Background to the Rocky Flats National Wildlife Refuge: I noted in the preceding chapter that DOE, EPA and CDPHE decided to turn most of the Rocky Flats site into a wildlife refuge. “Cleaning” the site to wildlife refuge specifications would be much cheaper than cleaning it for residential or commercial use. Those who made this decision, however, were quite unrealistic. They acted as if protecting a wildlife refuge worker would protect everyone else for as long as plutonium remains dangerous (its half-life is 24,110 years). They rejected the only cleanup proposals that actually provided protection long-term. In keeping with their shortsighted plans, in 2001 Congress passed the Rocky Flats National Wildlife Refuge Act, co-sponsored by then-Senator Wayne Allard and then-Representative Mark Udall. The Act mandated that after completion of the Superfund “cleanup” then underway the DOE would transfer about three-quarters of the Rocky Flats site to U.S. Fish & Wildlife Service (FWS) to manage as the Rocky Flats National Wildlife Refuge.¹

A mixed blessing: Turning a major portion of the former bomb plant site into a Wildlife Refuge is a mixed blessing. It prevents (for the present at least) residential or commercial development on the site, which is a plus. But at the same time it opened the way to a cheaper and quicker “cleanup” that leaves a legacy of far greater risk than if the site had been cleaned to the maximum extent possible with existing technology. People now and into the long-term future are forced to live with the consequences.

Environmental Impact Statement (EIS) for the future Refuge: In February 2004 FWS issued a Draft EIS for the Wildlife Refuge. It outlined four alternative uses for the Refuge. The most protective of these is “Ecological Restoration,” which would limit public access to pre-arranged guided tours on a single 3,700 foot trail in the Rock Creek drainage in the NW portion of the site, upwind of the former industrial production area, main source of plutonium releases. Those who commented on the Draft EIS overwhelmingly favored this alternative. But the option favored by FWS, and eventually adopted by them, allows public access for hiking, biking, horseback riding, limited hunting, photography and wildlife observation. Several miles of trails would be constructed and made available for public use.

The most contentious issue regarding the future Wildlife Refuge was whether or not the Refuge should be opened to the public for recreational activities. Of the 1,280 parties that commented on the EIS, 81% opposed public access, while only 11% explicitly favored it.² The principal reason cited for opposing access was the risk of exposure to plutonium and other toxins left in the environment. FWS nevertheless adopted the option that allows maximum public access. By this action FWS guaranteed ongoing conflict with the public. The EIS established the rules that would apply once the “cleanup” was completed and land for the Refuge was transferred from DOE to FWS. After publication of the Final EIS in September 2004, with its declaration that public access to the Refuge would be allowed, I circulated a request for people informed and interested in the matter to send cartoons that might help others understand the meaning of what FWS had just decided. I will include three of these (see Figures 8.1, 8.2 and 8.3).

¹ See https://www.google.com/?gws_rd=ssl#q=rocky+flats+national+wildlife+refuge+act
² These numbers result from my analysis of Rocky Flats National Wildlife Refuge, Appendix H, Comments and Responses on the Draft Environmental Impact Statement (September 2004), on line at http://media.wix.com/ugd/cff93e_a9cff9a4c30b4ac5bbfa27e93b91a9bf.pdf
Figure 8.1: DOE passes the radioactive Rocky Flats torch to “Fission Wildlife.” Cartoon by Robert Del Tredici. Wildlife is abundant at the site. When the plant was operating, workers often referred to the “hot rabbits” common at the site.
Figure 8.2: FWS will welcome “Kiddie Tours,” especially school kids, to the Refuge, once it is opened to the public. Cartoon by Tom Ferguson of Atlanta.

Figure 8.3: This cartoon by Tom Ferguson of Atlanta emphasizes problems with plutonium in the environment of the Rocky Flats National Wildlife Refuge.
Creation of the National Wildlife Refuge: In 2006, soon after completion of the Superfund “cleanup” of the Rocky Flats site, the DOE transferred almost seven square miles of the nearly ten square mile site to the U.S. Fish & Wildlife Service (FWS) to operate as a Wildlife Refuge (see Figure 8.4). Though FWS decided to open the Refuge for public recreation, as of February 2015 it remains closed to the public because FWS lacks the funds to prepare the site for public access. Opposition to its opening continues. Biologist Harvey Nichols thinks every DOE weapons site that has a Superfund cleanup should be closed to the public for at least 200 years after completion of the cleanup. This would allow time for a fuller assessment of exposure to radiation and chemical toxins in the environment at such sites.

Figure 8.4: The green area on this map is the 4,465-acre (6.98 square-miles) Rocky Flats National Wildlife Refuge managed by FWS. DOE retains 1,309 acres (2.05 square-miles) in the center of the site, essentially the more contaminated former industrial area of the Rocky Flats plant. The DOE land remains on the Superfund list of contaminated sites. The tan plot on the north is a wind-research area operated by DOE. Private interests mine gravel in the tan plot on the west; when their mining rights expire, this plot will be transferred to FWS. Section 16 in the SW corner was added to the Wildlife Refuge in December 2011 as part of the deal by which FWS ceded the 300-foot-wide yellow strip of land along the eastern edge of the site for the proposed Jefferson Parkway.

Proposal to provide minimal informed consent for visitors to the Refuge: After the FBI raided the Rocky Flats plant to collect evidence of alleged violation of environmental law a grand jury was convened to review the evidence. Wes McKinley, a Baca County rancher, was elected foreman of the grand jury. In their final report, as noted earlier, the jurors called Rocky Flats “an ongoing criminal enterprise” and sought to indict DOE and Rockwell officials. The judge instead dismissed the grand jury and reached an agreement with Rockwell that dropped major charges against the company and gave them immunity from
further prosecution. McKinley was disturbed. Then FWS declared that they would open the Wildlife Refuge to the public. This was too much. He could imagine people ignorant about Rocky Flats visiting the Refuge and being exposed to plutonium. He decided to get himself elected to the state legislature. Maybe he could do something positive regarding Rocky Flats.

After being elected to represent his district McKinley hit on the idea of requiring the state to post prominent signs at Refuge entries informing people that visiting the Refuge posed a risk of being exposed to radioactive material remaining in the environment. He made several attempts to get such a bill passed in the state legislature before he was term-limited. Several of us, including myself, testified several times at the State Capitol in support of his bill. It was opposed by Carl Spreng of CDPHE as well as by members of the Rocky Flats Stewardship Council tutored by Council Executive Director David Abelson. One year McKinley’s bill passed in the House and was headed for the Senate. Then-U.S. Senator Mark Udall, co-author of the act that created the Rocky Flats Refuge, stepped in and told the head of the State Senate not to let this bill get out of committee and onto the floor in the Senate. Udall prevailed, and soon thereafter McKinley’s term ended and he left the legislature, having failed to get warning signs at Rocky Flats (see Figure 8.5).

Figure 8.5: This sketch of the Rocky Flats National Wildlife Refuge shows FWS plans for entries and trails. The view looks west from Indiana Street toward Highway 93 that runs from Golden-to-Boulder with the mountains beyond. The Refuge occupies the darker green portion of the site, a total of 4,465 acres (6.98 square miles). The lighter green area in the center of the refuge is the 1,309–acre plot retained by DOE’s Legacy Management program; it includes the more contaminated former industrial zone and parts of the site that are subject to ongoing maintenance and engineered controls. Had McKinley’s bill passed, warning signs would have been posted at the six site entries indicated on the sketch.