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September 4, 2018

David Lucas, Refuge Manager
Rocky Flats National Wildlife Refuge
c/o Jessica Held, Esq.
United States Department of Justice
601 D Street, NW Room 3144
Washington, D.C. 20004

Re: Demand to Close Rocky Flats Refuge Trailheads Pending Compliance with Requirements for History/Safety Signs – SECOND REQUEST

Dear Mr. Lucas,

This letter is a follow up to our correspondence dated August 27, 2018 regarding U.S. Fish and Wildlife Service's ("FWS's") compliance with the Rocky Flats National Wildlife Refuge Step-Down Plan for Site History/Safety Signs (the "Signage Plan"). We have been informed that, after receiving our August 27 letter, FWS caused at least one sign to be erected at the Woman Creek Loop trailhead that addresses topics similar to those in the Signage Plan final approved informational language. See new sign, attached hereto as **Exhibit A** (the "New Sign").¹ Please be advised that this New Sign does not match the approved final language,² and is thus in violation of the Signage Plan requirements.

As described in our previous letter, the Final CCP for the Refuge not only commits FWS to posting informative signs at Refuge trailheads,³ FWS also committed to posting *specific* language. FWS solicited and received public comment on the Refuge signage and revised one or more initial drafts of the informational signage based on these comments; final language was approved in 2007.⁴ That specific final language (and the public comments and FWS's responses to the same) has been published on the FWS website since at least July 2017,

¹ "2018 Final Rocky Flats Entry Sign," attached hereto as **Exhibit A**, also available at <https://www.fws.gov/nwrs/threecolumn.aspx?id=2147530249> (last visited Sept. 4, 2018).

² Interpretive Signs About Site History, Cleanup and Access Restrictions, attached to the August 27 letter as Exhibit 2 and attached hereto as **Exhibit B**, also available at <https://www.fws.gov/nwrs/threecolumn.aspx?id=2147530249> (last visited Sept. 4, 2018).

³ Final Comprehensive Conservation Plan (April 2005) at 71. See also Rocky Flats National Wildlife Refuge Step-Down Plan for Site History/Safety Signs (January 2007).

⁴ The final approved language is contained, in its entirety, in **Exhibit B**.

and is still published as of the date of this letter.⁵ Inexplicably, the recently posted New Sign is significantly different than the final approved language still published on the FWS website. *Compare Exhibit A with Exhibit B.* There are significant differences throughout, and these changes go far beyond mere edits or rewording. For instance, the previously approved language states:

Weapon components production at the plant involved plutonium and hazardous materials. The work was dangerous and secret. Over the course of decades, there were accidents. Some accidents and some of the waste handling practices of the early decades resulted in releases of plutonium and other contaminants into the environment.

Exhibit B. The New Sign fails to even mention the words “plutonium,” “hazardous materials,” “dangerous,” “accidents,” or “waste handling.” *See Exhibit A.* Even in describing the COU, which is completely off limits to visitors due to residual contamination, the New Sign only mentions “groundwater treatment systems” and “landfills.” *Id.* In sum, the New Sign completely amends the previously approved language in order to hide the true history of Rocky Flats.

Finally, we note that the final approved language was to be posted “*prior* to the opening of...access points to [Refuge] visitors.” **Exhibit B.** To the extent that FWS claims the Refuge is not yet open to the public, this utterly ignores the current status of the Woman Creek Loop trailhead. The photographs of this trailhead, attached to our August 27 letter as Exhibit 1, were taken by members of the public and show absolutely no barrier to Refuge entry. The photographs attached hereto as **Exhibit C** were provided to us by Ms. Jessica Held of the Department of Justice, and they similarly show an open trailhead (with the New Sign on display). We know, based on photographs provided by members of the public, that the Woman Creek Loop trailhead has been open since at least August 16, 2018. Based on these photos of the trailhead, how could any visitor be expected to know that FWS considers the trailhead closed?

To conclude, FWS’s continued failure to comply with the Signage Plan violates the Final CCP and FWS’s own policies regarding step-down management plans. According to the Fish and Wildlife Service Manual, “[t]he preparation of new step-down management plans or substantial changes to existing stepdown management plans typically will require further compliance with NEPA and other policies, and an opportunity for public review.”⁶

FWS is in violation of NEPA by avoiding the agency’s own policies regarding step-down management plans. At the very least, visitors to the Refuge have the right and expectation to an accurate summary of Rocky Flats history. The final language in **Exhibit B**

⁵ The “Final Sign Text” (**Exhibit B**), along with FWS’s comments to the same, are available in three sets at <https://www.fws.gov/nwrs/threecolumn.aspx?id=2147530249> (last visited Sept. 4, 2018). FWS also added a link to the “2018 Final Rocky Flats Entry Sign” (**Exhibit A**) to this website on or about August 31, 2018.

⁶ 65 Fed. Reg. at 33919.

was vetted through a process of public participation in order to ensure that Refuge signage is informative and accurate. Please explain immediately the authority upon which FWS relies for disregarding the publicly vetted language that was approved in 2007.

Sincerely,

A handwritten signature in black ink, appearing to read "Randall M. Weiner". The signature is fluid and cursive, with a long horizontal stroke at the end.

Randall M. Weiner
Annmarie Cording

Encl.