

Rocky Flats Coalition of Local Governments

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April 5, 2004

Ms. Laurie Shannon
Planning Team Leader
U.S. Fish and Wildlife Service
Rocky Mountain Arsenal NWR, Building 121
Commerce City, CO 80022

Dear Ms. Shannon,

On behalf of the Board of Directors of the Rocky Flats Coalition of Local Governments, we are submitting the following comments on the Comprehensive Conservation Plan and Environmental Impact Statement (CCP/EIS) for the Rocky Flats National Wildlife Refuge. Because elements of these comments are beyond the scope of the CCP/EIS, we have copied the Department of Energy, Colorado Department of Public Health and the Environment, and the United States Environmental Protection Agency.

After months of intensive conversation amongst the Coalition governments and with USFWS, it is clear that the Coalition, as an organization, does not support one alternative over another. Our comments instead focus on overriding principles and values that are central to the management of the refuge. The individual governments will continue to work with the USFWS on the details of the proposed options, including the preferred alternative.

The Coalition thus offers the following comments.

1. *Support for the Refuge*

The Coalition reiterates its support for the Rocky Flats National Wildlife Refuge. As the Coalition stated in an *Arvada Sentinel* op-ed in June 2001:

The [refuge] bill would accomplish a number of the Coalition's key cleanup and future use goals. Most importantly, it would protect the land for future generations by mandating the site be managed as a national wildlife refuge, while ensuring that the cleanup protects human health and the environment. Additionally, this designation would prohibit future development of Rocky Flats and annexation of the property by any local government. The legislation would also require on-going federal ownership of the site, an integral component of a comprehensive long-term site stewardship program, and also ensure that cleanup is completed prior to the U.S. Fish and Wildlife Service assuming management of Rocky Flats.

While the seven Coalition governments may disagree on elements of the proposed management plan, this disagreement should not be interpreted as suggesting a lack of support for the refuge. The principles articulated in the op-ed hold true.

2. Limit Access to DOE Retained Lands

The Coalition remains concerned that USFWS is proposing to allow access to the refuge without defining how the federal government (either USFWS or DOE) will restrict access to DOE retained lands. It is our understanding that the vast majority of the groundwater monitoring wells, settling ponds, caps, surface water monitoring stations, and other controls designed to implement and protect the remedies will remain under DOE's jurisdiction. These lands, we understand, will be off-limits to refuge visitors. It remains imperative that USFWS and DOE decide how access to these lands will be restricted prior to opening up the refuge for visitors.

We recognize there are various mechanisms that can be employed, and that the respective roles of DOE and USFWS in restricting access to the entire Site and to the DOE retained lands must still be decided. Regardless of the legal mechanism(s) that USFWS and DOE ultimately adopt (including but not limited to the past-due congressionally mandated MOU between DOE and the Department of the Interior), USFWS must clearly acknowledge in the CCP/EIS that implementation of the visitor plan is contingent on resolution of this issue.

3. Additional Analysis Needs to Be Completed

The Coalition understands that DOE, CDPHE, and EPA believe additional sampling of the buffer zone must be completed prior to the closure of Rocky Flats and transfer of jurisdiction of lands to USFWS. The Coalition believes this sampling is essential for a number of reasons, including but not limited to confirming that residual levels of contamination on the lands to be transferred to USFWS are protective of refuge workers and thus of visitors. Additionally, we believe ongoing post-closure monitoring must be conducted in the buffer zone to verify the ongoing safety of these lands.

While we understand this sampling requirement is driven by the Rocky Flats Cleanup Agreement (RFCA) and not the CCP/EIS, we believe that USFWS must take this information into account in the CCP/EIS when finalizing decisions about public access to the refuge. Please note, though, that the Coalition remains steadfastly committed to the provision in "The Rocky Flats National Wildlife Refuge Act of 2001" that vests authority for certifying whether Rocky Flats meets regulatory standards and is thus protective in the EPA and not in the USFWS. We believe, as we posited during the drafting of the refuge bill, that the determination as to what is protective is not, as both a matter of science and public policy, the domain of the USFWS. That said, public policy also suggests that USFWS remain engaged on this certification analysis and the potential impacts on the refuge planning process.

4. A Protective Cleanup

Recently, a segment of the community has been arguing that any level of radioactive contamination above background is dangerous, and thus USFWS should, from a human health and safety perspective, prohibit all access to the refuge. Provided that the aforementioned additional sampling confirms that the lands transferred to USFWS contain levels of residual contamination that are protective of refuge workers and visitors, we reject this argument.

The Rocky Flats Soil Action Level Oversight Panel's review of cleanup levels at Rocky Flats concluded that lands contaminated with up to 80pCi/g of plutonium would be protective of a resident rancher that lived on the most contaminated parts of Rocky Flats, grew all their vegetables at the site, received all of their drinking water from the site, and also grazed their livestock at the site. This Panel included, among others, local government representatives and the Rocky Mountain Peace and Justice Center.

Following that study, an intensive review of cleanup levels determined that lands contaminated with up to 50pCi/g of plutonium would be protective of a refuge worker. This scenario presumes that the refuge worker spends 50 weeks a year, 40 hours per week at the most contaminated portion of the site.

It is our understanding that lands which include contamination $>7\text{pCi/g}$ of plutonium will be retained by DOE – and that these lands, as discussed above, will be off limits to refuge visitors. Based on the aforementioned studies, to suggest that the lands to be transferred will be dangerous to the community if the RFCA standard is met belies sound science and sound public policy.

The Coalition remains committed to ensuring that the cleanup is protective of human health and the environment. We understand this latter point is well beyond the bounds of the CCP/EIS but, given the nature of the current public dialogue, we felt it important to reiterate our position on this critical cleanup issue.

Thank you for your consideration of these issues. We trust that although some of these issues are beyond the bounds of the CCP/EIS, we will continue to dialogue about them with the USFWS in the appropriate forum.

Sincerely,

/s/

Karen Imbierowicz
Chair

/s/

David M. Abelson
Executive Director

Cc: Frazer Lockhart, DOE
Doug Benevento, CDPHE
Max Dodson, EPA
Senator Wayne Allard
Representative Mark Udall
Representative Bob Beauprez