

Rocky Flats Coalition of Local Governments Board Meeting Minutes
Monday, April 4, 2005
8:00 a.m. – 12:00 p.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), Sam Dixon (Director, Westminster), Jo Ann Price (Alternate, Westminster), Lorraine Anderson (Director, Arvada), Clark Johnson (Alternate, Arvada), Jim Congrove (Director, Jefferson County), Karen Imbierowicz (Director, Superior), Devin Granbery (Alternate, Superior), Shaun McGrath (Director, City of Boulder), Carl Castillo (Alternate, City of Boulder), Ben Pearlman (Director, Boulder County), Jane Uitti (Alternate, Boulder County).

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

Members of the Public: Dave Shelton (Kaiser-Hill), Joe Legare (DOE), Karen Lutz (DOE), John Rampe (DOE), Scott Surovchak (DOE), Rob Henneke (EPA), Steve Gunderson (CDPHE), Carl Spreng (CDPHE), Edgar Ethington (CDPHE), Elizabeth Pottorf (CDPHE), Marion Galant (CDPHE), Shirley Garcia (Broomfield), Al Nelson (Westminster), Bob Nelson (Golden), Jeanette Alberg (Senator Allard), Doug Young (Rep. Udall), Kimberly Cadena (Rep. Beauprez), David Hiller (Senator Salazar), Ken Korkia (RFCAB), Patricia Rice (RFCAB), Gerald DePoorter (RFCAB), Roman Kohler (Rocky Flats Homesteaders), F.P. Cruz (RFSOIU), Dan Chesshir (RFSOIU), Hank Stovall (RFCAB), Anne Fenerty (citizen), Jeffrey Lively (MACTEC), Kim Grant (RFCWM), Bryan Taylor (RFCWM), Phil Tomlinson (RFCAB), Glenn Fischer (GAO), Pam Tumler (GAO), Dan Feehan (GAO), Todd Neff (Daily Camera), Karen Deike.

Convene/Agenda Review

Chairman Shaun McGrath convened the meeting at 8:05 a.m.

Business Items

1) Consent Agenda - Karen Imbierowicz motioned to approve the consent agenda. Gary Brosz seconded the motion. The motion passed 6-0 (Westminster was not yet in attendance).

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

- The draft Memorandum of Understanding (MOU) between DOE and DOI was issued on March 22nd, with comments due by May 23rd. Coalition comments on the MOU can be approved at the May Board meeting. The two primary items appear to be the

sidestepping of the minerals acquisition and the process for delineating between DOE and DOI lands. David noted the process as outlined appears to be good.

- There was another surface water quality exceedance at station GS-10, based on the 30-day moving average. David had circulated DOE's email explaining the reportable concentrations to staff the Friday prior.
- Rep. McKinley's Rocky Flats bill has an appropriations hearing scheduled for April 8th at 7:30 a.m. David and Shaun McGrath met with Rep. McKinley in March to discuss the Coalition's proposed amendments and better understand each other's perspective. It does not appear he is willing to accept the Coalition amendments at this time, but that may change if the bill gets out of appropriations.

Public Comment

Kim Grant (RFCWM) provided an update on the Rocky Flats museum project. Over the past four years the Museum has: incorporated as a non-profit; hired an executive director; commissioned a feasibility study; launched a website; collected oral histories and videographies which are at the Carnegie Library; raised over \$300,000 total from over 100 individuals; collected over 1000 artifacts; completed a study of the Lindsay Ranch; and, applied for Science and Cultural Facilities District status. Kim stated the Museum is working with Senator Allard to get federal funding and has been seeking resolutions of support from local governments. He said he would like to work with the Coalition to draft a Coalition resolution of support for the Museum. Shaun McGrath said he had discussed this resolution with Kim and Bryan Taylor and he has invited them back to the May meeting for a more substantive discussion.

Bob Nelson (Golden) said the Local Stakeholder Organization (LSO) memo in the Board packet indicated that Golden was not interested in participating, but this is incorrect. Golden is interested in serving on the LSO.

Anne Fenerty (citizen) commented that at the February 28th Board meeting the Board was concerned about Rep. McKinley creating a climate of fear, but she believes just such a climate is justified as she is concerned about poor cleanup. She listed her concerns and stressed the importance of independent review, and added that the whole site must be delisted, not just certified, prior to transfer of land. She suggested the Coalition's priorities are misplaced with too much focus on killing H.B. 1079 and forming the LSO, and noted she is the only person attending the meeting who is not being funded by DOE.

Hank Stovall (RFCAB) referred to the February 28th Board meeting minutes, and said the worldwide nuclear fallout range is actually 0.05 - 0.1 pCi/g, and not 0.05 - 0.5 pCi/g as reported.

David Hiller (Senator Salazar) stated that Senator Salazar had introduced Special Exposure Cohort legislation to the Senate, as a companion to the House legislation introduced by Reps. Udall and Beauprez. The only difference in the bills is in minor preliminary findings obtained over the past month. The bill has not yet been referred to subcommittee.

Pam Tumler (GAO) said she and her associates are conducting another review of the Rocky Flats cleanup at the request of Senator Allard and in follow-up to the 2001 GAO report.

Shaun McGrath thanked Anne for her comments and clarified that the Coalition's position on H.B. 1079 is to oppose it unless it is amended. He also noted that the Coalition is very concerned about what will be left after cleanup and the controls in place for monitoring, thus the extensive work on independent review, which is to be discussed later in the meeting.

Local Stakeholder Organization

Shaun McGrath began by stating the Board needs to work to develop a Coalition position on the board composition and role of non-elected officials in the Local Stakeholder Organization (LSO), in hopes that a final recommendation can be voted on at the May Board meeting. David Abelson bounded the conversation by describing the five different options which he had laid out in detail in the Board packet:

1. Leave the Coalition as is and become the LSO.
2. Rocky Flats Citizens Advisory Board's (RFCAB) recommendation to allow full and equal partnership for non-elected officials.
3. Modified version of Option 3, with Board numbers weighted in favor of elected officials.
4. Leave Coalition as is and become LSO and create a subcommittee of non-elected officials to advise the LSO board.
5. Expand Coalition board to include non-elected officials as *ex-officio* members.

David said the Board should focus this conversation primarily on the role of non-elected officials as well as the timeline for standing up the LSO. He suggested that although DOE has interpreted the LSO legislation to mean that the LSO should be in place six months prior to physical completion, it would make more sense to put it formally into place later in the year. If this were the case, then there would be less confusion over determining which organization takes the lead on LM vs. EM issues. The RFCAB and Coalition could continue to work on the suite of cleanup issues until after physical closure.

Gerald DePoorter (RFCAB) said he has been discussing these issues with David and his Board, and his Board is of the firm belief that full and equal participation by all members of the LSO Board is the most important factor to consider in its formation. Without equal participation the organization would not be able to attract the people it needs as they would feel their voice is discounted. He said the RFCAB stands firm on its original recommendation to DOE, and is only in favor of Options 2 and 3. Gerald asked what distinction the Coalition sees between non-elected designees chosen to serve in lieu of an elected official as opposed to a non-elected official serving on the Board. Ken Korkia (RFCAB) added that most of the RFCAB are in agreement with David's idea to formally stand the LSO up at the end of the calendar year.

Sam Dixon asked David why he stated in his memo that Option 4 would compromise the role of elected officials. David explained that if the Board is dependent upon a subcommittee action for forwarding issues then issues may not be taken up in a timely manner. Sam said city boards and

commissions are not set up that way and it would not have to be set up like this for the LSO. Lorraine Anderson agreed with the idea of keeping the Coalition in place until after physical closure. She agreed with Sam on how the subcommittee could work and said she is leaning toward a proposal along the lines of Option 4. Gary Brosz said it is Broomfield's desire that decisions within the LSO are made by people who are answerable to the general public, thus Option 4 or 5 would be acceptable, leaning toward Option 5 from a logistical standpoint. He addressed Gerald's question regarding the difference between a designee and a non-elected Board member, and explained that if the elected official identifies someone as a designee, the elected member is still answerable to the public for decisions made by that designee.

Shaun raised the question of what the statute allows for and said he is not convinced the language in the legislation allows for full and equal participation by non-elected officials. There was then extensive Board discussion on interpretation of the legislative language, including a review of case law, state statutes, and how it is being applied at Mound and Fernald. David provided a history on how the language had been drafted. Ben Pearlman agreed with Shaun that the language appears to be limiting, but suggested that they look for a mechanism that provides for as much inclusiveness as possible under this framework as long as the statute is not contradicted. Doug Young said it is his opinion the language allows a lot of flexibility and added that Rep. Udall would be respectful of a Coalition position on this issue. David noted that DOE and the congressional representatives have indicated they will allow the local governments flexibility in assembling the LSO.

Karen Imbierowicz said it is important for local governments to stay together through regulatory closure in order to react swiftly and with authority to any problems that may arise. She stated it will also be important to begin working with other interested parties during that time, including other governments, and that the RFCAB could work in parallel. She said she supports Option 5, but the role of non-elected officials as *ex-officio* members could be revisited after regulatory closure. John Rampe (DOE) stated that they expect regulatory closure by fall 2006. David added that the vast majority of cleanup and closure issues would be made within this calendar year. He also made the assertion that the best decision-making regarding Rocky Flats issues has occurred, not at formal Coalition or RFCAB meetings, but during the community dialogue leading up to those meetings.

Gary reviewed the Board member's preferences and commented it appears the Board is leaning toward subtle variations between Options 4 and 5. He stressed that once this issue is agreed upon, there are many other questions to consider such as LSO scope. Shaun agreed, and said he also heard concern about what the statute will allow, thus he supports Option 5. He also heard agreement over standing up the LSO at the end of the calendar year. Shaun directed Coalition staff to reach out to other potentially interested governments and begin drafting a proposal for Board vote at the May meeting. In the meantime, Shaun and David will be discussing these issues with DOE and congressional representatives in Washington, D.C. Shaun asked members of the RFCAB and public to provide comment to the Coalition within the next month.

Communication Strategy

Shaun McGrath said it has been his impression that the Coalition is very reactive, without driving its message. Thus, he suggested that as the Coalition works on such projects and issues as the independent reviews, H.B. 1079, and the MOU there should be a more focused effort on getting the information out there. He then introduced Karen Deike and described her background in working on communication plans.

Karen said she had reviewed the Coalition's strategic plan and it appears to be a good start as it identifies projects and lists who information is communicated to. The next step is creating a strategic communication plan. She cited an example of creating a plan for the Western Regional Air Partnership and how it involved internal and external communication plans. They formed a formal communication committee which focused on the key goal of ensuring all constituencies were informed, involved, and felt invested. The committee worked on consistency in key messages and identifying opportunities for communication and involving the public. Outreach tools in a plan can include a website, public meetings surrounding a particular event, op-eds, identifying benchmarks, a speaker's bureau, newsletters and email, and collecting feedback.

Carl Castillo asked about the process and time involved in putting a plan together. Karen said there are basic templates that can be followed, but the key thing is to identify opportunities and benchmarks down the road. Shaun said if the Board agrees, he would like to direct Coalition staff to work with Karen in customizing this template to the Coalition's needs, with a draft by the May meeting.

Gary Brosz welcomed the idea of communicating a positive message to the community, and suggested also using the community television channels and community bus tours for outreach. Karen Imbierowicz agreed with the idea of local cable programming, and suggested prioritizing communicating independent review efforts. Lorraine Anderson motioned to hire Karen Deike as a consultant, authorizing up to \$1000, to work with Coalition staff in drafting a communication strategy. Gary Brosz seconded the motion. The motion passed 7-0.

David Abelson advised the Board to be aware of the challenge in creating a consistent message while there are many individual perspectives on the cleanup. He also said they would need to address priorities within the plan, and also identify current resources so they are not recreating the same work.

Independent Review

Jeff Lively (MACTEC) explained his involvement as a Coalition contractor to independently review the ORISE independent review of surface soils. Thus far there have been three different plans or elements to consider: 1) Kaiser-Hill's surface soil verification plan; 2) ORISE's comments on the Kaiser-Hill plan; and, 3) ORISE's draft project-specific plan which outlines how ORISE will independently verify Kaiser-Hill's final radiological status surveys of surface soils across the entire site, confirming cleanup standards have been met. Jeff stated he had

reviewed all of these items, and agreed that the basic comments that ORISE provided to DOE regarding Kaiser-Hill's plan were very good and hit on his key issues.

He then reviewed the general comments individually. The primary issue is that Kaiser-Hill is not proposing a final status survey plan in the context of MARSSIM as traditionally understood. Jeff added that is not to say there are not other statistically valid plans, but that was not the original expectation. He agreed with the ORISE assessment that if the Kaiser-Hill plan were to follow the MARSSIM guidance the survey effort would be substantially greater than that offered. Jeff also agreed with ORISE's viewpoint that Kaiser-Hill's description of the capabilities of an aerial flyover survey is misleading. Another problem identified by ORISE with which Jeff concurred was the need to clearly identify the averaging criteria in a data quality objective fashion.

In reviewing specific comments, Jeff reported that ORISE suggests that the proposed approach for validating the use of existing data is inadequate. He went into further technical detail, explaining that the use of existing data is the primary reason this review would not be a MARSSIM based survey. Jeff also reviewed other concerns such as concerns over spatial variability of the data set. He said he had also reviewed the ORISE draft plan and, generally speaking, the flaws in the ORISE plan are a reflection of the lack of specificity in the Kaiser-Hill plan.

The Board discussed the concerns raised by MACTEC and timelines and process for transmitting concerns. Gary Brosz emphasized the importance of putting a structure in place to identify issues clearly and track answers or actions. He and Sam Dixon voiced concern that DOE does not adequately respond to community comments. John Rampe (DOE) disagreed with Gary and Sam's assertion, and said the Coalition would receive a specific response back on comments submitted regarding this independent review. He stated the scope comes down to DOE as ORISE and Kaiser-Hill are contractors, and their discussions with ORISE have lead to the understanding that this is not a straight MARSSIM survey. However, that does not mean the results will not be valid, and John went into further detail on that point. He also disagreed with the statement that the helicopter survey would not be sufficient to tell if they are meeting cleanup standards. There was further discussion of the technical validity of the aerial survey. The Board agreed to formally draft a letter to DOE transmitting MACTEC's list of concerns.

Mike Bartleson then provided a summary of technical reviews commissioned by Broomfield. Review of the Groundwater IM/IRA by GEI is complete. In the review GEI:

- questioned process for plume screening and elimination criteria
- asserted minimal evaluation of contaminants in the plumes
- asserted insufficient monitoring
- cited specific concerns with phytoremediation

Mike stated MULLER Engineering has generated a draft report on the Walnut Creek Drainage. MULLER states that pond sediments and upstream channels should be periodically tested for contamination. They also assert that runoff rates and volumes calculated by the site-wide water

balance study are smaller than calculated using the locally developed rainfall-runoff method. Mike noted that the TETRA TECH review of dam notching in the A- and B-series ponds is no longer necessary as DOE no longer plans to notch the dams.

Mike reviewed their next steps, and explained that Broomfield is preparing letters to the RFCA principals and will ask to meet to discuss the issues raised. Gary added he is hopeful the Coalition can address issues coming out of their independent review efforts, including tracking and ensuring answers are received on each issue raised.

Next, Sam stated the Woman Creek Reservoir Authority (WCRA) had commissioned a review to ensure the safety of community water. On-site water management issues included the Original Landfill, Woman Creek basin, and the South Interceptor Ditch. Sam gave a copy of WCRA comments to David Abelson to fax out to the rest of the Board, and said the WCRA needs to first meet to discuss these issues before sending formal letters to the RFCA parties or discussing details with the Coalition. The Board further discussed process for following up on issues raised by these reviews. Shaun McGrath said the cities who commissioned the reviews should lead the effort in tracking issues raised, and also let the Board know when and how to weigh in.

Rik Getty then described his efforts, as directed by the Board, to look into remaining contamination in the subsurface, including a compilation of contamination inventory and long-term stewardship controls. By reviewing historical, cleanup, and closeout documents he identified contaminants of concern in Individual Hazardous Substance Sites, Potential Areas of Concern, and Under Building Contamination areas. Rik stated that cleanup is meeting regulatory requirements but there will still be contamination left behind, thus he is reviewing this contamination inventory and how it is characterized and will be monitored. He provided examples such as the 881 Hillside and Building 771 basement. Likewise, Kimberly Lohr briefly described her research into how this information will be captured and disseminated post-closure. Rik stated that the Site is going through a parallel effort to define the extent of remaining contamination in the drafting of the Remedial Investigation/Feasibility Study.

Gary asked if the Site already had this information in a single database, and Rik responded that they are working on it. Sam said this project will be helpful since she believes some of the groundwater monitoring wells may not be properly situated. David clarified that this project is not an attempt to go back and question the cleanup decisions. Instead it will consider the contamination remaining and make sure there are no gaps in information, and ensure a range of information will be available post-closure.

Public Comment

Anne Fenerty (citizen) asked the difference between physical closure and regulatory closure. John Rampe explained that physical closure means all the physical work has been completed, such as removal of buildings and land reconfiguration, and is expected by this October. Regulatory closure will consist of reviewing the CERCLA and RCRA documents, drafting the

Proposed Plan and evaluating whether the cleanup was in fact complete. Regulatory closure is expected to take an additional year.

Steve Gunderson (CDPHE) referred to the earlier comments regarding the ORISE review, and agreed with MACTEC that the parties involved may be talking past one another and there are misunderstandings as to the type of review being done. He noted similar situations when ORISE did independent verification and validation of Buildings 771 and 707, but then misinterpretations were ironed out. Second, Steve voiced concern over Broomfield's comment about not receiving responses back. He stated that Broomfield's multi-page letters are responded to individually in DOE's responsiveness summaries, which must be approved by CDPHE and EPA.

Updates/Big Picture Review

Executive Director - David Abelson recommended writing a letter of support to the Senate committee reviewing Senator Salazar's Special Exposure Cohort legislation, just as the Board had done for the House measure. Shaun McGrath asked that an additional sentence restating support of the bill be added the closing of the House letter which was approved at the beginning of the meeting. Gary Brosz motioned that the Coalition send a letter of support to the Senate for Senator Salazar's Special Exposure Cohort legislation. Sam Dixon seconded the motion. The motion passed 6-0 (Jefferson County was no longer in attendance).

Big Picture - The Board reviewed the Big Picture. The May 2nd meeting will likely include a discussion with Rep. Udall, continued discussion of MACTEC's review, and finalizing a Board position on the Local Stakeholder Organization.

At 11:21 a.m. Shaun McGrath motioned to move into Executive Session for the purposes of discussing personnel issues involving Executive Director evaluation, and receiving legal advice on such issues, as authorized under Sections 24-6-402 (4) (f) and 24-6-402 (4) (b), C.R.S. Gary Brosz seconded the motion. The motion passed 6-0 (Jefferson County was no longer in attendance).

The Board reconvened from Executive Session at 12:02 p.m. and affirmed that no actions had been taken during Executive Session. Gary Brosz motioned to approve the Board proposal regarding the Executive Director's contract. Lorraine Anderson seconded the motion. The motion passed 6-0. The Board directed Ms. Vander Wall to revise Mr. Abelson's employment letter agreement to reflect the adopted proposal changes approved.

The meeting was adjourned by Shaun McGrath at 12:03 p.m.

Respectfully submitted by Kimberly Lohr, Assistant Director