single audit, but instead she performed a yellow-book audit which is the next step down. She explained the audit is conducted in order to obtain reasonable assurance about whether the general purpose financial statements are free of material misstatement. The audit also reports on Coalition internal control over financial reporting and on tests of its compliance with certain provisions of laws, regulations, contracts, and grants. She stated there were no instances of noncompliance and no weaknesses found. Linda encouraged the Board to continue to review finances quarterly and check statements monthly. She also stated the Coalition would be subject the following year to GASB 34. Paul Danish motioned to accept the 2003 audit. Lorraine Anderson seconded the motion. The motion passed 7-0.

Independent Verification and Validation

David Abelson began the Board conversation by summarizing the broad range of opinion he has heard thus far from the Board about independent verification and validation of cleanup, including why an independent review should be done, for what audience, and what constitutes "independent". He reviewed the numerous past independent analyses done at Rocky Flats to provide an example of the reviews' objectives and lessons learned. He noted that the

Radionuclide Soil Action level Oversight Panel (RSALOP) involved true community members (including Hank Stovall and Mary Harlow), an independent contractor, cost \$570,000 over fifteen months, and still did not quell all criticism. David suggested the Board: 1) determine who the intended audience is, and if it is the public then specifically which sector of the public; and, 2) clearly identify the scope and nature of the issues, whether technical, policy, or both.

Gary Brosz referred to the independent studies David cited and asked if any included independent sampling to verify the cleanup levels of the refuge. David said that cleanup was addressed through the actinide mobility study and by defining protective cleanup levels via the RSALOP, but there had not been independent sampling in the refuge area. Gary said he does not see the distinction between Board members' interests in independent verification. He said it is a simple matter of independent verification when there is a potential for error and abuse, just as the Coalition is required to have an independent audit performed.

Paul Danish said the differences between Board members are obvious and that various members of the Board see things differently and have different levels of confidence in the cleanup. He said if another independent review is performed he will not believe that one either, and when cleanup is finished they will still have imperfect information. Paul stated that if an independent review is done then that is fine, and if it states there are unknowns that would be admirable, but due to DOE's track record it would not make a difference to him. He said there are differences on the Board but the audience is the people who will here for the next 20,000 years. If the object of the exercise is to get to the truth he finds it highly unlikely.

Shaun McGrath said Gary had previously raised the legitimate concern that elected officials must be responsible to the electorate and give them a sense of confidence that a level of safety has been reached. He noted it must be approached within the context of EPA's certification the Site has met cleanup standards. Secondly, Shaun stated they should further explore the idea of looking at independent verification within the larger context of the Comprehensive Risk Assessment (CRA) as opposed to focusing solely on sampling.

Sam Dixon said they need to be able to tell constituents at what level the Site is clean and at what risk factor as she is not sure how to explain standards and the risks involved. She said independent verification could include confirmation to residents that it is clean.

Hank Stovall said it is possible to draw some parallels to prior reviews, but not entirely. He said the reason for the RSALOP was that the community was not willing to accept the previously proposed cleanup levels and risks, and they wanted a model verified and validated by an independent contractor (Risk Assessment Corporation). He noted the RSALOP committee wanted the best science without involving politics, and the agencies agreed to the report's findings of a cleanup level range of 35-50 pCi/g for surface soils. Hank said he was thankful DOE saw fit to fund the study although it is not ever possible to satisfy 100% of the constituency.

Hank reviewed the process involved in scoping the study and added that John Till said the RSALOP process set the standard nationally for how to do such a review. Hank said he comes from a manufacturing background and he views independent verification as quality assurance, and an independent review would be quality assurance of the whole cleanup process. He said verification should include peer review and a statistically robust plan that guarantees to 95% that cleanup levels have been met. Hank stated he would like to help define scope and contractor selection (following the RSALOP model) and ensure that quality assurance is unpoliticized and provides validation to the community. He said it is elected officials responsibility to assure the community that cleanup standards are being met.

Lorraine Anderson said they cannot talk about clean vs. unclean as they had worked to establish standards on what is an acceptable cleanup and the Site is now working toward achieving that goal. She said they should trust in EPA as an independent arm of the government that is supposed to be looking out for the community, along with CDPHE looking over the shoulder of the contractor. She said if money is to be spent on independent review then USFWS should verify that the refuge meets their standards.

Lisa Morzel said everyone had good comments, but she sees the primary issue as allowing public access to the refuge and credibility over safety and she sees no differences of opinion over this. She stated that while EPA and CDPHE are independent arms of the government, they are still seen by some as part of the government and too close to be truly independent, thus she would support independent quality assurance. Lisa noted that cost of the review may become an issue and that a subcommittee should be established to determine the appropriate analysis along with a cost/benefit analysis. She added that USFWS should not be responsible for cleanup verification.

Lisa said that although it is nobody's individual fault, when contractors turned over there was less than full disclosure of everything that happened at the Site. She suggested an aerial gamma ray survey and letting the public know how the Site defines "clean" as there is still substantial contamination in the subsurface which will eventually reach the surface over time. Lorraine appreciated Lisa's point about time, and said another question that should be addressed is when to perform the independent verification. She suggested waiting until all the buildings are down and after cleanup is finished.

David reflected over what he heard the Board saying: as elected officials they need to have a measure of confidence in order to be responsible to constituents; recognizing the Site will not be clean in an absolute sense, ensure that residual levels fall with the risk range of cleanup criteria and objectives without reopening the question of protective standards; and, verification should be for the entire site, not just lands to be transferred to USFWS.

Paul said the public would have a profound indifference over differentiation between the Industrial Area or the Buffer Zone, they would just want to know things are safe. He said a report of assurance should address the following questions: 1) have the adopted standards been met; 2) what has been left in place with distinction between the areas; and, 3) what has been ignored, taking into account there has never been a full accounting of actinides or hazardous

materials and that the contents of the landfills is unknown. Shaun said he could see creating a map of what the community would need to be aware of in the future, including monitoring. David agreed that the value of the information generated would feed into data quality objectives and a baseline for long-term stewardship.

Lorraine said there had been good direction given, particularly from Paul, and she suggested the staff come back to the Board with a plan that includes independent peer review that verifies the Site has achieved what it set out to do. Gary said he liked the idea of the subcommittee, and asked David if he had enough information to move forward without a subcommittee to define some goals. David said he has enough information to better focus the scope and put more meat on it, but if the review is to ultimately mirror the RSALOP then they will need to involve more people in scoping and development. He stated it was not necessary to make a final decision that day, thus he suggested that staff come back to the August meeting with additional information including scope, process, people involved, and feedback from agencies. David advised the Board to funnel information through staff as they have ideas and then they can begin to map it out further at the August Board meeting. He added that if someone wanted to create a straw document that would be great.

Access Restrictions to DOE Lands

David Abelson began the Board conversation by discussing the objective for access restrictions and related assumptions. He stated the assumption for the conversation should be that the remedies will be protective and serve their intended interest and that independent verification will confirm that residual contamination meets cleanup standards. If the Board discusses keeping people out of areas because they are unsafe then the issue is cleanup. Otherwise, the issue should be how to keep people from harming remedies, not keeping remedies from harming people. David noted there are differences of opinion among the Board, and posed the following questions to generate ideas:

- What remedies and areas of DOE-retained lands need to be protected and why?
- Which agency, DOE or USFWS, will be responsible for physically enforcing these protections (recognizing that DOE is legally responsible)?
- What stewardship systems should be used to prevent access to DOE-retained lands?

David discussed the need for layering of controls, as advocated by the National Research Council/National Academy of Science, and gave examples of a cattle fence around DOE lands, signs, protection around monitoring stations, land use restrictions in the refuge bill and the post-closure RFCA.

Joe Legare (DOE) provided additional background, reiterating many of David's points. Joe said they expect the final DOE boundary to look much like the boundary drawn by John Rampe and captured in the draft refuge Comprehensive Conservation Plan/Environmental Impact Statement. He emphasized that the purpose of access controls is to protect remedies (e.g. monitoring and treatment systems, revegetated areas, landfill covers) from people as well as providing a clear demarcation of the boundary between DOE and refuge lands. Dean Rundle (USFWS) stated that

USFWS had just sent a letter to the RFCA parties, based on comments at public meetings, recommending that the DOE property be delineated by a four-strand stock fence at the minimum. He also recommended numerous signs and additional protection around monitoring stations and special areas like landfills and areas of subsurface contamination such as process waste lines and deep basements. Dean said USFWS would also promote education with signs, brochures, kiosks and maps. He noted that compliance at the Rocky Mountain Arsenal had been good thus far with only one incident in the past two years.

Joe stated that prior to transfer of land to USFWS the following will have occurred:

- A Comprehensive Risk Assessment will be performed, and will demonstrate that the risk posed by remaining contamination over the entire Site will pose a risk of less than one in one hundred thousand to a refuge worker;
- A Corrective Action Decision/Record of Decision and post-closure agreement will have been signed, defining DOE's post-closure responsibilities and delineating the lands to be retained by DOE;
- EPA will have certified that the cleanup and closure have been completed, and that all response actions are operating properly and successfully;
- A Memorandum of Understanding (MOU) will be in place between DOE and DOI, defining respective management responsibilities; and,
- The entire surface of the Site will be safe for the refuge worker and visitor, although DOE-retained areas will be closed to the refuge visitor.

Joe reviewed possible controls, restating many ideas from David and Dean. He stated that the fence surrounding DOE lands would be different from security fencing and locks on samplers and groundwater treatment systems placed specifically to prevent vandalism. Paul Danish voiced his concern over DOE not considering a security fence around the DOE lands, and said he wanted it to be understood that he believes they are dealing with a cleanup with imperfect standards and public uncertainties.

Lorraine Anderson said if Paul's assumptions about cleanup were correct then she would agree with him. However, she is under the assumption that the cleanup levels, including the Industrial Area, will be protective of human health. Thus, she believes there will be a need for demarcation but not an onerous fence with bright signs.

Lisa Morzel asked about the status of the MOU between DOE and DOI. Joe said issues are still being debated at a higher level at Headquarters, but it will not impact their ability to plan the transition locally, at least for another year or two. Dean added that it is still an issue over mining, and he heard that the USFWS had recently received communication from DOE moving the conversation forward. Lisa advised them to let the Coalition know if they needed any help from the Board. She then referred to the concern raised by Paul and stated the Site needed to be permanently safe, accounting for erosion over millennia. She said she would need to see a detailed map identifying all areas of differentiating risk and subsurface contamination before discussing how big the fence should be. Joe said they are working to digitize post-closure maps, including subsurface structures, for long-term stewardship purposes. Lisa said they should also

establish protocols and methodologies to establish a baseline for consistent monitoring in the future.

Gary Brosz stated it appears that most of the Board is on the same page with regards to base assumptions. He said one base assumption most are in agreement over is that the top three feet of the Site will be cleaned to a safe level in accordance with standards and past studies. He stated contamination can move over time and will require monitoring, and remedies will require protection to ensure they remain effective. Gary said the real rub is in attempting to protect subsurface contamination from intentional intrusion. He suggested that if they are trying to protect against a malicious act then the amount of barrier and monitoring would be extensive, expensive, and difficult, and it may not be worthwhile once costs are weighed against benefits. He said Broomfield is in favor of the cattle fence approach which blends in but prevents unintended access by the public. Gary agreed with the concept of protecting remedies from people and not the reverse.

Paul said Rocky Flats is a highly visible attractive nuisance to nuts with political agendas. He reminded the Board that September 11 occurred less than three years ago and that the Site could be a target for a terrorist or teenager with issues. He said there is possibility for great harm if someone decides to dig up contamination and make a dirty bomb. Lorraine asked if residual contamination could be used to make a bomb or something harmful. Joe responded that not on any conceivable scale is there that type of contamination available, and he reviewed areas of discreet subsurface contamination such as deep basements as well as insignificant histories of other Superfund sites. He said the probability and consequence does not add up when compared to risk. Shaun McGrath said he does not agree with the assumption that subsurface contamination would not eventually reach the surface.

Shaun said the issue of protecting controls is legitimate and he agrees they must assume EPA will certify the Site safe. But he also said they must consider the reality of the subsurface eventually reaching the surface and restricting people from getting onsite who may accelerate erosion. Shaun said deliberate sabotage would be difficult to protect against, but it is still a legitimate concern and should be addressed. He suggested that unless rangers are actually onsite enforcing restrictions then a barbed wire fence would not be effective at all.

The Board then discussed long-term stewardship issues of continuous monitoring and physical controls. Karen Imbierowicz said the Board should continue the conversation at a later date.

Round Robin

Superior - Karen Imbierowicz said she would not be able to attend the July 12 Board meeting, thus Shaun McGrath would be chair. She said the Board also needed to discuss the idea of a short August meeting followed by a Board retreat. Shaun said the July meeting will need to include an agenda setting session for the retreat. Ron Hellbusch asked when they would continue with the access restrictions discussion, and David Abelson responded most likely in September. David said he would work with the Executive Committee on arranging the retreat.

Public Comment

Anne Fenerty referred to the issue of an ill-defined public and stated the Boulder Valley League of Women Voters has been involved in raising concerns over cleanup, including Anne reading a statement from them at the DOE public availability session. She also said it is wonderful the Coalition is looking into independent verification, and she emphasized this verification should not be done by scientists and labs who work for the federal government. In reference to the refuge, Anne stated that prairie dogs can bring up subsurface contamination. She also said she is pleased that USFWS is considering fences, and although they are not all she had hoped for at least they are no longer talking about a seamless property.

Big Picture

The Board reviewed items for discussion for future meetings. At the July meeting the Board will hear a briefing on the demolition plans for Building 776 and leave time open for a possible briefing on the Industrial Area Groundwater IM/IRA. The Board will also discuss setting the agenda for the August retreat.

The meeting was adjourned by Karen Imbierowicz at 11:27 a.m.

Respectfully submitted by Kimberly Chleboun, Assistant Director