

From: [Jeff Gipe](#)
To: [Public Comment](#)
Subject: [EXTERNAL] Please reconsider involvement in the Rocky Mountain Greenway
Date: Monday, September 23, 2024 5:08:07 PM
Attachments: [Jury Verdict Form.pdf](#)

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Dear Westminster City Council,

As you know, there is a lot of concern about the Greenway Trail entering and traversing the most contaminated edge of the Rocky Flats site. Several jurisdictions have declined to participate in the FLAP grant altogether because they believe the site will never be safe for recreation, and that the trail poses a potential threat to their residents. The Rocky Mountain Greenway feasibility study mentions that families and children will use the Greenway trail, and women and children are the most vulnerable populations. It is in the interest of the community and government entities to ensure that the proposed trail will not pose a risk to the health and safety of the community (now or in the future). The only way to be sure that workers, visitors, and the nearby community are not endangered is to avoid going through the Rocky Flats site altogether.

There are hundreds of reasons this trail should be reconsidered. Many Former workers, regulators and citizens are strongly opposed to recreation on or near the Rocky Flats site. Several former Rocky Flats workers have stated that plutonium counts have been altered or fabricated during and after cleanup at the Rocky Flats site. The trail's feasibility study mentions "In 2004, the FWS released the Final Environmental Impact Study (EIS) for the Rocky Flats NWR". Since this time, a major flooding/runoff event occurred in 2013 and dispersed an unknown amount of contaminants. Hurricane-force winds are also commonplace at Rocky Flats. These are major ecological event and a new and thorough EIS should be conducted to reevaluate conditions at the site. Future generations should also be considered when thinking about putting a trail through, or near, the Rocky Flats site - and should NEVER be put in the windblown area where the pedestrian overpass is currently slated to go. Absolutely no cleanup was conducted on the refuge property. Plutonium has a half-life of over 24,000 years and the safeguards that have been put in place are already failing. The Rocky Flats Stewardship Council has reported many incidents of migrating plutonium and uranium. These incidents show that remaining contamination cannot be controlled and will forever pose a threat to humans. In a 2012 independent sampling study, plutonium was detected at 6 of nine sampling locations. In 2019, another sampling was conducted to appease local governments concerns and again showed Rocky Flats' plutonium was present in nearly all of the

samples, including a sample that is 5 times the allowable limit set by cleanup standards (which are already outrageously high). Earlier this year, a study conducted by Dr. Michael Ketterer showed that plutonium is in fact airborne very near the site of the proposed trail crossing. A 26-year-long lawsuit that concluded in 2015 proves that a large area downwind of, and including, Rocky Flats is contaminated with plutonium (please see attachment: Jury Verdict Form). These discoveries should not be taken lightly. It would be irresponsible to allow access on the most contaminated edge of the Rocky Flats knowing that the site undoubtedly poses a threat to human health and safety.

There has been suggestions that the trail should go forward - possibly with an added sign. Signage is a great idea, and informed consent signage should be required everywhere near the site. However, a sign will not prevent people from entering the refuge. The trail crossings themselves will be a giant billboard inviting people to enter the site.

I have spent the last 10 years interviewing former workers, scientists, officials, and affected residents for a documentary about Rocky Flats that will premiere at the Denver Film Festival in November (<https://halflifeofmemory.com/>). I urge you to watch the film and would be happy to arrange a viewing before November. The former Rocky Flats workers are deeply concerned, and the only agencies who claim the area is safe are the same agencies who have lied to the public and workers about Rocky Flats since its inception.

The implications of this project are enormous and your decision will impact generations to come. I hope you will consider this information thoroughly.

Sincerely,

Jeff Gipe

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge John L. Kane

Civil Action No. **90-cv-181-JLK**

MERILYN COOK, et al.,

Plaintiffs,

v.

**ROCKWELL INTERNATIONAL CORPORATION AND THE DOW CHEMICAL
COMPANY,**

Defendants.

JURY VERDICT FORM

We the jury in the above entitled case, being first duly empaneled and sworn and having heard the evidence at trial and being instructed in the applicable law, present our Answers to the Questions submitted by the Court, to which we have agreed as provided in Instruction No. 4.5.

¶ A. Trespass Claim Against Defendant Dow Chemical Company

With regard to Plaintiffs' claim against Defendant Dow Chemical Company ("Dow") for trespass (*Instruction Nos. 3.2 through 3.5*), we find as follows:

1. Do you find that plutonium from Rocky Flats is present on the Class Properties (*see Instruction No. 3.3*)?

ANSWER: Yes No.

IF YOUR ANSWER TO QUESTION NO. 1 IS "YES," THEN GO TO QUESTION NO. 2. IF YOUR ANSWER TO QUESTION NO. 1 IS "NO," THEN SKIP TO ¶ B.

2. Do you find that Dow intentionally undertook an activity or activities that in the usual course of events caused plutonium from Rocky Flats to be present on the Class Properties (see *Instruction No. 3.18*)?

ANSWER: Yes No.

IF YOUR ANSWER TO QUESTION NO. 2 IS "YES," THEN GO TO QUESTION NO. 3. IF YOUR ANSWER TO QUESTION NO. 2 IS "NO," THEN SKIP TO ¶ B.

3. Do you find it appears that this plutonium will continue to be present on the Class Properties indefinitely (see *Instruction No. 3.4*)?

ANSWER: Yes No

IF YOU ANSWERED "YES" TO QUESTION NOS. 1- 3 IN THIS PARAGRAPH, THEN YOU HAVE FOUND FOR PLAINTIFFS AND AGAINST DOW ON THIS TRESPASS CLAIM.

PLEASE GO TO ¶ B.

¶ B. Trespass Claim Against Rockwell International Corporation

With regard to Plaintiffs' claim against Defendant Rockwell International Corporation ("Rockwell") for trespass (*Instruction Nos. 3.2 through 3.5*), we find as follows:

1. Do you find that plutonium from Rocky Flats is present on the Class Properties (see Instruction No. 3.3)?

ANSWER: Yes No.

IF YOUR ANSWER TO QUESTION NO. 1 IS "YES," THEN GO TO QUESTION NO. 2. IF YOUR ANSWER TO QUESTION NO. 1 IS "NO," THEN SKIP TO ¶ C.

2. Do you find that Rockwell intentionally undertook an activity or activities that in the usual course of events caused plutonium from Rocky Flats to be present on the Class Properties (see Instruction No. 3.18)?

ANSWER: Yes No.

IF YOUR ANSWER TO QUESTION NO. 2 IS "YES," THEN GO TO QUESTION NO. 3. IF YOUR ANSWER TO QUESTION NO. 2 IS "NO," THEN SKIP TO ¶ C.

3. Do you find it appears that this plutonium will continue to be present on the Class Properties indefinitely (see Instruction No. 3.4)?

ANSWER: Yes No

IF YOU ANSWERED "YES" TO QUESTION NOS. 1- 3 IN THIS PARAGRAPH, THEN YOU HAVE FOUND FOR PLAINTIFFS AND AGAINST ROCKWELL ON THIS TRESPASS CLAIM.

PLEASE GO TO ¶ C.

¶ C. Nuisance Claim Against Dow Chemical Company

With regard to Plaintiffs' claim against Dow for nuisance (*Instruction Nos. 3.6 through 3.17*), we find as follows:

1. Do you find Dow interfered with Class members' use and enjoyment of their properties in the Class Area in one or both of these ways: (A) by causing Class members to be exposed to plutonium and placing them at some increased risk of health problems as a result of this exposure (*see Instruction Nos. 3.7, 3.18*); and/or (B) by causing objective conditions that pose a demonstrable risk of future harm to the Class Area (*see Instruction Nos. 3.7, 3.18*)?

ANSWER: Yes No

IF YOUR ANSWER TO QUESTION NO. 1 IS "YES," THEN GO TO QUESTION NO. 2. IF YOUR ANSWER TO QUESTION NO. 1 IS "NO," THEN SKIP TO ¶ D.

2. Do you find this interference with Class members' use and enjoyment of their properties was both "unreasonable" and "substantial" (*see Instruction Nos. 3.8 - 3.12*)?

ANSWER: Yes No.

IF YOUR ANSWER TO QUESTION NO. 2 IS "YES," THEN GO TO QUESTION NO. 3. IF YOUR ANSWER TO QUESTION NO. 2 IS "NO," THEN SKIP TO ¶ D.

3. Do you find the activity or activities causing the unreasonable and substantial interference by Dow were either "intentional" or "negligent" (see *Instruction Nos. 3.13 - 3.16*)?

ANSWER: Yes No

IF YOUR ANSWER TO QUESTION NO. 3 IS "YES," THEN GO TO QUESTION NO. 4. IF YOUR ANSWER TO QUESTION NO. 3 IS "NO," THEN SKIP TO ¶ D.

4. Do you find it appears the unreasonable and substantial interference with the use and enjoyment of property caused by Dow's intentional or negligent conduct will continue indefinitely (see *Instruction No. 3.17*)?

ANSWER: Yes No

IF YOU ANSWERED "YES" TO QUESTION NOS. 1- 4 IN THIS PARAGRAPH, THEN YOU HAVE FOUND FOR PLAINTIFFS AND AGAINST DOW ON THIS NUISANCE CLAIM.

PLEASE GO TO ¶ D.

¶ D. Nuisance Claim Against Rockwell International Corporation

With regard to Plaintiffs' claim against Rockwell for nuisance (*Instruction Nos. 3.6 through 3.17*), we find as follows:

1. Do you find Rockwell interfered with Class members' use and enjoyment of their properties in the Class Area in one or both of these ways: (A) by causing Class members to be exposed to plutonium and placing them at some increased risk of health problems as a result of this exposure (see *Instruction Nos. 3.7, 3.18*); and/or (B) by

causing objective conditions that pose a demonstrable risk of future harm to the Class

Area (see *Instruction Nos. 3.7, 3.18*)?

ANSWER: Yes No

IF YOUR ANSWER TO QUESTION NO. 1 IS "YES," THEN GO TO QUESTION NO. 2. IF YOUR ANSWER TO QUESTION NO. 1 IS "NO," THEN SKIP TO ¶ E.

2. Do you find this interference with Class members' use and enjoyment of their properties was both "unreasonable" and "substantial" (see *Instruction Nos. 3.8 - 3.12*)?

ANSWER: Yes No.

IF YOUR ANSWER TO QUESTION NO. 2 IS "YES," THEN GO TO QUESTION NO. 3. IF YOUR ANSWER TO QUESTION NO. 2 IS "NO," THEN SKIP TO ¶ E.

3. Do you find the activity or activities causing the unreasonable and substantial interference by Rockwell were either "intentional" or "negligent" (see *Instruction Nos. 3.13 - 3.16*)?

ANSWER: Yes No

IF YOUR ANSWER TO QUESTION NO. 3 IS "YES," THEN GO TO QUESTION NO. 4. IF YOUR ANSWER TO QUESTION NO. 1 IS "NO," THEN SKIP TO ¶ E.

4. Do you find it appears the unreasonable and substantial interference with the use and enjoyment of property caused by Rockwell's intentional or negligent conduct will continue indefinitely (*see Instruction No. 3.17*)?

ANSWER: X Yes No

IF YOU ANSWERED "YES" TO QUESTION NOS. 1- 4 IN THIS PARAGRAPH, THEN YOU HAVE FOUND FOR PLAINTIFFS AND AGAINST ROCKWELL ON THIS NUISANCE CLAIM.

PLEASE GO TO ¶ E.

¶ E Actual Damages for Trespass

IF YOU DID NOT ANSWER "YES," TO ALL OF THE QUESTIONS IN ¶ A (TRESPASS BY DOW) OR ¶ B (TRESPASS BY ROCKWELL), PLEASE SKIP TO ¶ F (ACTUAL DAMAGES FOR NUISANCE).

IF YOU ANSWERED "YES," TO ALL OF THE QUESTIONS IN ¶ A (TRESPASS BY DOW), BUT DID NOT ANSWER "YES," TO ALL OF THE QUESTIONS IN ¶ B (TRESPASS BY ROCKWELL), GO TO QUESTION NO. 1 IN THIS PARAGRAPH.

IF YOU ANSWERED "YES," TO ALL OF THE QUESTIONS IN ¶ B (TRESPASS BY ROCKWELL), BUT DID NOT ANSWER "YES," TO ALL OF THE QUESTIONS IN ¶ A (TRESPASS BY DOW), SKIP TO QUESTION NO. 6 IN THIS PARAGRAPH.

IF YOU ANSWERED "YES," TO ALL OF THE QUESTIONS IN ¶ A (TRESPASS BY DOW) AND IN ¶ B (TRESPASS BY ROCKWELL), SKIP TO QUESTION NO. 11 IN THIS PARAGRAPH.

With regard to actual damages resulting from trespass, (*Instruction Nos. 3.20*

through 3.25), we find as follows:

Trespass Verdict Against Dow Only

1. Do you find the injurious situation resulting from the trespass by Dow

became "complete" and "comparatively enduring" some time between January 1, 1988

and December 31, 1995 (*see Instruction No. 3.22*)?

ANSWER: Yes _____ No _____

IF YOUR ANSWER TO QUESTION NO. 1 IS "YES," THEN GO TO QUESTION NO. 2. IF YOUR ANSWER TO QUESTION NO. 1 IS "NO," THEN SKIP TO ¶ F (actual damages for nuisance).

2. As of the time you find the injurious situation became “complete” and “comparatively enduring,” do you find the actual value of the Class Properties was less than the value these Properties would have had but for the trespass committed by Dow (see *Instruction No. 3.22*)?

ANSWER: _____ Yes _____ No, and so we award nominal damages of \$1 per class member on this claim.

IF YOUR ANSWER TO QUESTION NO. 2 IS “YES,” THEN GO TO QUESTION NO. 3. IF YOUR ANSWER TO QUESTION NO. 2 IS “NO,” THEN SKIP TO ¶ F (actual damages for nuisance).

3. As of the time you find the injurious situation became “complete” and “comparatively enduring,” what is the amount of the difference between the actual value of Class Properties and what their value would have been but for the trespass by Dow? For each of the three types of property below, please state your answer as follows (see *Instruction No. 3.23*):

- (a) in the first column, state the average percentage by which Class Properties were diminished or depressed in value, relative to what their value would have been, without the trespass; and
- (b) in the second column, the corresponding total dollar amount by which Class Properties, as a whole, were diminished or depressed in value, relative to what their value would have been, without the trespass.

For purposes of this answer, you should not consider Dow's affirmative defense of setoff or any "prior market discount" at which Class Members may have purchased their properties.

	<u>Percentage Undervaluation</u>	<u>Aggregate Damages (Entire Class)</u>
RESIDENTIAL	_____ %	\$ _____
VACANT LAND	_____ %	\$ _____
COMMERCIAL	_____ %	\$ _____
		TOTAL: \$ _____

PLEASE GO TO QUESTION NO. 4.

With regard to Dow's affirmative defense of setoff (*see Instruction No. 3.25*), we find as follows:

4. Do you find that Dow proved that its trespass caused a diminution in the value of Class Properties in one or more specific time periods before June 7, 1989?

ANSWER: _____ Yes _____ No

IF YOUR ANSWER TO QUESTION NO. 4 IS "YES," THEN GO TO QUESTION NO. 5. IF YOUR ANSWER TO QUESTION NO. 4 IS "NO," THEN SKIP TO ¶ F (actual damages for nuisance).

5. For each time period in which you found there was a pre-existing diminution in Class Property values, state when the period began, when it ended and the average percentage by which Class Property values were diminished by Dow's trespass during this period. (Add more lines if necessary.)

<u>Beginning of Period</u>	<u>End of Period</u>	<u>Percentage Diminution in Value</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

PLEASE GO TO ¶ F (actual damages for nuisance).

Trespass Verdict Against Rockwell Only

6. Do you find the injurious situation resulting from the trespass by Rockwell became "complete" and "comparatively enduring" some time between January 1, 1988 and December 31, 1995 (see *Instruction No. 3.22*)?

ANSWER: _____ Yes _____ No

IF YOUR ANSWER TO QUESTION NO. 6 IS "YES," THEN GO TO QUESTION NO. 7. IF YOUR ANSWER TO QUESTION NO. 6 IS "NO," THEN SKIP TO ¶ F (actual damages for nuisance).

7. As of the time you find the injurious situation became "complete" and "comparatively enduring," do you find the actual value of the Class Properties was less than the value these Properties would have had but for the trespass committed by Rockwell (see *Instruction No. 3.22*)?

ANSWER: _____ Yes _____ No, and so we award nominal damages of \$1 per class member on this claim.

IF YOUR ANSWER TO QUESTION NO. 7 IS "YES," THEN GO TO QUESTION NO. 8. IF YOUR ANSWER TO QUESTION NO. 7 IS "NO," THEN SKIP TO ¶ F (actual damages for nuisance).

8. As of the time you find the injurious situation became “complete” and “comparatively enduring,” what is the amount of the difference between the actual value of Class Properties and what their value would have been but for the trespass by Rockwell? For each of the three types of property below, please state your answer as follows (*see Instruction No. 3.23*):

(a) in the first column, state the average percentage by which Class Properties were diminished or depressed in value, relative to what their value would have been, without the trespass; and

(b) in the second column, the corresponding total dollar amount by which Class Properties, as a whole, were diminished or depressed in value, relative to what their value would have been, without the trespass.

For purposes of this answer, you should not consider Rockwell’s affirmative defense of setoff or any “prior market discount” at which Class Members may have purchased their properties.

	<u>Percentage Undervaluation</u>	<u>Aggregate Damages (Entire Class)</u>
RESIDENTIAL	_____ %	\$ _____
VACANT LAND	_____ %	\$ _____
COMMERCIAL	_____ %	\$ _____
		TOTAL: \$ _____

PLEASE GO TO QUESTION NO. 9.

With regard to Rockwell's affirmative defense of setoff (see *Instruction No. 3.25*), we find as follows:

9. Do you find that Rockwell proved that its trespass caused a diminution in the value of Class Properties in one or more specific time periods before June 7, 1989?

ANSWER: _____ Yes _____ No

IF YOUR ANSWER TO QUESTION NO. 9 IS "YES," THEN GO TO QUESTION NO. 10. IF YOUR ANSWER TO QUESTION NO. 4 IS "NO," THEN SKIP TO ¶ F (actual damages for nuisance).

10. For each time period in which you found there was a pre-existing diminution in Class Property values, state when the period began, when it ended and the average percentage by which Class Property values were diminished by Rockwell's trespass during this period. (Add more lines if necessary.)

<u>Beginning of Period</u>	<u>End of Period</u>	<u>Percentage Diminution in Value</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

PLEASE GO TO ¶ F (actual damages for nuisance).

Trespass Verdicts Against Both Dow and Rockwell

11. Do you find the injurious situation resulting from the trespass by Dow and Rockwell became "complete" and "comparatively enduring" some time between January 1, 1988 and December 31, 1995 (see *Instruction No. 3.22*)?

ANSWER: X Yes _____ No

IF YOUR ANSWER TO QUESTION NO. 11 IS "YES," THEN GO TO QUESTION NO. 12. IF YOUR ANSWER TO QUESTION NO. 11 IS "NO," THEN SKIP TO ¶ F (actual damages for nuisance).

12. As of the time you find the injurious situation became "complete" and "comparatively enduring," do you find the actual value of the Class Properties was less than the value these Properties would have had but for the trespass committed by Dow and Rockwell (see *Instruction No. 3.22*)?

ANSWER: X Yes _____ No, and so we award nominal damages of \$1 per class member on this claim.

IF YOUR ANSWER TO QUESTION NO. 12 IS "YES," THEN GO TO QUESTION NO. 13. IF YOUR ANSWER TO QUESTION NO. 12 IS "NO," THEN SKIP TO ¶ F (actual damages for nuisance).

13. As of the time you find the injurious situation became "complete" and "comparatively enduring," what is the amount of the difference between the actual value of Class Properties and what their value would have been but for the trespass by Dow and Rockwell? For each of the three types of property below, please state your answer as follows (see *Instruction No. 3.23*):

- (a) in the first column, state the average percentage by which Class Properties were diminished or depressed in value, relative to what their value would have been, without the trespass; and
- (b) in the second column, the corresponding total dollar amount by which Class Properties, as a whole, were diminished or depressed in value, relative to what their value would have been, without the trespass.

For purposes of this answer, you should not consider Defendants' affirmative defense of setoff or any "prior market discount" at which Class Members may have purchased their properties.

All numbers adjusted to 2005 CPI

	<u>Percentage Undervaluation</u>	<u>Aggregate Damages (Entire Class)</u>
RESIDENTIAL	<u>7</u> %	\$ <u>144,199,088.00</u>
VACANT LAND	<u>30</u> %	\$ <u>27,000,000.00</u>
COMMERCIAL	<u>53.03</u> %	\$ <u>5,651,252.00</u>
		TOTAL: \$ <u>176,850,340.00</u>

PLEASE GO TO QUESTION NO. 14.

14. Taking as 100 percent the combined trespass that caused the damages you have found, what percentage, if any, was caused by the trespass by Dow and the trespass by Rockwell (see Instruction No. 3.19A):

ANSWER: Percentage, if any, charged to Dow: 90 %
 Percentage, if any, charged to Rockwell 10 %
 MUST TOTAL: 100%

PLEASE GO TO QUESTION NO. 15

With regard to Dow and Rockwell's affirmative defense of setoff (*see Instruction No. 3.25*), we find as follows:

15. Do you find that Dow and Rockwell proved that their trespass caused a diminution in the value of Class Properties in one or more specific time periods before June 7, 1989?

ANSWER: Yes X No

IF YOUR ANSWER TO QUESTION NO. 15 IS "YES," THEN GO TO QUESTION NO. 16. IF YOUR ANSWER TO QUESTION NO. 15 IS "NO," THEN SKIP TO ¶ F (actual damages for nuisance).

16. For each time period in which you found there was a pre-existing diminution in Class Property values, state when the period began, when it ended and the average percentage by which Class Property values were diminished by Dow and Rockwell's trespass during this period. (Add more lines if necessary.)

<u>Beginning of Period</u>	<u>End of Period</u>	<u>Percentage Diminution in Value</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

PLEASE GO TO ¶ F (actual damages for nuisance).

¶ F Actual Damages for Nuisance

IF YOU DID NOT ANSWER "YES," TO ALL OF THE QUESTIONS IN ¶ C (NUISANCE BY DOW) OR ¶ D (NUISANCE BY ROCKWELL), PLEASE SKIP TO ¶ G (PUNITIVE DAMAGES).

IF YOU ANSWERED "YES," TO ALL OF THE QUESTIONS IN ¶ C (NUISANCE BY DOW), BUT DID NOT ANSWER "YES," TO ALL OF THE QUESTIONS IN ¶ D (NUISANCE BY ROCKWELL), GO TO QUESTION NO. 1 IN THIS PARAGRAPH.

IF YOU ANSWERED "YES," TO ALL OF THE QUESTIONS IN ¶ D (NUISANCE BY ROCKWELL), BUT DID NOT ANSWER "YES," TO ALL OF THE QUESTIONS IN ¶ C (NUISANCE BY DOW), SKIP TO QUESTION NO. 6 IN THIS PARAGRAPH.

IF YOU ANSWERED "YES," TO ALL OF THE QUESTIONS IN ¶ C (NUISANCE BY DOW) AND IN ¶ D (NUISANCE BY ROCKWELL), SKIP TO QUESTION NO. 11 IN THIS PARAGRAPH.

With regard to actual damages resulting from nuisance, (Instruction Nos. 3.20

through 3.25), we find as follows:

Nuisance Verdict Against Dow Only

1. Do you find the injurious situation resulting from the nuisance by Dow

became "complete" and "comparatively enduring" some time between January 1, 1988

and December 31, 1995 (see Instruction No. 3.22)?

ANSWER: _____ Yes _____ No

IF YOUR ANSWER TO QUESTION NO. 1 IS "YES," THEN GO TO QUESTION NO. 2. IF YOUR ANSWER TO QUESTION NO. 1 IS "NO," THEN SKIP TO ¶ G (punitive damages).

2. As of the time you find the injurious situation became “complete” and “comparatively enduring,” do you find the actual value of the Class Properties was less than the value these Properties would have had but for the nuisance committed by Dow (see *Instruction No. 3.22*)?

ANSWER: _____ Yes _____ No, and so we award nominal damages of \$1 per class member on this claim.

IF YOUR ANSWER TO QUESTION NO. 2 IS “YES,” THEN GO TO QUESTION NO. 3. IF YOUR ANSWER TO QUESTION NO. 2 IS “NO,” THEN SKIP TO ¶ G (punitive damages).

3. As of the time you find the injurious situation became “complete” and “comparatively enduring,” what is the amount of the difference between the actual value of Class Properties and what their value would have been but for the nuisance by Dow? For each of the three types of property below, please state your answer as follows (see *Instruction No. 3.23*):

- (a) in the first column, state the average percentage by which Class Properties were diminished or depressed in value, relative to what their value would have been, without the trespass; and
- (b) in the second column, the corresponding total dollar amount by which Class Properties, as a whole, were diminished or depressed in value, relative to what their value would have been, without the trespass.

For purposes of this answer, you should not consider Dow's affirmative defense of setoff or any "prior market discount" at which Class Members may have purchased their properties.

	<u>Percentage Undervaluation</u>	<u>Aggregate Damages (Entire Class)</u>
RESIDENTIAL	_____ %	\$ _____
VACANT LAND	_____ %	\$ _____
COMMERCIAL	_____ %	\$ _____
		TOTAL: \$ _____

PLEASE GO TO QUESTION NO. 4.

With regard to Dow's affirmative defense of setoff (*see Instruction No. 3.25*), we find as follows:

4. Do you find that Dow proved that its nuisance caused a diminution in the value of Class Properties in one or more specific time periods before June 7, 1989?

ANSWER: _____ Yes _____ No

IF YOUR ANSWER TO QUESTION NO. 4 IS "YES," THEN GO TO QUESTION NO. 5. IF YOUR ANSWER TO QUESTION NO. 4 IS "NO," THEN SKIP TO ¶ G (punitive damages).

5. For each time period in which you found there was a pre-existing diminution in Class Property values, state when the period began, when it ended and the

average percentage by which Class Property values were diminished by Dow's nuisance during this period. (Add more lines if necessary.)

<u>Beginning of Period</u>	<u>End of Period</u>	<u>Percentage Diminution in Value</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

PLEASE GO TO ¶ G (punitive damages).

Nuisance Verdict Against Rockwell Only

6. Do you find the injurious situation resulting from the nuisance by Rockwell became "complete" and "comparatively enduring" some time between January 1, 1988 and December 31, 1995 (see *Instruction No. 3.22*)?

ANSWER: _____ Yes _____ No

IF YOUR ANSWER TO QUESTION NO. 6 IS "YES," THEN GO TO QUESTION NO. 7. IF YOUR ANSWER TO QUESTION NO. 6 IS "NO," THEN SKIP TO ¶ G (punitive damages).

7. As of the time you find the injurious situation became "complete" and "comparatively enduring," do you find the actual value of the Class Properties was less than the value these Properties would have had but for the nuisance committed by Rockwell (see *Instruction No. 3.22*)?

ANSWER: _____ Yes _____ No, and so we award nominal damages of \$1 per class member on this claim.

IF YOUR ANSWER TO QUESTION NO. 7 IS "YES," THEN GO TO QUESTION NO. 8. IF YOUR ANSWER TO QUESTION NO. 7 IS "NO," THEN SKIP TO ¶ G (punitive damages).

8. As of the time you find the injurious situation became "complete" and "comparatively enduring," what is the amount of the difference between the actual value of Class Properties and what their value would have been but for the nuisance by Rockwell? For each of the three types of property below, please state your answer as follows (*see Instruction No. 3.23*):

- (a) in the first column, state the average percentage by which Class Properties were diminished or depressed in value, relative to what their value would have been, without the trespass; and
- (b) in the second column, the corresponding total dollar amount by which Class Properties, as a whole, were diminished or depressed in value, relative to what their value would have been, without the trespass.

For purposes of this answer, you should not consider defendants' affirmative defense of setoff or any "prior market discount" at which Class Members may have purchased their properties.

	<u>Percentage Undervaluation</u>	<u>Aggregate Damages (Entire Class)</u>
RESIDENTIAL	_____ %	\$ _____
VACANT LAND	_____ %	\$ _____
COMMERCIAL	_____ %	\$ _____
		TOTAL: \$ _____

PLEASE GO TO QUESTION NO. 9.

With regard to Rockwell's affirmative defense of setoff (*see Instruction No. 3.25*), we find as follows:

9. Do you find that Rockwell proved that its nuisance caused a diminution in the value of Class Properties in one or more specific time periods before June 7, 1989?

ANSWER: _____ Yes _____ No

IF YOUR ANSWER TO QUESTION NO. 9 IS "YES," THEN GO TO QUESTION NO. 10. IF YOUR ANSWER TO QUESTION NO. 4 IS "NO," THEN SKIP TO ¶ G (punitive damages).

10. For each time period in which you found there was a pre-existing diminution in Class Property values, state when the period began, when it ended and the average percentage by which Class Property values were diminished by Rockwell's nuisance during this period. (Add more lines if necessary.)

<u>Beginning of Period</u>	<u>End of Period</u>	<u>Percentage Diminution in Value</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

PLEASE GO TO ¶ G (punitive damages).

Nuisance Verdicts Against Both Dow and Rockwell

11. Do you find the injurious situation resulting from the nuisance by Dow and Rockwell became "complete" and "comparatively enduring" some time between January 1, 1988 and December 31, 1995 (*see Instruction No. 3.22*)?

ANSWER: Yes No

IF YOUR ANSWER TO QUESTION NO. 11 IS "YES," THEN GO TO QUESTION NO. 12. IF YOUR ANSWER TO QUESTION NO. 11 IS "NO," THEN SKIP TO ¶ G (punitive damages).

12. As of the time you find the injurious situation became "complete" and "comparatively enduring," do you find the actual value of the Class Properties was less than the value these Properties would have had but for the nuisance committed by Dow and Rockwell (*see Instruction No. 3.22*)?

ANSWER: Yes No, and so we award nominal damages of \$1 per class member on this claim.

IF YOUR ANSWER TO QUESTION NO. 12 IS "YES," THEN GO TO QUESTION NO. 13. IF YOUR ANSWER TO QUESTION NO. 12 IS "NO," THEN SKIP TO ¶ G (punitive damages).

13. As of the time you find the injurious situation became "complete" and "comparatively enduring," what is the amount of the difference between the actual value of Class Properties and what their value would have been but for the nuisance by Dow and Rockwell? For each of the three types of property below, please state your answer as follows (*see Instruction No. 3.23*):

- (a) in the first column, state the average percentage by which Class Properties were diminished or depressed in value, relative to what their value would have been, without the nuisance; and
- (b) in the second column, the corresponding total dollar amount by which Class Properties, as a whole, were diminished or depressed in value, relative to what their value would have been, without the nuisance.

For purposes of this answer, you should not consider Defendants' affirmative defense of setoff or any "prior market discount" at which Class Members may have purchased their properties.

Adjusted to 2005 CPI

	<u>Percentage Undervaluation</u>	<u>Aggregate Damages (Entire Class)</u>
RESIDENTIAL	<u>7</u> %	\$ <u>144,199,088.00</u>
VACANT LAND	<u>30</u> %	\$ <u>27,000,000.00</u>
COMMERCIAL	<u>53.03</u> %	\$ <u>5,651,252.00</u>
		TOTAL: \$ <u>176,850,340.00</u>

PLEASE GO TO QUESTION NO. 14.

14. Taking as 100 percent the combined nuisance that caused the damages you have found, what percentage, if any, was caused by the nuisance by Dow and the nuisance by Rockwell (see *Instruction No. 3.19A*):

ANSWER: Percentage, if any, charged to Dow: 30 %

Percentage, if any, charged to Rockwell 70 %

MUST TOTAL: 100%

PLEASE GO TO QUESTION NO. 15

With regard to Dow and Rockwell's affirmative defense of setoff (*see Instruction No. 3.25*), we find as follows:

15. Do you find that Dow and Rockwell proved that their nuisance caused a diminution in the value of Class Properties in one or more specific time periods before June 7, 1989?

ANSWER: Yes X No

IF YOUR ANSWER TO QUESTION NO. 15 IS "YES," THEN GO TO QUESTION NO. 16. IF YOUR ANSWER TO QUESTION NO. 15 IS "NO," THEN SKIP TO ¶ G (punitive damages).

16. For each time period in which you found there was a pre-existing diminution in Class Property values, state when the period began, when it ended and the average percentage by which Class Property values were diminished by Dow and Rockwell's nuisance during this period. (Add more lines if necessary.)

<u>Beginning of Period</u>	<u>End of Period</u>	<u>Percentage Diminution in Value</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

PLEASE GO TO ¶ G (punitive damages ¶).

¶ G Punitive Damages

Punitive Damages Against Dow

ANSWER THIS SECTION ONLY IF YOU AWARDED ACTUAL DAMAGES AGAINST DOW IN ¶ E (ACTUAL DAMAGES FOR TRESPASS) AND/OR ¶ F (ACTUAL DAMAGES FOR NUISANCE). IF YOU DID NOT AWARD ACTUAL DAMAGES AGAINST DOW, SKIP TO NEXT SECTION IN THIS PARAGRAPH, "PUNITIVE DAMAGES AGAINST ROCKWELL."

With regard to punitive damages against Dow, we find as follows:

1. Do you find beyond a reasonable doubt that Dow's conduct in committing the trespass and/or nuisance was "willful and wanton" as defined in Instruction No. 3.27?

In deciding this question, you may only consider Dow's conduct up to August 20, 1988, including conduct that resulted in harm on or after this date.

ANSWER: X Yes _____ No

IF YOUR ANSWER TO QUESTION NO. 1 IS "YES," THEN GO TO QUESTION NO. 2. IF YOUR ANSWER TO QUESTION NO. 1 IS "NO," THEN SKIP TO NEXT SECTION IN THIS PARAGRAPH, "PUNITIVE DAMAGES AGAINST ROCKWELL."

2. What amount of punitive damages do you find should be awarded against Dow? This amount may not exceed the total amount of actual damages you found against Dow in ¶ E and ¶ F.

ANSWER: \$ 110,800,000.00

PLEASE GO TO NEXT SECTION IN THIS PARAGRAPH, "PUNITIVE DAMAGES AGAINST ROCKWELL."

Punitive Damages Against Rockwell

ANSWER THIS SECTION ONLY IF YOU AWARDED ACTUAL DAMAGES AGAINST ROCKWELL IN ¶ E (ACTUAL DAMAGES FOR TRESPASS) AND/OR ¶ F (ACTUAL DAMAGES FOR NUISANCE). IF YOU DID NOT AWARD ACTUAL DAMAGES AGAINST ROCKWELL, SKIP TO ¶ H (ADDITIONAL QUESTIONS).

With regard to punitive damages against Rockwell, we find as follows:

3. Do you find beyond a reasonable doubt that Rockwell's conduct in committing the trespass and/or nuisance was "willful and wanton" as defined in Instruction No. 3.27? In deciding this question, you may only consider Rockwell's conduct up to August 20, 1988, including conduct that resulted in harm on or after this date.

ANSWER: X Yes _____ No

IF YOUR ANSWER TO QUESTION NO. 3 IS "YES," THEN GO TO QUESTION NO. 4. IF YOUR ANSWER TO QUESTION NO. 3 IS "NO," THEN SKIP TO ¶ H.

4. What amount of punitive damages do you find should be awarded against Rockwell? This amount may not exceed the total amount of actual damages you found against Rockwell in ¶ E and ¶ F.

ANSWER: \$ 89,400,000.00

PLEASE GO TO ¶ H.

¶ H Additional Questions

1. Do you find it appeared on or before January 30, 1990, which is the date this case was filed, that any trespass or nuisance by Dow would continue indefinitely (*see Instruction No. 3.28*)?

YES as to any trespass or nuisance by Dow

NO as to any trespass or nuisance by Dow

NOT APPLICABLE because we did not find any trespass or nuisance by Dow

IF YOUR ANSWER TO QUESTION NO. 1 IS "NO," GO TO QUESTION NO. 2. IF YOUR ANSWER IS "YES" OR "NOT APPLICABLE," SKIP TO QUESTION NO. 3.

2. When do you find it became apparent that the trespass or nuisance by Dow would continue indefinitely? If you found against Dow on both claims, please state the date for each claim separately.

PLEASE GO TO QUESTION NO. 3.

Revised - January 20, 2006

3. Do you find it appeared on or before January 30, 1990, which is the date this case was filed, that any trespass or nuisance by Rockwell would continue indefinitely (see Instruction No. 3.28)?

- YES as to any trespass or nuisance by Rockwell
- NO as to any trespass or nuisance by Rockwell
- NOT APPLICABLE because we did not find any trespass or nuisance by Rockwell

IF YOUR ANSWER TO QUESTION NO. 3 IS "NO," GO TO QUESTION NO. 4. IF YOUR ANSWER IS "YES" OR "NOT APPLICABLE," SKIP TO QUESTION NO. 5.

4. When do you find it became apparent that the trespass or nuisance by Rockwell would continue indefinitely? If you found against Rockwell on both claims, please state the date for each claim separately.

PLEASE GO TO QUESTION NO. 5.

5. Do you find that any intentional or negligent conduct by Dow or Rockwell or both of them at Rocky Flats, and/or actual or threatened harms caused by such conduct, created a situation that is capable of causing fear, anxiety, or mental discomfort in individual Class Members (see Instruction No. 3.28)?

	<u>DOW</u>	<u>ROCKWELL</u>
YES	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
NO	<input type="checkbox"/>	<input type="checkbox"/>

PLEASE SIGN AND DATE THIS VERDICT FORM.

Dated this 13 day of February, 2006. /

JUROR
NAMES
REDACTED

From: [Jeff Gipe](#)
To: Council@arvada.org; [Boulder County Board of Commissioners](#); ldahlkem@jeffco.us; tktharp@jeffco.us; akerr@jeffco.us; sroddis@jeffco.us; Council@bouldercolorado.gov; communications@superiorcolorado.gov; publiccomment@cityofgolden.net; [Public Comment](#)
Subject: [EXTERNAL] Rocky Flats - Rocky Mountain Greenway
Date: Friday, October 11, 2024 1:58:35 PM
Attachments: [Rocky Flats-Rocky Mountain Greenway-Letter.docx](#)
Importance: High

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Rocky Flats area Councillors, Commissioners, Mayors, and Mayor Pro Tems,

I am an Arvada native, the son of a former Rocky Flats worker, creator of the Rocky Flats *Cold War Horse* monument, and the director of a new film on Rocky Flats premiering at the Denver Film Festival next month. After more than a decade of investigation, I am deeply concerned about the Rocky Mountain Greenway project, currently under construction on the windblown edge of the Rocky Flats site.

I commend Westminster City Council on their recent vote to withdraw from the project. I know it was a difficult decision, but it was undoubtedly the right one. I hope that the remaining partners—Arvada, Jefferson County, and Boulder—will also reconsider their involvement to protect their citizens from this potentially dangerous project that will put their citizens at risk.

I would like to personally invite you to the film's premiere and offer to arrange a private viewing for you. I believe it will provide critical insight for the community, even for those already familiar with the Rocky Flats issue.

[Half-Life of Memory](#) will premiere at the Denver Film Festival on November 2nd, 6th, and 8th. Here is a link to the event:

<https://denverfilmfestival.eventive.org/schedule/66f1c83991ccf2020f0cc3d3> (The November 2nd screening has sold out, and the remaining dates are filling up quickly.)

Please let me know if you are interested in a private viewing. Additionally, I've included a letter I wrote in response to recent developments at Rocky Flats, which I hope you'll take the time to read.

Sincerely,
Jeff Gipe



United We Stand



OFFICIAL SELECTION

DENVER FILM FESTIVAL

The incredible true
story of Rocky Flats

World Premiere
November 1-10

Rocky Flats: A Big Lie from Day 1 - And Local Governments Are No Longer Playing Along

As John Aguilar of *The Denver Post* reported in his September 29 [article](#), “Westminster pulls out of Rocky Flats tunnel and bridge access project, citing health concerns,” the Westminster City Council voted to withdraw from an intergovernmental partnership working to install the Rocky Mountain Greenway pedestrian bridge. This bridge would connect Westminster to the eastern—most contaminated—edge of the Rocky Flats National Wildlife Refuge. While Westminster officials acknowledge their decision may have little impact on the bridge’s eventual construction, which is happening on Jefferson County property, this move signals a potentially significant shift in the stance of local governments. These governments have long harbored doubts about federal transparency regarding Rocky Flats but have played along so they can “have a seat at the table.”

Now, many local governments are no longer interested in having a seat at the Department of Energy’s (DOE) table. As Aguilar further explained in his August 31 [article](#), “Local officials near Rocky Flats are disbanding their oversight council.” Westminster joined six other local governments in withdrawing from the Rocky Flats Stewardship Council (RFSC). The RFSC, which includes ten local governments and is managed by the DOE, will be disbanded after a majority of participants opted out. David Abelson, the managing director of the RFSC and a [contractor](#) for the DOE, suggested in Aguilar’s article that the RFSC is disbanding because “you don’t need the same level of focus because it’s been a stable site for many years.” Abelson’s statement is contentious, considering that the DOE reported “reportable conditions” as recently as [March 2023](#).

The DOE, who owns the Rocky Flats Site, and who operated the Rocky Flats plant through its contractors, and is responsible for Rocky Flats’ vast contamination, is also responsible for contracting its own testing and reporting their findings, which for the past 25 years has happened through the venue of the RFSC.

Despite frustrations with the DOE-funded RFSC, local officials had hoped their involvement could shape the council’s direction. In a 2016 Boulder County Commissioner’s meeting, then-Commissioner Deb Gardner, who served on the RFSC, expressed her frustration with the process: “Their intention is to be a public forum where there is a free exchange of questions, and that’s not been the case.” She further stated, “past behavior is not acceptable... this cannot be the only venue for getting information.” Boulder County Commissioner Ashley Stolzmann was more blunt in her January 2024 [assessment](#), “I don’t support continuing to participate in this council... this board has been a shill for the DOE to encourage further access [to Rocky Flats].”

The distrust of the DOE, which succeeded the Atomic Energy Commission (AEC), is rooted in the agency's lack of transparency since Rocky Flats' inception. On March 24th, 1951, the front page of the Rocky Mountain News (RMN) read, "[Denver Gets Atom Plant: \\$45,000,000 Project to Be Rushed.](#)" The AEC announced that the plant "will handle radioactive materials but will not, the AEC emphasized, manufacture atom bombs." The public was left to speculate about what the plant produced. Regardless, they were overwhelmingly receptive, "I like the idea." said one resident at the time, "The more people and the more industry we have in Denver; the better city we will have."

A year before Rocky Flats was completed, in 1952, the AEC detonated the first hydrogen bomb, devastating the Enewetak Atol in the Marshall Islands. A RMN [headline](#) on April 4, 1954, speculated that the "H-Bomb Would Destroy Every Building in Denver," that it would be, "pulverized to dust and swirl high into the stratosphere." A hydrogen bomb, or H-bomb as it's commonly referred to, can contain up to a thousand times the destructive power of the atomic bombs dropped on Japan in 1945, which killed over 200,000 people.

In the same RMN article from 1954, the author writes, "what is made [at Rocky Flats] is not known." He later speculates, "TRIGGER IS NEEDED - The H-Bomb will not explode without a "trigger" providing temperatures measured in millions of degrees. Nothing on earth was that hot until the first A-bomb exploded. Thus the "old atomic bomb becomes the trigger for the H-bomb."

The author was not the first person to understand this concept. In 1951, a year before the first hydrogen bomb was detonated, the front page of the RMN [illustrated](#) this clearly—albeit crudely—showing "An artist's conception of how the hydrogen bomb might work, using the atomic bomb as a mere trigger to generate heat enough to set up the H-bomb's thermo-nuclear fusion process."

Today, it is widely known that Rocky Flats produced "triggers," but what is often overlooked is that these "triggers" are actually atom bombs themselves. According to the Department of Energy's own estimates, the AEC and DOE produced around [70,000](#) of these atomic bomb triggers.

A pivotal moment of public mistrust came in 1969 after a fire engulfed two plutonium processing buildings at the Rocky Flats plant. The AEC assured the public that contamination was "negligible," but Dr. Edward Martell's soil samples revealed plutonium [levels](#) east of the plant were 400 times above background levels. The AEC later blamed prior releases, including a catastrophic 1957 fire and leaking waste drums from the infamous 903 Pad, which had not been disclosed to the public prior. The 1969 fire resulted in over fifty million dollars in damage and burned enough plutonium to produce 77 atomic

bombs. Then-Colorado Lieutenant Governor Mark Hogan [remarked](#), “I don’t like to call anyone liars, let’s just say they have stretched the credibility gap beyond repair.”

Over the years, Rocky Flats has been shrouded in secrecy and misinformation. In 1995, the DOE’s contractor, Rockwell International, was held in [contempt](#) of court for failing to provide documents related to large amounts of plutonium that had gone missing from the plant. Former workers have also faced challenges in accessing records, including medical documentation crucial to securing compensation for illnesses tied to their work at the plant. In 2000, after decades of [denials](#), DOE’s director Bill Richardson finally [acknowledged](#) that there could be a link between radiation contamination and diseases among DOE workers. The Energy Employees Occupational Illness Compensation Program Act (EEOICPA) was passed in 2000 and sought to provide compensation for ailing DOE workers, but it has been plagued by bureaucracy and delays, with fewer than half of the 10,000 [claims](#) from former Rocky Flats workers receiving compensation. Additionally, in 2019, it was reported that over 60 boxes of records related to the FBI’s 1989 raid on Rocky Flats and the subsequent grand jury investigation were missing, with former FBI agent Jon Lipsky estimating that up to 800 boxes are unaccounted for.

Today, controversy about the safety of the Rocky Flats National Wildlife Refuge continues to swirl. Westminster was the [first](#) city to pass a motion to support the bill that established the Rocky Flats Wildlife Refuge, [in 2001](#). Their support for a wildlife refuge came under the predetermined condition that Rocky Flats must have a use case. According to my 2017 interview with Mary Harlow, who was Westminster’s Rocky Flats [coordinator](#) during the early 2000’s, Westminster “never wanted public access at Rocky Flats.” She said, the refuge designation was “intended to keep the site from being developed.” Mary Harlow continues to oppose the opening of the Rocky Flats National Wildlife Refuge to the public, frequently appearing at the RFSC, where her pleas go unanswered.

Despite significant concern and legal attempts to halt the opening of the Rocky Flats National Wildlife Refuge to the public in 2018,—including a [letter](#) written by then gubernatorial candidate Jared Polis—the agency responsible for the refuge, the United States Fish and Wildlife Service (USFWS), fervently pushed to open the site in September 2018, ultimately doing so after a brief two-hour delay for review.

Legal efforts to limit public recreation at Rocky Flats continue, though with limited success. As reported by John Aguilar on September 29, U.S. District Judge Timothy J. Kelly denied the injunction request to halt the Rocky Mountain Greenway bridge, concluding that the plaintiffs’ warnings of increased cancer risk at the refuge were “acontextual and exaggerated.” In Judge Kelly’s September 3rd [Memorandum Opinion](#), he stated that

plaintiffs “heap speculation upon speculation” and that they do not come close to establishing irreparable harm based on this theory.

To understand Kelly’s ruling against the plaintiff’s injunction request, it is important to recognize the near-impossible burden of proving irreparable harm from plutonium contamination. As noted in Judge Kelly’s “Memorandum Opinion”, plaintiffs “must establish a likelihood that (1) the Refuge’s soil contains unsafe levels of plutonium, (2) the construction will disturb the plutonium, (3) Plaintiffs will be exposed to the disturbed plutonium, and (4) an irreparable injury would result from that exposure.”

Plutonium is known to have a latency [period](#) of two to twenty-plus years, meaning that if one were to inhale plutonium at Rocky Flats today, they may not develop a possible disease until years or decades later. Even then, there is no way as of yet to scientifically prove that a specific cancer came from Rocky Flats.

When considering whether the Rocky Flats site is “safe,” one must understand that any amount of plutonium exposure is considered dangerous. Animal studies suggest [a few milligrams](#) (millionths of a gram) of plutonium per kilogram of tissue is a lethal dose. Plutonium has been [found](#) to cause lung, liver, and bone cancer, among others. The most dangerous pathways of plutonium exposure are [through](#) inhalation, ingestion, or dermal absorption. Plutonium and a plethora of dangerous toxins from accidents, routine operations, and illicit dumping has spread as [far](#) off-site as southeast Denver, and as far north as Boulder. [No cleanup](#) took place on the refuge property or off-site areas. The only remediation that occurred was in the Central Operable Unit (COU) where the buildings once stood, and which remains a Superfund site closed to the public. There, in the COU, [several](#) of “the [most](#) radioactively contaminated buildings [in](#) the country” were imploded and covered under three to six feet of soil. Any amount of plutonium contamination was allowed to be left under 6 feet of soil.

During a high wind event at Rocky Flats in April of this year - one that is common at the site - Dr. Michael Ketterer [demonstrated](#) that plutonium became airborne and emanated from the Rocky Flats National Wildlife Refuge and into his sampling collection device at nearly the exact location of the current construction of the Rocky Mountain Greenway pedestrian bridge. It is not without reason to suspect that plutonium may become airborne as soil is disturbed to install the pedestrian bridge in this location.

Further in Judge Kelly’s ruling, he references the so-called “Bill Ray” particle, a 2019 soil sample that was five times the regulatory limits set by the Rocky Flats cleanup agreement. The finding, from one of the very few soil samplings that have been conducted at the site since Rocky Flats remediation was declared complete, has been conveniently labeled as

an “outlier” by regulatory agencies. Judge Kelley reiterated their line by stating, “The Bill Ray particle was “a single outlier.”

Despite regulatory agencies insisting the high plutonium reading is an outlier, the finding upended plans for the construction of the Jefferson Parkway, a four-lane highway that was intended to run the length of the eastern – most heavily contaminated – edge of the Rocky Flats property where a right-of-way now exists. At a Broomfield City Council Meeting on [June 18, 2019](#) pertaining to Broomfield’s involvement in the Jefferson Parkway, then Colorado Department of Public Health and Environment’s (CDPHE) director of Hazardous Materials and Waste Management, Jennifer Opila, acknowledged that a single particle of plutonium “could create cancer.” Broomfield City Councilwoman Kimberly Grom followed up by asking, “with this 500 times background radiation, help me understand how CDPHE stands on ‘it’s safe.’” Opila responded, “a determination of safe is really value judgement based on a particular person... so we try very hard not to use the term ‘safe.’” In fact, the term "safe" is generally [not allowed](#) for use by many regulatory agencies because it is considered to be false and misleading. However, the term “[safe](#)” is often [used](#) by the DOE, the USFWS and the CDPHE to describe Rocky Flats and to assuage concerns about the site. Broomfield voted to withdraw from the Rocky Jefferson Parkway project soon after the June 18th, 2019, meeting.

In Westminster City Council’s September 23rd, 2024, [meeting](#) in which they voted to withdraw from the Rocky Mountain Greenway bridge project, Westminster Councilor Obi Ezeadi stated, “I think we have a moral obligation to get out of this.” Westminster Councilor Kristine Ireland followed up by stating, “I am just amazed that our government would build such a thing... so I am going to vote my conscious too. We need to quit erasing our history in this country, and this is one of the things that we’re erasing. We need to have signage that tells the truth, and we have watered down what happened there.” and it’s not okay for our history, [or] for our children.”

Despite the site's troubled history, official signage at the refuge emphasizes wildlife and plant species, omitting mention of the contamination risks that remain. The sign concludes, “The Refuge is safe for recreation, refuge workers, and wildlife.” The only acknowledgement of what might remain there is located at the Rocky Flats *Cold War Horse* memorial - a monument that I created - which is located on private property off Highway 72 between Indiana street and Highway 93. The Rocky Flats plant was placed on the Colorado State and [National Register of Historic Places](#), “as a major center for the development and production of atomic weapons for the US military.” However, the history of this important national and international site has yet to be acknowledged by federal, state, or local governments.

As George Santayana wrote, “Those who cannot remember the past are condemned to repeat it.”

Plans for a replacement plutonium “trigger” production facility are underway at DOE’s Los Alamos National Laboratory in New Mexico and Savannah River Site in North Carolina. The first [certified](#) plutonium “pit” — as the atomic bombs that trigger hydrogen bombs are now called—to come from the Los Alamos site was completed on October 1, 2024, just one day after a U.S. District Judge [ruled](#) that the DOE violated environmental law by not properly assessing the cumulative impacts of its two-site strategy. In her ruling, Judge Mary Geiger Lewis stated, “Defendants neglected to properly consider the combined effects of their two-site strategy and have failed to convince the court they gave thought to how those effects would affect the environment,”

Jeff Gipe is an Arvada native whose father worked at the Rocky Flats plant from 1982 to 2002. Gipe is the creator of the Rocky Flats Cold War Horse and has spent the last decade interviewing former workers, officials, and community members for his feature documentary about Rocky Flats, titled *Half-Life of Memory: America’s Forgotten Atomic Bomb Factory*. The film will [premiere](#) at the Denver Film Festival on November 2, 6, and 8, 2024.