

The New York Times

ON THE WEB

Book Says U.S. Aides Lied in Nuclear-Arms Plant Case

By MATTHEW L. WALD

Published: March 13, 2004

WASHINGTON, March 12 — The Justice Department lied about its reasons for not pursuing the most serious accusations of environmental crimes at the Rocky Flats nuclear weapons plant in the 1980's and 1990's, according to a new book written in part by the foreman of the grand jury that investigated the case.

For decades the plant, which abuts the densely settled northwest suburbs of Denver, worked with plutonium, an exceptionally long-lived toxic substance.

The accusations are the latest development in a long controversy over the government investigation of the plant, including a 1989 raid by armed F.B.I. agents. The case against the contractor running the plant, Rockwell International, was settled in a plea agreement in 1992. The company paid an \$18.5 million fine, which prosecutors said at the time was a record for a hazardous-waste case. Rockwell pleaded guilty to five felonies and five misdemeanor counts.

Among the legal twists, a federal grand jury convened to hear evidence in the case in August 1989 was allowed by prosecutors to expire in March 1992 without issuing an indictment. But the members of the jury continued to meet on their own and to demand action in the case, including that criminal charges be pressed against officials of the company and the Energy Department. No charges were filed against individuals.

Twelve of the 23 jurors sent a letter to President-elect Bill Clinton to demand appointment of a special prosecutor. Almost a year later, a Congressional report found that the Justice Department had mishandled the case, but in April 1994 the department issued a report exonerating itself.

One charge at the heart of the dispute was that in the late 1980's, plant workers were burning plutonium in an incinerator that had been closed as unsafe. The accusation was made in the Federal Bureau of Investigation's affidavit seeking a search warrant, and two plant workers have publicly said that they testified that they ran the incinerator while it was supposed to be closed. But the accusation was not pursued.

According to the new book, "The Ambushed Grand Jury," to be published this month by Apex Press, the Justice Department incorrectly stated that an important witness brought

in to analyze aerial photographs of the plant had changed his testimony. The authors of the book are Wes McKinley, the grand jury foreman, and Caron Balkany, a lawyer and longtime antinuclear campaigner.

The witness who was said to have changed his testimony is Allen Divers, a former military photo intelligence interpreter who reviewed infrared photographs taken by the F.B.I. Mr. Divers confirmed in a telephone interview this month that he had not changed his testimony. The book asserts that prosecutors began saying that he had changed his testimony before the second time he testified, and that this amounted to lying. The lie was repeated to a Congressional committee, the book says.

A prosecutor in the case, Peter J. Murtha, now director of the office of criminal enforcement at the Environmental Protection Agency, said he could not comment because of a rule on grand jury secrecy. The book portrays Mr. Murtha as being so angry at the jurors' independence that he flung his notebook against a wall in the grand jury room, kicked over a lectern, tried to rip a door off its hinges and stalked out.

The book's underlying premise is that the Justice Department caved in when Rockwell refused to plead guilty if individuals were charged or if any charges would jeopardize future government work.

A department spokesman, Blain Rethmeier, said he could not comment because of the secrecy rule. He said the fine was "a just and appropriate resolution of this very complex, and in many respects unique, criminal investigation."

About 18 grand jurors brought suit in federal court in Denver, seeking permission to discuss what they say is prosecutorial misconduct. Their lawyer, Jonathan Turley, a law professor at George Washington University, said that late Friday the judge, Richard P. Matsch, ruled against the jurors, but in his ruling revealed that Mr. Turley had been authorized to write a report detailing the jurors' complaints. The judge, Mr. Turley said, wrote that Congress could subpoena that report. Mr. Turley said he would appeal the decision to the United States Court of Appeals for the 10th Circuit.

"The grand jurors remain committed to revealing what occurred inside the grand jury room," he said. "The resolve hasn't diminished with time." Mr. Turley no longer represents Mr. McKinley.



From westword.com

Originally published by *Westword* Mar 11, 2004

©2004 New Times, Inc. All rights reserved.

Toxic Shocker!

The government ambushed the Rocky Flats grand jury. Now its foreman is gunning for justice.

BY PATRICIA CALHOUN

"Democracy is *not* a spectator sport," says Wes McKinley.

The rancher/math teacher/trail-ride wrangler/cowboy poet has been an active participant in democracy for close to six decades, since he first learned all about his civic duty in a one-room schoolhouse in that dusty corner of southeastern Colorado where he still lives. But for the past fifteen years, he's been playing a deadly serious game in Denver's back yard, where the government has home-court advantage.

Fifteen years ago, on June 6, 1989, the FBI launched a spectacular dawn raid -- "Operation Desert Glow" -- on Rocky Flats, the nuclear-weapons plant just sixteen miles upwind of Denver. Evidence seized in that raid was presented to Colorado's first-ever special grand jury, empaneled in August 1989 and charged with determining what crimes, if any, had occurred at the plant. McKinley wound up the foreman of that jury.



On March 24, 1992, the grand jury presented its final report and recommended that eight individuals -- some with the Department of Energy, some with Rockwell International, which ran the plant under a DOE contract -- be indicted for environmental crimes at Rocky Flats. Rather than accept the indictments, Department of Justice officials disbanded the grand jury, announcing two days later that they had reached a deal with Rockwell, charging the company -- not any individuals -- with environmental crimes that would be settled with an \$18.5 million fine. A fine that was less than the bonuses Rockwell had been paid for operating the plant.

The grand jurors asked Judge Sherman Finesilver, the man who'd called them together more than thirty months before, to release their report. Finesilver ordered it

sealed instead. "It is with great regret that the court notes that the Grand Jury, having the opportunity to inform the public of the facts of Rocky Flats, failed in its duty," he said.

In September 1992, *Westword* published "The Secret Story of the Rocky Flats Grand Jury," detailing how justice had been denied. The piece included a draft of that still-sealed report by the grand jury. "Pack your toothbrush," our attorney warned.

A few weeks later, Judge Finesilver warned the grand jurors that if they violated secrecy rules, they could be charged with contempt and punished with a fine or jail. Or both. The toothbrushes are still packed.

For almost a dozen years now, the grand jurors have been trying to tell the country the rest of the story. In November 1992, McKinley stood on the steps of the federal courthouse and read a letter to president-elect Bill Clinton from fourteen of the grand jurors, asking him to look into the case. They never got a response from Clinton -- but they did hear from Jonathan Turley, a law professor at George Washington University. Turley spent two years trying to get the grand jurors a hearing before Congress; when that effort failed, he returned to the federal courthouse where the grand jurors had first met seven years before and filed suit, asking that they be allowed to testify in court. That case is still pending; all the filings are sealed.

McKinley was not part of that action. By August 1996 he was running for Congress, hoping to spill the Justice Department's secrets from inside the House of Representatives. He lost the 4th District seat -- but his mule, Marvin, did win an endorsement from the *Greeley Tribune*. Two years ago, McKinley tried for a seat in the Colorado House. "We never actually lost the election," he explains. "They just quit counting when we got behind." McKinley's planning another run this fall: Democracy is *not* a spectator sport.

And McKinley's just rewritten the playbook with *The Ambushed Grand Jury: How the Justice Department Covered Up Government Nuclear Crimes and How We Caught Them Red Handed* -- a book with a title almost as long as McKinley's quest for justice. (The jury was going to be "bushwhacked" -- and how -- until Molly Ivins laid first claim to that word with her book.) McKinley's not in this alone: Co-author Caron Balkany, an attorney, did a lot of the work creating this call for a Citizens' Grand Jury, followed by hundreds of pages of evidence those citizens can use to issue their own indictment of the Justice Department.

McKinley met Balkany in 1996, when he dropped down to New Mexico to speak about Los Alamos at a meeting of Concerned Citizens for Nuclear Safety. "I didn't have much good news for them," he remembers.

In the early '90s, when the grand jury was hotter than plutonium, McKinley had been approached by assorted moviemakers and writers interested in deals, but they'd all fallen apart. No Ted Turner, no Ted Danson. Now he asked Balkany, a public-interest lawyer, for legal advice on how the grand jurors could finally get their day in court. "It turned out it wasn't a legal problem," she remembers. "The only way we could solve the problem was to do what we did -- the Citizens' Investigation. He's so compelling in his commitment, it's hard to walk away from something like that. I could tell that his commitment was that of an outraged person who felt that he had to do something, because he was in a unique position to do it and it had to be done.

It was not about himself, and obviously not about money. It was about doing the right thing."

And doing it for a long, long time.

McKinley and Balkany worked on their Citizens' Investigation for years, searching out records, filing Freedom of Information requests, tracking down people involved in the original investigation. Two of them became key players in the book. Jacque Brever was working at Rocky Flats when the plant was raided; she and her roommate later talked to the FBI -- and as thanks, Brever was sabotaged on the job, contaminated with plutonium. Still, she testified before the grand jury about clandestine midnight burning of plutonium in Building 771 -- and as thanks, a government prosecutor later told Congress that she was "not a very reliable witness." After the government's deal with Rockwell was announced -- the agreement even stated that no midnight burnings had occurred -- Brever quit Rocky Flats and left Colorado for a decade.

But when Balkany tracked her down, the Citizens' Investigation found Brever's testimony very reliable -- alarmingly so, since the government had gone out of its way to deny the existence of those burns. "I have concluded that it didn't occur," then-governor Roy Romer said in October 1989, when everything about the grand jury's work was supposed to be secret -- but someone had leaked information about who was testifying. "For that incinerator to run at midnight without people knowing it would be virtually impossible." Brever knew about it, though, and the FBI's infrared pictures taken over the plant backed her story. (Balkany had requested a copy of Brever's FBI interview; the last six pages were entirely blacked out.)

FBI agent Jon Lipsky had engineered the raid on Rocky Flats, only to find that there had been plenty of engineering behind his back. Although he'd worked hard to get the search warrant sealed, since it provided lots of details about the reported crimes at the plant, including the secret burns and off-site contamination, the Justice Department made it public, allowing Rockwell to plot its legal strategy. In the summer of 1991, when the grand jury was ready to start making indictments, Lipsky was already hearing that a deal was in the works. And in January 1993, three days after Congress released the Wolpe Report, which determined that the Justice Department had "bargained away the truth" in its handling of the Rocky Flats investigation, Lipsky was transferred to Los Angeles, where the FBI's lead environmental investigator was assigned to work with gangs.

An open letter from Lipsky to Congress leads off the book:

"I am an FBI agent. My superiors have ordered me to lie about a criminal investigation I headed in 1989. We were investigating the US Department of Energy, but the US Justice Department covered up the truth.

"I have refused to follow the orders to lie about what really happened during that criminal investigation of Rocky Flats Nuclear Weapons Plant. Instead, I have told the author of this book the truth. Her promise to me if I told her what really happened was that she would put it in a book to tell Congress and the American people."

She did. Once the Citizens' Investigation was complete, Balkany sent the project to Edith Holleman, an attorney assigned to the Democratic staff of the House Energy and Commerce Committee who'd done much of the work on the Wolpe Report. But

this time around, Holleman couldn't get a representative interested. So McKinley and Balkany turned the Citizens' Investigation into a book and convinced the non-profit Council on International and Public Affairs to publish it this month on the Apex Books label.

Just in the nick of time, too. Rocky Flats quit producing plutonium triggers long ago. In fact, the plant never went back into production after the raid. Kaiser-Hill took over management of the facility site in 1995 and is supervising the cleanup. Today, in accordance with the Rocky Flats National Wildlife Refuge Act of 2001, the 6,266-acre site is in the process of becoming a refuge, which will be under the U.S. Fish & Wildlife Service rather than the DOE. Fish & Wildlife's draft Comprehensive Conservation Plan and Environmental Impact Statement for Rocky Flats was released last month, complete with the slogan "Where the Mountains Meet the Prairie" and pictures of the endangered Preble's Meadow Jumping Mouse that frolics on the plant property; comments on the plan are being taken through April 26, with public hearings starting this week. The four possible options:

- No Action, which would mean that once the site is officially cleaned up, a task that should be completed by 2006, there will be no public use.
- Wildlife, Habitat and Public Use, including more than a dozen miles of trails for bicycles and horses along current roads. This is the action Fish & Wildlife has proposed, and it closely follows what's been done at the Rocky Mountain Arsenal.
- Ecological Restoration, which would return the site to its predevelopment condition, allowing some public use.
- Public Use, with much of the site open to all, a nineteen-mile trail system, and "environmental education efforts" that "would include on- and off-site programs for kindergarten through college-age students."

That idea scares the worn blue jeans off Wes McKinley. He visited Rocky Flats once, when the grand jurors were taken on a school-bus tour of the plant. He saw the pondcrete, a Rockwell innovation that mixed radioactive waste with concrete to create a sloppy, leaking mess. He saw building 771 -- from a distance -- where the midnight burning had taken place. He got angry about what had been done to the land. The future.

"So many people think the environment consists of a thermostat and a switch on the wall," he says. "But when you go outside and live there a few days, you know that's not true. The best way to clean up Rocky Flats is to put children and endangered species and horse trails on it? If you do it like this, there's going to be no questions asked. Who's going to point a finger at Cinderella and say she's not pure?"

Well, McKinley will. He remembers talking with a Rocky Flats engineer who told him that at one point, even as late as March 1992, the plant could be cleaned up -- but it's just too late now. The best solution is to cap the whole place once the obvious waste is hauled away. "That stuff lasts 24,000 years," he says.

Compared to the half-life of plutonium, McKinley's fifteen-year crusade seems like a drop in the leaky bucket. "The destination is not the enjoyment; it's the ride that's

the most fun," he says. "Going over the trails. Traveling the trails has been a lot more fun than arriving at the water hole."

Still, he's glad the story is finally pulled into one package, even if it's a package that includes so much detail on secret grand-jury deliberations that he could land in jail for violating Rule 6(e). "I never quit," McKinley says. "The day after the grand jury was over, I started. I'd been through so many people to tell the story, but it didn't work. I had the technical ability, but not the legal ability. Caron was able to provide the legal help we needed and put it together."

And this month, they'll put it together for the cameras -- at a press conference announcing the Citizens' Initiative this weekend, at a presentation with Brever on *The Ambushed Grand Jury* at the LoDo Tattered Cover March 23, at an Alliance for Nuclear Accountability policy meeting in Washington, D.C., a few days later. As their book suggests, "Here, the trial will take place in the court of public opinion. Perhaps where it matters most."

Although the grand jurors are still on hold, the past fifteen years have seen some changes. Judge Finesilver retired from the bench and became a mediator. Hal Haddon, the lawyer who got Rockwell such a sweet deal, went on to represent the Ramseys and Kobe Bryant. An entirely different Bush is in the White House. And the Justice Department has become less forgiving of corporate execs who commit crimes, although the government still loves its defense contractors. "The basic way the government does business with defense contractors has not changed," Balkany points out. "It's still about money. All about money."

Not all whistleblowers make the cover of *Time*, either. "The bureau has been retaliating against me since the Wolpe Report came out in January 1993," Lipsky, the man who set everything in motion, told Balkany when they first met. "But that's not the point. The point is the Rocky Flats National Wildlife Refuge Act. Rocky Flats is no place for recreation."

And democracy is *not* a spectator sport.



Boulder Weekly March 4, 2004

Playing with fire

Whistleblowers and activists question recreational use at Rocky Flats

by Joel Warner (Editorial@boulderweekly.com)

When Jacque Brever worked in "the snake pit," one of the most hazardous areas in Building 771 at Rocky Flats nuclear weapons plant, a structure later designated the most dangerous building in America, leaks and spills were such regular occurrences that Brever and her co-workers made a joke about it.

Every time there was contamination in the building, facility staff would quickly determine the hottest area of airborne contamination. While workers cleaned up the leak, often a lengthy process, staff would cordon off the section with a yellow chain and a sign warning workers that they must wear a full-face respirator anywhere within the fenced-in area.

"We used to joke that we were glad the contamination knew to stop at the sign," says Brever.

Today Brever says she sees the same mentality driving the cleanup and reuse of the now-closed Rocky Flats—but this time, she isn't laughing.

"[Government agencies] are trying to make people believe [nuclear contamination] is going to stop at the sign," says Brever. "And their one and only mission is to get this son of a gun cleaned up by this arbitrary amount by this arbitrary date, and dump it off on the American public."

More than a decade ago, Brever blew the whistle on environmental crimes that occurred at Rocky Flats and became the first Rocky Flats employee to testify before the special grand jury investigating the facility. After facing death threats, attacks against her and her family and a

forced resignation, Brever moved out of Boulder and went into hiding. Now, in response to what she sees as a dangerously flawed plan to allow public recreation at the former nuclear bomb-making facility, Brever is back and is ready to blow the whistle once more.

Brever is not alone. While some people welcome the fast-approaching completion of a 14-year cleanup program at Rocky Flats and a recently released proposal to allow hiking, biking, horseback riding and hunting at a national wildlife refuge on the site, others are less enthusiastic about the idea of the public frolicking in what was once ground zero for the country's production of weapons of mass destruction. Citing uncertainties about the extent of radioactive contamination on the site, the thoroughness of the cleanup and the questionable objectives of the federal agencies involved, Brever and others say to do anything other than keep Rocky Flats closed to the public for a long, long time would be playing with fire.

Return to Rocky Flats

While Jacque Brever was growing up in Colorado, she didn't know Rocky Flats existed. It wasn't until her daughter's father acquired a job there that she learned about the Department of Energy (DOE) facility located between Boulder and Denver that had been producing the plutonium cores for the U.S. nuclear weapons since 1952.

Even though she didn't have a college degree, Brever applied for and was offered a job at Rocky Flats in 1981. For most of the next 10 years, she worked in Building 771, where workers purified tainted plutonium with large amounts of acids and caustics.

As one of the first women in this part of the facility, Brever says she was criticized by her male counterparts. She began keeping a work journal, so that she could learn her job procedures as thoroughly as possible.

"What I didn't know was that I was inadvertently writing down stuff we weren't supposed to be doing," says Brever.

She found out the truth, however, on June 6, 1989, when the FBI raided Rocky Flats on suspicion that its operators were violating federal environmental laws. Soon after, in response to serious safety and environmental concerns, the plant halted almost all radioactive material production. As the FBI collected evidence against Rockwell International, the company operating the facility, agents learned about Brever's journal. The FBI contacted Brever, and she was forced to make a decision that would change her life.

"We were just a big, happy dysfunctional family, and you didn't piss each other off," says Brever. "And once I decided to go forward with speaking to the FBI, it was too late to turn back. I knew [my co-workers] would never accept me back after that."

Brever agreed to dozens of interviews with the FBI, during which she detailed possible mismanagement and illegal activity at the facility. She became the first Rocky Flats employee to testify in front of the special federal grand jury empanelled in August 1989 to investigate the charges at Rocky Flats. Along with other whistleblowers at the facility, Brever's story was spread far and wide by the media. And then the harassment began.

People would call Brever on the phone and say, "Shut up, stupid bitch," or "We'll kill you." Her fellow workers, who blamed her for threatening their jobs, protested at and threw rocks at her house. She discovered her house was bugged and her phone was tapped. Someone tried to run her

car into a tanker truck. Her daughter was almost kidnapped from school. Brever's workplace was sabotaged, causing her to inhale plutonium.

Brever and another employee facing harassment filed a lawsuit in 1991 against DOE and Rocky Flats' operators, but the case was thrown out. When her employer offered her her resignation papers in exchange for settling a worker's compensation claim, Brever accepted.

"I finally couldn't take it anymore, and I packed up my kid and my pets and sold everything I owned and went into hiding," says Brever.

In 1992, Brever severed all ties to Boulder and Rocky Flats and quietly moved with her daughter to Grand Junction. There, she earned her bachelor's of science degree in environmental restoration and waste management with a minor in chemistry, and then a master's degree in environmental policy and management.

Brever would go on to work on several DOE cleanup projects, ironically working with the same federal agency that had blackballed her in Boulder. She designed a wastewater treatment site in Utah and managed a biotech company in Florida. Wherever she went, however, Brever always kept her eyes on Rocky Flats.

"I had a goal," says Brever. "I was one of the ones responsible for the condition of Rocky Flats being so awful that it needed to be cleaned, and I wanted to do something positive about cleaning it up and taking care of it."

In 1992, DOE changed the goal of the still-shutdown facility from production to cleanup. But the more Brever learned about the cleanup, the more she became concerned it was not as thorough as it should be. Then, in 2001, Congress passed the Rocky Flats National Wildlife Refuge Act, which stipulated that much of the site would become a national wildlife refuge once the Environmental Protection Agency (EPA) certified the cleanup was complete. Last month, USFWS released its draft comprehensive conservation plan and environmental impact statement (CCP/EIS) for the refuge.

The CCP/EIS outlines four different alternatives for the refuge, ranging from very little public access to fairly extensive recreational use. USFWS recommends a middle ground, advocating a proposal that includes a fair amount of wildlife and habitat conservation, as well as moderate public recreational use. This includes 16 miles of hiking, biking and horseback riding trails, as well as public education and limited public hunting programs, all surrounding the former Industrial Area in the center of the site, which would continue to be maintained by DOE.

"I was shocked. I was absolutely shocked when I saw that they were going to do this—for lack of a better word—half-assed clean-up and let little kids run around out there," says Brever.

So Brever decided to come out of hiding and once again take on Rocky Flats.

Invisible intruders

USFWS refuge planner Laurie Shannon stands beneath the bright blue Colorado sky amid hills of yellow tallgrass and sees the future of Rocky Flats. Shannon sees deer and elk and American peregrine falcons and Preble's meadow jumping mice. She sees 1,500 acres of xeric tallgrass, perhaps the largest single population of this rare plant left in North America. She sees families enjoying thousands of acres of undeveloped wilderness, a singular treat in the increasingly

subdivided Front Range. She sees hikers and bicyclists and horseback riders, and a few weekends a year of supervised hunting for children and developmentally disabled adults.

Shannon stands in the Buffer Zone, a 3,930-acre ring of land surrounding the Industrial Area in the center of Rocky Flats. The Buffer Zone was purchased by DOE in 1972 for security and safety reasons. Once Rocky Flats has been certified clean, most of the Buffer Zone will become the national wildlife refuge.

The Buffer Zone is still decorated with signs proclaiming, "Be safe! Go home healthy!" and "You are entering the Demolition Zone," and the occasional drain pipe and voltage box, but soon that will all be gone. Most of the asphalt roads will be replaced with dirt tracks or trails. Even the complex of buildings, smokestacks and power lines in the middle of the Buffer Zone, the remains of Rocky Flats nuclear weapons plant, will be gone. Soon, the entire Rocky Flats site will look similar to how it appeared long before there were plutonium pits or W-88 Trident Warheads or Superfund National Priorities Lists.

"It will be all grassland out there," says Shannon.

But Jacque Brever believes that, even once all the buildings are gone, Rocky Flats will still have its ghosts. And she's not referring to bad memories.

"We used to do some really bad stuff," says Brever. "Nobody knows how contaminated Rocky Flats is."

Brever says she and her co-workers used to "feed the ducks," dumping chemical solutions into unlined ponds. They would also drain contaminants leaking from an overburdened spray irrigation system right into the Buffer Zone, says Brever. For fun, she says, workers would catch rabbits and other small animals around the site and check them for radioactivity. The animals were consistently screaming hot, off the charts.

"A lot of the experimental products and the chemicals and things I worked with, they're not even listed anywhere. So nobody is even going to go looking for them, because they are not even listed," she says. "I know what's there. I helped put it there."

Brever remembers one experimental product she worked with that caused her to lose some of her hair, drop 30 pounds and become extremely sick for three weeks. The product is not listed on any current lists of contaminants of concern, and Brever says an anonymous DOE official told her that since the product was experimental, officially it didn't exist.

While officials working on the cleanup acknowledge they are dealing with a facility that was shrouded in secrecy for decades and that was fined millions of dollars for environmental crimes, they say they are doing their utmost to uncover everything they can about Rocky Flats. But some say the full extent of contamination at Rocky Flats will always be a mystery, pointing to recent unexpected discoveries like the unearthing of a buried incinerator several months ago that was thought to have long been demolished. The incinerator was three stories tall.

But the real danger at Rocky Flats, says Harvey Nichols, is from particles so small many can't be seen by the naked eye. Nichols is a professor of biology at the University of Colorado at Boulder's Ecology and Evolutionary Biology Department. In 1975, he was hired to study airborne radioactive materials at Rocky Flats. After a snowfall that winter, Nichols collected

snow samples from eight or nine locations around the Buffer Zone and found that they were highly radioactive.

Nichols suspected the culprit was tiny particles of plutonium, one of the main bomb-making ingredients at the facility. Plutonium has a half-life of more than 24,000 years. While plutonium radiation doesn't penetrate the body like gamma or X-rays, microscopic plutonium particles can be inhaled or ingested and become lodged in the body, where they will repeatedly bombard cells. The resulting radiation is considered to be on average 20 times more harmful than gamma radiation of the same dose, possibly leading to immune system malfunctions, cancer and gene pool pollution.

Nichols estimated that that single snowfall had laid down 14 million airborne radioactive particles per acre on the site. He believes these airborne particles had been dispersed from the facility from several accidental releases, such as fires at the plant in 1957 and 1969 and plutonium leaks from storage drums, as well as through routine operations. When he extrapolated his findings to estimate contamination over the facility's total period of operation, the numbers were astronomical.

"So there is the potential, of course, that a puff of wind while a family is out there picnicking or whatever they do, any sort of event like that has the potential to raise some of these residual, very, very tiny particles of plutonium into the air and getting into people's lungs," says Nichols.

In 1992, the state hired Radiological Assessments Corporation, a private company run by health physicist John Till to analyze materials, both chemical and radioactive, released at Rocky Flats from accidents and routine operation.

"[Releases] were not, in my view, terribly large, but larger than what I thought we would see," says Till. "Most of the site is not very contaminated and to a point that you have to do something. But there are some areas that have high levels of plutonium, where something needs to be done."

Till says he recalls some of the areas of concern were located in the Buffer Zone, but adds that he believes the area can be cleaned up to a level acceptable for a wildlife refuge.

The issue of contaminants in the Buffer Zone is a tricky one, says Mark Sattelberg, contaminant biologist for USFWS.

"There is very low-level contamination in the Buffer Zone," says Sattelberg, who adds that most of it is well below levels posing risk to human health or the environment. He says the few spots of higher contamination discovered in the Buffer Zone were in areas of contamination known about for years, and these areas will be cleaned up and will not become part of the wildlife refuge.

Sattelberg says there have been 11,000 soil samples taken from within the Buffer Zone, but notes that slightly more samples have been taken in the Industrial Area in the center, an area about one-twentieth the size of the Buffer Zone. More Buffer Zone samples will be taken this summer, he says. In addition, biological samples taken from deer several years ago need to be analyzed.

Sattelberg admits that more sample testing needs be conducted in the Buffer Zone before they know the full extent of contamination there.

"You can't guarantee there aren't any hot spots without sampling every square foot, and there's no time or money to do that," says Sattelberg. "It's put us in kind a bind, in that we had to go ahead with the planning based on the information we have at the time. It's our best guess. And it might change in the future, depending on what we find."

A dirty job

When Kaiser-Hill Company assumed the task of cleaning up Rocky Flats in 1995, they agreed to go where no cleanup company had gone before. The cleanup is the most massive public-works project in Colorado history, and the first of its kind on earth—no one had ever tried to clean up a nuclear weapons facility, much less one featuring a plutonium cache that's been labeled the most severe safety risk of any stored plutonium in the DOE weapons complex.

Kaiser-Hill, taking over where another cleanup company left off, was responsible for completing the demolition of 805 buildings, many of which were contaminated with radioactive materials. More than one million drums of uranium had to be removed from the site, as well as 16,000 pounds of plutonium—including 1,100 pounds of plutonium that could not be accounted for. And there were the 13 infinity rooms, sealed-off chambers on the site so heavily contaminated that radioactive measurements of them went off the scale, towards infinity.

In 2000, the project was two years behind schedule. Many people believed a cleanup goal of 2006 was a long shot. But all that's changed. Last year Kaiser-Hill announced the last of Rocky Flat's weapons-grade plutonium and enriched uranium had been shipped off the site. By the end of the year 80 percent of the project was completed, with only 330 facility buildings still standing. On Nov. 10, 2003, workers demolished the most symbolic structure on the site, the 50-year-old, 155-foot water tower. By all accounts, the project is now ahead of schedule.

While for some this might be cause for celebration, not so for Brever. For her, a fast cleanup does not equal a good cleanup.

Brever recently completed a research paper titled "Plutonium Playgrounds," in which she examined federal policies for the cleanup and reuse of federal lands, using Rocky Flats as an example. And she doesn't like what she found.

In 1987, President Reagan removed the EPA from its role as the lead enforcer of major federal contamination cleanups, placing the federal agencies responsible for causing the contamination in charge of determining how to clean it up. Six years later, the Clinton administration directed federal agencies to clean up these sites as quickly as possible, so they could be reused by the public. The result, says Brever, are federal cleanups with an emphasis on haste rather than thoroughness, and a process with limited outside oversight.

Rocky Flats is a perfect example of this, says Brever, and will likely be one of many.

"For all those people out there who think this won't come to their backyard, trust me, they'll be a radioactive recreation area coming to your neighborhood soon," she says, "because Rocky Flats is going to be the precedent-setter and the model for all the other ones in the country."

LeRoy Moore agrees with Brever. Since 1978 Moore, co-founder of the Rocky Mountain Peace and Justice Center, has been a persistent citizen watchdog of Rocky Flats. He was one of the founding members in 1993 of the Rocky Flats Citizen Advisory Board, an independent board set

up to advise DOE on the cleanup, but resigned last summer after he learned of the reuse plan being considered for the Rocky Flats National Wildlife Refuge.

"This whole business is fraught with uncertainty," says Moore. "We are not getting the best possible cleanup. We are getting the best cleanup for a certain sum of money."

In 1995, DOE concluded the cleanup would take 50 years and cost \$36.6 billion. In 1997, officials cut the cost to \$7 billion, with a 2006 completion date, and included financial incentives for both DOE and Kaiser-Hill to finish the job early and for less money. These were arbitrary standards, says Moore, set before DOE determined site contamination or how the cleanup would occur. Furthermore, says Moore, only 7 percent of the funds could be spent on cleaning up the environment.

Moore believes corners have been cut to meet these goals. In 1995, several independent Rocky Flats advisory groups recommended the radiation on the site be cleaned to an amount equal to the average background level of radiation, which is 0.04 picoCuries per gram. In 2003, the Rocky Flats Cleanup Agreement required that the top three feet of soil on the site must be cleaned up to 50 picoCuries per gram. This is 1,250 times the average background plutonium level and is higher than cleanup levels allowed at former nuclear bomb sites like Eniwetok and Johnston Atoll.

Moore is also concerned that some subsurface materials contaminated with volatile organic compounds, heavy metals, beryllium and radionuclides are not being removed from the site, but instead being buried or capped. While officials say barriers have been put in place to ensure these contaminants aren't likely to migrate, Moore is concerned erosion, groundwater and burrowing animals might prove otherwise.

Further suspicion was recently cast on the cleanup process when DOE fined Kaiser-Hill \$522,500 for safety violations in 2002 and 2003, including two releases of radioactive materials and a fire.

Moore and others are especially wary of the fact that the DOE, USFWS and the state have yet to reach an agreement as to how much land DOE will actually retain in the middle of the refuge and what type of long-term monitoring will be in place, especially since DOE and USFWS are proposing no physical barriers between the refuge and the Industrial Area.

Representatives from DOE, Kaiser-Hill and the Colorado Department of Public Health and Environment say there is no need to be concerned about the cleanup. For one thing, they say, under federal law the project requires rigorous oversight.

"The EPA and the state of Colorado have a great deal of control over what we do out here," says John Rampe, a physical scientist for DOE. "We really can't do it without them saying it's OK." The EPA and the state had to approve the cleanup proposal and have been closely monitoring the cleanup. They will also have to certify the cleanup job is complete before any land is handed over to USFWS, and will regularly review DOE's long-term monitoring of the cleaned site, which is estimated to cost about \$12 million a year, says Rampe.

Officials also say that the recent fine against Kaiser-Hill demonstrated there are major incentives for the cleanup to be as safe and efficient as possible.

"We do welcome the fine that came recently—just to keep us on our toes and make sure we are doing everything possible to be safe," says Bill Badger, Kaiser-Hill spokesperson. "Safety is our

main concern. By being safe, we are meeting the schedule. That is one of the reasons we are ahead of schedule, because workers are being so safe."

But most importantly, say officials, the public needs to realize that the entire Rocky Flats site, both the Industrial Area and the Buffer Zone, will be cleaned up to such a level that a wildlife worker on the site, who spends 40 hours a week there, 50 weeks a year for 15 years, has only a one in 100,000 chance of developing cancer, a level 10 times safer than the minimum EPA standards.

These cleanup standards aren't conservative enough for Moore. If someone was to live on the site year-round, like a rural resident, under the current cleanup standards the person would have a one in 10,000 chance of developing cancer, the very maximum risk allowed by the EPA. While officials say there are no plans to ever use the site for anything else other than a wildlife refuge, Moore points out that, when it comes to plutonium, which has a half-life of more than 24,000 years, you have to be extremely forward-thinking.

"Someday Rocky Flats is going to cease being a wildlife refuge," says Moore, who doubts that any physical controls, let alone regulatory controls, will last thousands of years. "The U.S. government is not going to outlive the half-life of plutonium. No government on the face of the earth has."

Dissent denied

When Rocky Flats opens for public recreation, Suzanne Webel, along with her horse, will likely be one of the first ones in line to get in.

"We are looking forward to getting out there and enjoying a piece of the prairie like it was hundreds of years ago," says Webel, vice president of both Boulder County Horse Association and Boulder Area Trails Coalition, who would like to see more equestrian trails on the site than currently planned.

USFWS officials say comments like Weber's represent the vast majority of public feedback they've received about plans for the Rocky Flats National Wildlife Refuge: Instead of demanding the site stay closed, people are clamoring to get in.

This is good news for Gary Brosz, Broomfield city councilman and member of the Rocky Flats Coalition of Local Governments, a monitoring group consisting of local officials. Brosz looks forward to bringing his family to the wildlife refuge, even encouraging them to "roll in the dirt," if they want to.

"In my eyes, one of the ways the public is going to judge whether Rocky Flats is truly cleaned up and truly safe is if they can go onto the property," says Brosz, who would like to see some trails open up in the refuge earlier than as proposed in the USFWS' current timeline.

Several Colorado legislators are also confident in the current plan for Rocky Flats.

"I think it has been one of the real cleanup success stories around the whole country," says Rep. Bob Beauprez, R-Colo. "My suspicion is that there will be some part of the site that people will want some access to."

"[The USFWS] recommendations and report are consistent with the wildlife refuge act," says Lawrence Pacheco, spokesperson for Rep. Mark Udall D-Colo., author of the Rocky Flats National Wildlife Refuge Act. "The level of cleanup is going to be very high, over at the Rocky Flats site."

But there are just too many unanswered questions about Rocky Flats for the public to have access to it now, say Brever, Nichols and Moore. They are worried that contaminants in the ground could be kicked up by horses, bikes or runners. They are worried elk and deer shot on the site could be unsafe, especially since there would likely be no restrictions on eating them. They are worried that some recreational uses at the refuge are focused on children and the disabled, who may be more vulnerable to hazards at the site

The Rocky Mountain Peace and Justice Center recommends Rocky Flats remains closed to the public for two centuries, while the impact of plutonium on the site and additional methods of cleanup are explored. Brever wants to keep the site closed indefinitely until they find a way to prove the site is completely clean.

Brever, Nichols and Moore believe that many of the people who currently support public recreation there don't know the whole story about Rocky Flats, because officials are keeping it hidden.

"It's the most constricting process of public information sharing that I have ever seen," says Moore about the public comment processes for the Rocky Flats cleanup and refuge plans.

For example, he says, a single public meeting was held in 2002 regarding the draft Rocky Flats Cleanup Agreement, and it occurred in the middle of the busy Christmas season. At the scoping hearings for the draft CCP/EIS for the wildlife refuge, adds Moore, the public was not allowed to ask questions or offer concerns, but were instead divided into focus groups to discuss possible uses at the refuge. Furthermore, he says, two major independent Rocky Flats advisory groups face an uncertain future. The Rocky Flats Citizen's Advisory Board saw its funding nearly cut in half last year and the Rocky Flats Coalition of Local Governments was almost axed this year due to DOE budget cuts.

"I don't think it's the accidental budget cut kind of excuse," says Erin Hamby, member of the Rocky Flats Citizen's Advisory Board. "Honestly, I think it's a little more planned."

Starting next week, USFWS will be holding four public meetings on the draft CCP/EIS for the wildlife refuge. Refuge planner Laurie Shannon says this time the meetings will be held in a public-hearing format, but says comments will be limited to three minutes and must remain on topic.

"We are here to talk about the [refuge proposals]," says Shannon. "We are not going to answer questions about the clean-up, because it will be out of scope for us to do that."

Brever, however, believes USFWS should be considering the cleanup of Rocky Flats, since if something goes wrong there once it becomes a wildlife refuge, USFWS will likely be responsible.

"The fact of the matter is, they are going to be managing a contaminated place," says Brever. "They are going to be just as guilty of poisoning people as the DOE and the contractors and the regulators."

Never forget

Some say there is another danger involved in turning Rocky Flats into a mixture of hiking trails and wildlife habitats: The history of Rocky Flats will be forgotten.

"I'm concerned this is being approached as some kind of an entertainment park instead of a site of historical significance, where weapons that could destroy the earth were manufactured for 37 years," says Len Ackland, author of *Making a Real Killing: Rocky Flats and the Nuclear West*, who encourages people to support the creation of a Rocky Flats Cold War Museum.

Already, when activists like LeRoy Moore or Erin Hamby speak to university classes and church groups about Rocky Flats, they find many adults have largely forgotten about the facility and most young people have never heard of it at all.

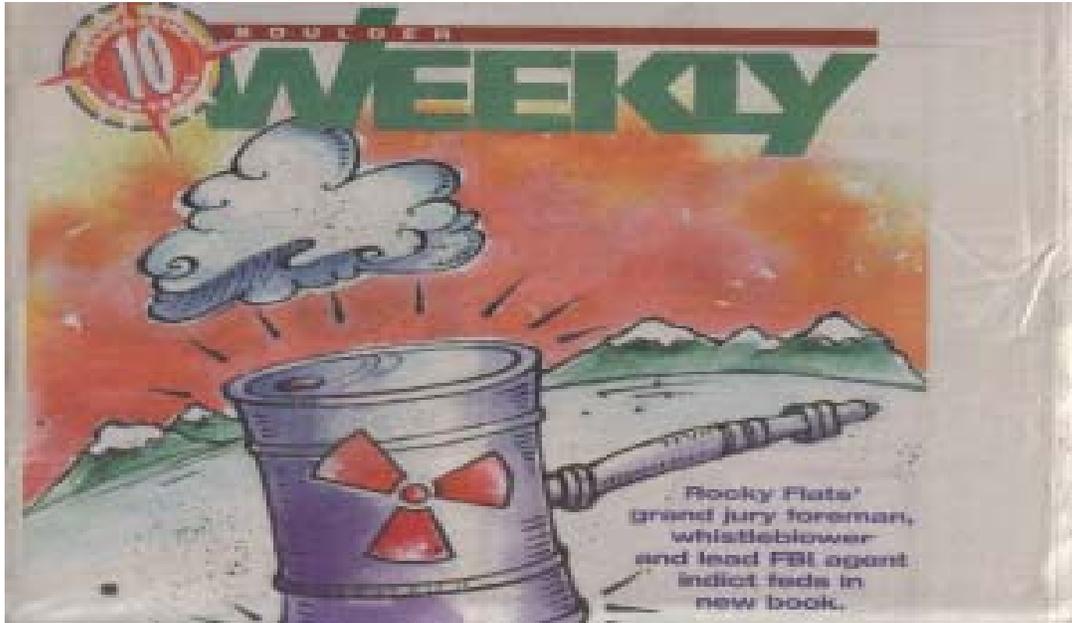
And these days, hardly anyone remembers Jacque Brever. But that could change.

Next week, Brever will be returning to Boulder. She will only get three minutes at each of the four USFWS meetings on the draft CCP/EIS, but she'll make each one of those minutes count.

Brever has also launched a website, www.unitedtokeeprockyflatsclosed.com, on which she has collected information on the refuge proposals and is soliciting public comments about them. Soon she will bring the comments to Washington, D.C., and present them to top USFWS officials.

Like many former co-workers, Brever has cancer, and she believes it's from her time in the "snake pit." But she's not letting it stop her—there's lots of work to do.

"I want people to know," she says. "I would not let my kids or grandkids or anybody else out there. I know what happened. A lot of my fellow workers are dead or dying. And I know it's bad. I know it can hurt you. And I don't care what anybody says—they will never get it clean enough for me to believe it's OK for kids to run around out there and play."



Boulder Weekly March 11, 2004

Tainted justice

Rocky Flats' grand jury foreman, whistleblower and lead FBI investigator team up to find the truth about the former nuclear weapons plant

by Joel Warner (Editorial@boulderweekly.com)

On March 26, 1992, Colorado U.S. Attorney Mike Norton announced that the Justice Department had scored a signal victory against corporate polluters. For years the FBI and a grand jury had been investigating environmental crimes at the Department of Energy's (DOE) Rocky Flats nuclear weapons plant located between Boulder and Denver. Norton proudly declared that Rockwell International, the company operating Rocky Flats from 1975 to 1989, had agreed to plead guilty to 10 charges of violating federal environmental laws. Rockwell was expected to pay \$18.5 million in fines, the largest sum ever collected for violations of hazardous waste laws.

After years of exhaustive study into alleged illegal operations at the 40-year-old nuclear weapons plant, the case was finally closed on Rocky Flats, officials told the press.

But four people believed the truth about Rocky Flats had been concealed: Wes McKinley, Caron Balkany, Jacque Brever and Jon Lipsky.

Rancher Wes McKinley was the foreman of the special grand jury convened to investigate the crimes at Rocky Flats. Two days before the plea agreement was announced, Wes and his fellow jurors proposed criminal charges against DOE and Rockwell officials. These charges, as well as the grand jury's full report on their two-and-a-half-year investigation, have never officially been released to the public.

Caron Balkany, a lawyer who has long been litigating about violations of environmental standards at nuclear facilities, lost her sister to cancer shortly before the Rocky Flats grand jury was dismissed. Her sister died wondering if Rocky Flats caused her disease.

Jacque Brever was a Rocky Flats plutonium worker and one of the main witnesses in the Justice Department's case against Rockwell and DOE. She faced death threats and worse for testifying to the grand jury about alleged crimes at Rocky Flats, only to be labeled by Justice Department officials as an unreliable witness. Believing that she had risked everything only to be scorned by the grand jury, Jacque later left her job and went into hiding for 10 years.

Jon Lipsky was the lead FBI agent for the three-year investigation of Rocky Flats. He had spent years detailing what appeared to be illegal activity at the weapons plant, only to see Rockwell and DOE officials escape all criminal charges. He alleges he was later ordered by his superiors to lie about his investigation of Rocky Flats.

Now the cowboy, the lawyer, the whistleblower and the FBI agent have joined forces to announce the evidence they have collected about what they believe is a Justice Department cover up of nuclear crimes at Rocky Flats. At the risk of serious consequences, they allege the government knowingly distorted the truth about the extent of environmental contamination at the weapons plant, thereby seriously calling into question current plans to clean up and reuse Rocky Flats as a wildlife refuge with public access, a plan to be discussed this week at community meetings. The four claim they've caught the government red handed, and, with the upcoming release of their book, *The Ambushed Grand Jury*, they say the truth about Rocky Flats—at least some of it—will finally be made public.

Operation Desert Glow

On June 6, 1989, FBI Special Agent Jon Lipsky led the first-ever FBI raid on a nuclear weapons facility. It would also be the last.

For years Lipsky, a former Las Vegas street cop, had been hearing claims that the facility was plagued by leaking barrels of toxic waste, contaminated drinking water reservoirs and tons of unaccounted-for weapons-grade plutonium hidden in the nooks and crannies of the facility. But thanks to the shoot-to-kill authority of Rocky Flats security, the FBI couldn't just stroll into the facility and look around.

So the FBI fibbed, setting up an onsite briefing with Rocky Flats managers about supposed eco-terrorist activity in the area. Once Lipsky and other Justice Department officials were inside on June 6, plant managers learned there were 90 FBI and Environmental Protection Agency (EPA) agents assembled at the gates to Rocky Flats, ready to investigate charges detailed in a 116-page affidavit. "Operation Desert Glow" had begun.

Agents confiscated documents, interrogated workers and took samples from manufacturing equipment. One of the major allegations Lipsky wanted to prove was that Rocky Flats managers had been illegally running the aging plutonium incinerator in Building 771, known by many as the most contaminated structure at the plant. In October 1988, DOE had ordered the incinerator shut down because of safety concerns. But the FBI believed they caught Rocky Flats running the incinerator during the shutdown on several nights in December, when surveillance planes took infrared photographs of the plant. What Lipsky needed was an inside source at Rocky Flats, a whistleblower, to confirm it. He found his source in Jacque Brever.

Brever had been working in Building 771 for years. On June 15, 1989, Jacque and another co-worker contacted the FBI. They said they had worked one Sunday in December 1988, cleaning up Building 771's incinerator. They said the incinerator was still warm from an apparent burning the night before.

While Lipsky struck gold with Brever, the rest of the investigation began to unravel. Lipsky had gone to great lengths to get the court to seal the affidavit in support of the search warrant application for the raid, but three days after the sting U.S. Attorney General Dick Thornburgh unsealed the documents to assure the public that "this investigation does not signal any major

new environmental or safety concerns.” Now Rocky Flats officials knew just what the FBI was looking for.

As the investigation continued, Lipsky became increasingly frustrated. FBI agents approached Brever at the plant, signaling she was a whistleblower and opening her up to violent retaliation by her co-workers. FBI agents were given increasingly strict standards about how they could investigate crimes at the plant. Lipsky alleges that he and his team were eventually instructed to no longer investigate individual Rockwell or DOE employees.

It also smelled like someone had tipped off Rocky Flats about the raid. Plant officials always seemed to be in the know. According to Rocky Flats employees, drums of hazardous waste would be moved from one room to the next, always one step ahead of investigating agents.

“It was like a Laurel and Hardy movie in there,” said one employee interviewed during the investigation.

But try as they might, Lipsky believed Rocky Flats managers would not be able to hide their crimes from the special grand jury convened to investigate the charges.

Legal smoke and mirrors

When Wes McKinley was empanelled to serve on the Rocky Flats special grand jury, he didn’t know what a grand jury was. For better or worse, he would soon find out.

McKinley was a rancher in southeastern Colorado, living with his family on a little windblown ranch his granddaddy had homesteaded. McKinley was as blue-blooded an American as they come, Colorado twang and all. McKinley was one of 23 Colorado citizens randomly selected to serve on the Rocky Flats grand jury, which would determine if there was enough evidence to bring charges against DOE and Rockwell employees, as well as the Rockwell corporation, for their actions at Rocky Flats. McKinley became their foreman.

Starting in August 1989, the Rocky Flats grand jury spent one week each month in Denver hearing testimony from 185 witnesses and reviewing more than a million documents presented to them by federal attorneys.

The first Rocky Flats employee to testify was Jacque Brever. On Oct. 15, 1989, she told the grand jury about cleaning up Building 771’s incinerator in December 1988, during the time when it was supposed to be shut down.

“After listening to this lady all day, it looks like I can expect a short tenure as a grand jurist,” wrote McKinley in his journal that night. “It hasn’t taken them long to prove environmental crimes were probably committed.”

But the Justice Department’s case against Rocky Flats soon began to fall apart—seemingly from within. Assistant U.S. Attorney Kenneth Fimberg reportedly told Lipsky that Brever’s and her co-worker’s testimony about the incinerator wasn’t very reliable. Later, Fimberg allegedly told Lipsky that the EPA expert who’d analyzed the infrared photos taken of Rocky Flats in December 1988 changed his opinion in front of the grand jury. Now the expert apparently wasn’t sure the incinerator was running.

Even though the Rocky Flats grand jury hearings were supposed to be secret, it didn’t take long for the news to spread. On Nov. 30, 1989, Governor Roy Romer and U.S. Rep. David Skaggs, D-Colo., announced to the papers that they had conducted their own investigations into the midnight burning and had decided it hadn’t occurred.

By January 1991, it appeared to McKinley that the Justice Department attorneys had given up on their case against Rocky Flats. The attorneys began repeating evidence to the grand jury. The attorneys instructed witnesses not to answer specific questions posed to them by jury members. Someone appeared to have tampered with the jurors’ boxes of evidence.

By May 1991, the jurors had experienced enough. McKinley told Norton the grand jury wanted to start writing indictments against Rockwell and DOE officials and asked the attorneys for help writing the legal documents. Instead of helping them, McKinley alleges the Justice Department attorneys continued to stall and cancelled grand jury sessions.

In January, the grand jury members decided to take matters into their own hands, compiling an indictment charging three DOE officials—Ray Romatowski, Bruce Twining and Albert Whiteman—and five Rockwell employees—Ed Naimon, William Weston, Kirk McKinley, Jack Erfurd and George Campbell—with environmental crimes and a presentment reiterating the accusations.

The grand jury also wrote a report lambasting the conduct of DOE and Rocky Flats contractors for “engaging in a continuing campaign of distraction, deception and dishonesty.” The report also criticized state and federal regulatory agencies and noted that Rocky Flats, for many years, had discharged pollutants, hazardous materials and radioactive matter into Woman Creek, Walnut Creek and Broomfield’s and Westminster’s water supplies. The report recommended Rocky Flats be closed “as the only means to stop the continuing nature of these criminal acts.”

According to McKinley, on March 24 the grand jurors prepared to give their indictment, presentment and report to Judge Finesilver. But the Justice Department had other plans.

In a private meeting with the jurors, Norton criticized their report—a report he was not yet supposed to have access to—and offered to help rewrite it. When the jury refused his offer, Norton presented them with a different indictment, one charging Rockwell, not any specific DOE or Rockwell employees, with 10 crimes. According to McKinley’s journal, Norton told the jurors, “I am giving it to you to vote on, and you had better sign it.”

The jurors were left to discuss the matter and decided not to approve Norton’s indictment.

According to McKinley, jurors thought Norton’s indictment would amount to a fine, a slap on the wrist for a billion-dollar company like Rockwell, and that unless individuals were held accountable, criminal actions would continue. Later that afternoon, the jurors handed in their signed indictment, presentment and report to Judge Finesilver, as well as a copy of the Justice Department’s proposed indictment of Rockwell signed “Not A True Bill.” The jurors then voted to end their grand jury term. The Rocky Flats grand jury investigation was over.

Two days later, a plea agreement was announced by Norton, totally different than the indictment and presentment signed by the grand jury. Rockwell agreed to plead guilty to the Justice Department’s indictment, and to pay an \$18.5 million fine. No individuals were charged with crimes, and the Justice Department announced the midnight burning had never happened. In public statements, Norton reportedly said, “I know of no evidence of physiological or environmental damage at all from the operations of the facility.”

There was no mention of the Rocky Flats’ grand jury’s indictment, presentment or report. In September, Judge Finesilver announced the report would be sealed. In the order, the judge wrote, “The court is not satisfied that the report of the Rocky Flats Special Grand Jury meets the statutory standards for release as a public record.”

When a copy of the grand jury report was leaked to Westword, the judge ordered the Justice Department and the FBI to investigate the jurors for possible violations of Federal Criminal Rule 6(e), which limits what grand jury information can be released to the public. Now, grand jurors were under investigation.

But McKinley and the other jurors would not give up that easily. In November 1992, McKinley publicly asked newly elected President Bill Clinton to investigate the Justice Department. Then McKinley and other jurors unsuccessfully appealed to Congress for immunity so they could show Congress what happened without violating the grand jury oath of secrecy. Congress denied the appeal, and the jurors stayed quiet. In 1996 McKinley even ran for U.S. Congress, hoping that once on the floor of Congress he would have constitutional immunity to tell the truth about the Rocky Flats grand jury investigation.

For McKinley, it wasn’t about fighting the government, it was about his patriotic duty.

“It goes right back to this accountability in our government of elected officials,” he says. “I think that a representative of the people is elected to represent them, not to make laws and tell them what to do.”

But, facing a possible sentence, McKinley always held his tongue about what really happened behind the grand jury doors—until he met Caron Balkany, an attorney from New Mexico. Right before the Rocky Flats grand jury was dismissed, Balkany's sister, who had lived near Rocky Flats, had died of breast cancer.

"My sister died asking me whether Rocky Flats had done this to her," Balkany told McKinley. "I'm trying to answer her question."

McKinley and Balkany were incensed over future plans for Rocky Flats. Officials had been discussing turning the former nuclear weapons plant into a wildlife refuge, a plan that was solidified in the Rocky Flats National Wildlife Refuge Act of 2001. McKinley and Balkany believed the extent of nuclear contamination at Rocky Flats precluded it from ever becoming a safe place for public recreation. They were especially concerned that the wildlife refuge designation would permit lowered clean-up standards at Rocky Flats than other toxic waste sites. So together, McKinley and Balkany set out in 1997 to discover the truth about environmental crimes at Rocky Flats, and present it to Congress, even if it meant putting McKinley in danger of violating his oath of secrecy. They called themselves the Citizens' Grand Jury.

Burning the midnight oil

For years Jacque Brever experienced a recurring dream in which Rocky Flats guards shot at her while she desperately gathered the spent ammo to prove she was in danger.

Brever had reason to suffer: She faced death threats and worse from her co-workers at the plant for blowing the whistle, and she still felt her abuse was all for naught, believing the grand jury hadn't believed her testimony, anyway.

So when McKinley and Balkany called Brever at her home in Florida the day before she changed her phone number to an unlisted number, Brever was at first cautious about helping them. But then she heard Rocky Flats might be opened for public recreation.

"That's what made me jump in it with both feet," says Brever. "That was the most ridiculous thing I had ever heard of in my whole life."

The Citizens' Grand Jury needed Brever's help in addressing a subject that struck to the heart of the investigation: the allegation that Rocky Flats had run Building 771's incinerator during the time it was supposed to be shut down. While this charge was not the most egregious accusation leveled against Rocky Flats, it was representative of the entire Rocky Flats grand jury investigation. While the Justice Department obtained photos, documents and witnesses that seemed to prove the incinerator had been used, they eventually said it never happened. If McKinley, Balkany and Brever could prove the incinerator had burned in December 1988, they believed it would throw other things the Justice Department said about Rocky Flats into question. A major question involved the photo expert who analyzed the infrared photos of the incinerator. Why had he, according to the Justice Department, changed his opinion and told the grand jury he was not sure the incinerator was running?

The Citizens' Grand Jury found the EPA photo expert, Al Divers, in Las Vegas, and his answer to their question stunned them: He allegedly said he never changed his testimony.

"...I certainly did not change my position," Divers reportedly told the three investigators. "I'll guarantee the stacks were hot... The incinerator was running and the exhaust was much hotter than room temperature."

Divers declined to comment about these statements when contacted by Boulder Weekly.

Divers appeared to prove to the three investigators that they were on the right track. They hit jackpot when they found Ron Avery.

Avery was the foreman in Building 771, Brever's boss. He had quit and left town a month before the FBI raid for reasons he says had nothing to do with the investigation. When the Citizens' Grand Jury contacted him, he told them not only had the incinerator been run in December 1988, but that he had been the person running it.

“I can remember running it, and it seems to me the right time period. From what I remember, that was after they shut us down, and we were getting overwhelmed with drums, so they decided to do an incinerator run to get rid of the line-generated runs,” says Avery in a recent Boulder Weekly interview. “I thought it was strange, because we only ran it on the weekend. It was just a weekend deal.”

During the FBI investigation, no one contacted Avery. Although he had left the state before the investigation began, he alleges officials could have easily found him—if they had tried.

“I went to Florida, but there were a lot of people that knew I went to Florida. It wasn’t any secret,” says Avery. “I wouldn’t think they would have had any trouble finding me if they wanted to.”

The Citizens’ Grand Jury believed they had proven Rocky Flats ran nighttime plutonium incinerator burns in December 1988 during the time the incinerator was supposed to be shut down, an allegation DOE and Justice Department officials have strenuously denied for 15 years. The Citizens’ Grand Jury alleges this demonstrates that officials still don’t know the full extent of environmental contamination on Rocky Flats. They claim that by proving the secret plutonium burns, they have cast further doubt on Justice Department denials of accusations that Rocky Flats sprayed radioactive water on its fields, drained contaminated water into local streams and drinking water reservoirs and dispersed airborne plutonium particles. And if the true extent of contamination at Rocky Flats is unknown, they say, then the current cleanup and reuse plans at Rocky Flats are based on incomplete information.

Officials involved in the cleanup and reuse of Rocky Flats say that if additional information about contamination at Rocky Flats comes to light they would take it into consideration. But they add that since they have not seen the Citizens’ Grand Jury’s evidence yet, it’s hard for them to respond to their claims about the illegal incinerator burning and other crimes.

“Clearly, if the data that we believe to be true, that we have been shown by the [cleanup] parties, is not accurate, then we would have to take that into consideration,” says Dean Rundle, refuge manager for the U.S. Fish and Wildlife Service, which will oversee the Rocky Flats National Wildlife Refuge. “We just don’t have any information, any science, to verify allegations that the cleanup is not identifying and removing and taking care of the residual contamination on the site.”

These officials encourage Citizens’ Grand Jury to come to them with any additional information they might have about contamination at Rocky Flats, so that they can improve the cleanup process. But this is something Brever is loathe to do.

“I don’t trust those people as far as I can throw them. I already tried to tell the truth once, and look where it got me,” says Brever, who would rather bring her information to the public. “The last time I told the government what to look for, they took it and got rid of it and told me I was a liar.”

Cleanup officials also emphasize that they have spent years analyzing contamination at Rocky Flats. They say that if there was contamination on the site, whether or not it was acknowledged during the original grand jury investigation, they have found it and cleaned it.

“Beginning in the mid-’80s, prior to the FBI raid, and it continued in the ’90s, we did an extensive research of historical data, to identify any spills or areas onsite that we needed to investigate and address. We interviewed current and former employees, and retirees, and some of those [areas of contamination] folks did identify, we identified those and have since remedied a lot of those,” says DOE spokesperson Karen Lutz. “We are continuing to take extensive samples onsite as we are cleaning up the site.”

But what if officials didn’t just ignore nuclear crimes at Rocky Flats, but actively covered them up?

The insider

When Norton had announced the settlement with Rockwell, FBI agent Jon Lipsky was crushed. He felt he had somehow botched the Rocky Flats investigation, an investigation that had consumed years of his life. After Lipsky later told a congressional subcommittee he believed there had been enough evidence to support the midnight burning charges and indictments against individuals, he was transferred from Denver to Los Angeles. The FBI's star environmental crime agent would never work in environmental crimes again.

When McKinley, Balkany and Brever asked to interview Lipsky about the investigation, they claim his superiors denied the request and then imposed strict limits on the interviews. But Lipsky knew it was a call he had to return.

"This is Jon Lipsky," he told the Citizens' Grand Jury over the phone. "I'd like to talk to you." To the Citizens' Grand Jury, it appeared the Justice Department hadn't just dropped the illegal incinerator burning charge, but actively tried to sabotage it. They believed the Justice Department decided to cover up alleged environmental crimes committed by DOE and Rockwell at Rocky Flats. And now it looked like they had found an insider to prove it.

Balkany flew to California and met with Lipsky, who was working in the FBI's Los Angeles office. According to The Ambushed Grand Jury, Lipsky told Balkany his supervisors had ordered him to lie to her about Rocky Flats, but he refused to do so and was meeting with her of his own volition.

Lipsky told Balkany that if the Citizen's Grand Jury promised to report their investigation to Congress, he would join the Citizen's Grand Jury and tell them the truth about Rocky Flats. Balkany agreed.

"[The Justice Department was] just using me—using me so when they settled the case, they could say they'd done a complete investigation," Lipsky told Balkany. "They limited the types of crimes we could investigate, the time period we could investigate, the people who could be investigated. They even limited how we could use the law. And they cut off the investigation before we'd even really gotten started."

According to the book, Lipsky, who declined an interview request by Boulder Weekly, says the Justice Department began discussing a settlement with Rockwell in late 1991, without telling the Rocky Flats grand jury. In order to accept a plea bargain, said Lipsky, Rockwell demanded that there had to be no indictments of individuals, no grand jury report, no charges serious enough that Rockwell would be banned from future government contracts and a Justice Department statement that there had been no secret incinerator burning and no substantial offsite contamination at Rocky Flats. To meet these demands, Justice Department officials stonewalled both the FBI investigation and the Rocky Flats grand jury, Lipsky alleges in the book.

Lipsky told the Citizens' Grand Jury that a U.S. attorney asked him to sign an affidavit swearing there was not enough information to indict individuals at Rocky Flats. Lipsky claimed he refused to sign it.

The secret incinerator burning was just one example of how the Justice Department cover up prohibited the public from learning the true extent of nuclear contamination at Rocky Flats, says Lipsky in the book. Another example involves strontium, a highly toxic radioactive material usually associated with uncontrolled nuclear reactions.

According to Lipsky, during the investigation at Rocky Flats he was approached by a Flats analyst who showed him records detailing elevated levels of strontium in the soil around the plant. Lipsky claims he informed Justice Department officials about the reports, but was told to ignore them. If there were large amounts of strontium at Rocky Flats, the Citizens' Grand Jury claims that would mean there was an uncontrolled nuclear reaction on the site, something officials have long denied, or that there was a secret project at Rocky Flats involving strontium or atom splitting, a project the public does not know about.

The Citizens' Grand Jury says plant officials have told them they cannot find any strontium studies at Rocky Flats. The Citizens' Grand Jury claims that if Lipsky had been allowed to

complete his investigation at Rocky Flats, the public would likely now know the truth about strontium levels at the site.

According to Mark Aguilar, Rocky Flats team leader for the EPA, the only evidence he could find of strontium use at Rocky Flats was in quarter-sized disks used to check that monitoring equipment is working correctly. “There’s no possible way [it would’ve contaminated the soil],” says Aguilar.

This is not the first time the Justice Department has covered up contamination at Rocky Flats, alleges the Citizens’ Grand Jury. In 1975, local landowners sued DOE and Rocky Flats operators for contaminating real estate around the plant. DOE, represented by the Justice Department, agreed to pay a \$9 million settlement on the condition that the landowners hand over every single piece of information they had collected about offsite contamination from Rocky Flats, information that was then sealed from public view.

According to Arjun Makhijani, president of the Institute for Energy and Environmental Research, there’s a reason why the FBI raid on Rocky Flats was the first and last of its kind. Makhijani alleges a high-level DOE official told him that after the Rocky Flats FBI raid, DOE and the Justice Department came to an agreement that if DOE agreed to run regular self-reviews of their facilities, reviews that carried no penalty power, the Justice Department would not raid their weapons plants.

Why would the Justice Department bother with a three-year investigation of Rocky Flats, only to cover up their findings? One possibility is so the findings would stay in the protective hands of federal agencies, McKinley says.

“I came to think after, it was never a real investigation,” he claims. “The reason for it was not to investigate. I think it was to cover up everything that had happened at Rocky Flats.”

By 1989, Rocky Flats was under attack from all sides. Four months before the FBI raid, Sierra Club sued to close down Building 771’s incinerator. Gov. Romer had threatened to close the plant down because of illegal waste storage. The EPA had found the plant’s groundwater monitoring was at best inadequate. And the year before, DOE rated all its nuclear weapons sites on a scale of one to 10, with 10 being the worst. Rocky Flats received a nine, and its groundwater contamination was identified as the single greatest threat at any of the DOE facilities.

A civil lawsuit, like the Sierra Club’s, would have exposed all the information about alleged environmental crimes to the public, which might have sent shockwaves across the country, claims the Citizens’ Grand Jury. But once the Justice Department launched a case against Rocky Flats, it could eventually seal the information away—like they did with the Rocky Flats grand jury report. The millions of pages of documents used by the Rocky Flats grand jury are now sealed in a vault in the basement of a downtown Denver building. And the only people who can talk about the grand jury proceedings without fear of going to prison are Justice Department officials.

When contacted by Boulder Weekly, Norton, now a Denver-area attorney, refused to comment on the specific allegations made by the Citizens’ Grand Jury.

“This is old news, and it is not even news. It is rumor, speculation and innuendo that you will have to go back to the original records in the United States Attorney’s Office, records which I do not possess, to determine,” says Norton. “And frankly, the matters that are likely to be discussed are covered by Rule 6 of the Federal Rules of Criminal Procedure. They are confidential, and I am still bound by that rule not to discuss any of those activities.”

The Citizens’ Grand Jury has presented its book and concerns to Doug Young, district policy director for U.S. Rep. Mark Udall, D-Colo., author of the Rocky Flats National Wildlife Refuge Bill. Young says he has yet to discuss their concerns with the congressman because he has not yet seen all the evidence supporting their allegations.

“If the allegations in the book turn out to be true, what that might mean for [the Rocky Flats Wildlife Refuge]? I’d hate to speculate on that. I just don’t know,” says Young. “It’s hard to gauge that, without knowing more about the nature of the allegations and what specific allegations are proved to be correct or true.”

The Citizens' Grand Jury says Congress and the public should take their investigation of Rocky Flats seriously, because they believe the actions of Justice Department officials over a decade ago will have a direct impact on the safety of people using the site in the future. "They need to look really closely at that legislation that will have kids playing at Rocky Flats," says Lipsky in the book. "Rocky Flats is no place for recreation."

Strange bedfellows

At the end of their investigation, the four members of the Citizens' Grand Jury presented their findings to members of Congress, hoping someone would launch an official investigation into their claims. But no congress member offered to take up their charge, so McKinley, Balkany, Brever and Lipsky decided to take their investigation straight to the American people. The result, seven years after the investigation began, is a book titled *The Ambushed Grand Jury: How the Justice Department Covered Up Government Nuclear Crimes and How We Caught Them Red Handed*.

The book begins with an open letter to Congress signed by Lipsky:

"I am an FBI agent. My superiors have ordered me to lie about a criminal investigation I headed in 1989. We were investigating the U.S. Department of Energy, but the U.S. Justice Department covered up the truth."

In 279 pages, the Citizens' Grand Jury present their findings, and then ask their readers to make their own ruling. At the end of the book and on www.ambushedgrandjury.com, they have included a "Citizens' Grand Jury Indictment," which they encourage readers to fill out and send to them. They will forward all the responses to Congress to help spur an investigation into their charges.

The book will be released on March 23, although you can now order a copy on www.ambushedgrandjury.com. Authors' profits from the book will go to environmental and nuclear activist groups, like the Rocky Mountain Peace and Justice Center. Brever will be attending each of the upcoming public meetings being held by the United States Fish and Wildlife Service about wildlife refuge plans at Rocky Flats (go to www.unitedtokeeprockyflatsclosed.com).

Each of the four Citizens' Grand Jury members faces risks in speaking out against what they see as a dangerous government cover-up. McKinley is still under FBI investigation and if found in contempt of violating the grand jury secrecy oath he could go to prison. Brever is suffering from cancer and other health problems she believes were caused by Rocky Flats and still fears the retaliation she faced the first time for blowing the whistle. For speaking out against his superiors, Lipsky could lose his job as an FBI agent. They are all worried about government harassment. But the cowboy, the lawyer, the whistleblower and the FBI agent believe they have to take a stand.

Says McKinley, "I don't think any harm will befall you whenever you are doing what's right." But, regardless of what might occur as the result of publishing this book, members of the Citizens' Grand Jury say working together has brought them unexpected rewards.

For years Wes McKinley had a story he needed to tell and Caron Balkany had a questions she needed answered; they found their solution when they met each other.

Jacque Brever blamed herself for the failure of the Rocky Flats grand jury investigation, believing the jurors had not believed her testimony; she was able to learn the truth from McKinley. Ron Avery and Jacque Brever had seen each other before the FBI investigation; now, reunited, they are getting married.

Jon Lipsky lived under the burden of believing that somehow he had failed Brever, McKinley, the grand jury and the public; now Brever, Balkany and McKinley have shown Lipsky he is not to blame.

"Sometimes I can't even believe I actually lived it all," says Brever. "And it's not even done yet."

Lingering fallout

Boulder Weekly

March 18, 2004

As the public blasts recreation plans at Rocky Flats, grand jury members hope Congress will hear their concerns

by Joel Warner

U.S. Fish and Wildlife Service (USFWS) recommends turning Rocky Flats, a former nuclear weapons plant south of Boulder, into a wildlife refuge complete with hiking, biking, horseback riding trails and limited hunting opportunities. But so far, getting the public to sign off on the plan has been anything but a walk in the park.

At recent public meetings about the wildlife refuge, citizen feedback overwhelmingly supported keeping Rocky Flats closed to the public. Meanwhile, on Friday, March 12, a federal judge ruled that members of a special grand jury empanelled 15 years ago to investigate environmental crimes at Rocky Flats could not voice their concerns about alleged federal criminal misconduct during the investigation, but in doing so the judge may have paved the way for Congress to hear their allegations.

Both recent developments come in the wake of startling allegations made last week by four unlikely cohorts: Wes McKinley, the foreman of the Rocky Flats grand jury; Caron Balkany, a lawyer and anti-nuclear activist; Jacque Brever, a former Rocky Flats employee who blew the whistle on alleged wrongdoings at the plant; and Jon Lipsky, the FBI agent who led the federal raid on the facility in 1989. Together, McKinley, Balkany, Brever and Lipsky say they have uncovered evidence that the Justice Department knowingly covered up the truth about environmental crimes at Rocky Flats, thereby seriously calling into question the cleanup and reuse of the plant as a wildlife refuge with public access. The four went public with their claims last week, and a book detailing their allegations, titled *The Ambushed Grand Jury*, will be released later this month.

Colorado's Hiroshima

USFWS officials say they have received strong public support for their proposal to allow public recreation at Rocky Flats, but such support wasn't apparent at two public hearings about the refuge last week.

Of the 30 people who spoke at the 100-plus meeting in Boulder last week, only three or four supported public access to the site. Similar sentiments were expressed in a meeting in Westminster. One attendee in Boulder called Rocky Flats "Colorado's Hiroshima" and recommended the entire site be paved over. Boulder City Council and the Boulder County Commissioners also recommend keeping site off limits to the public.

Of primary concern is possible contamination at the site, says Brever, who attended both meetings. Some worry that the land at Rocky Flats wildlife refuge will still be contaminated with radioactive or other hazardous substances. They argue that there has been inadequate testing for soil contamination at the site and that the cleanup itself has been curtailed by a limited budget and an arbitrary deadline. Many are also concerned that officials are recommending no physical barriers between the wildlife refuge and a small parcel of land in the center of the site to be retained by DOE, land that is believed to be the most contaminated on the site.

Dean Rundle, USFWS refuge manager, says he was not surprised by what he calls "a vocal representation from the activist community" at the meetings, and does not think the feedback is an accurate representation of general public opinion.

"As we have said in the past, the final decision isn't based on a vote," says Rundle. "But clearly, when you have a large response like that, I am sure we will be considering some changes based on all the types of feedback that we get."

Rundle says USFWS Regional Director Ralph Morgenweck will make the final decision about what will be allowed at the wildlife refuge, probably in December.

"What the people have to remember is that we don't get any property transferred to us until the final cleanup decisions are made, and those are outside the scope of our [involvement]," says Rundle.

DOE will hold an open-house meeting in response to public concerns about the cleanup on the evening of April 14 at a yet-to-be-determined location, says DOE spokesperson Karen Lutz.

Brever, who has collected hundreds of comments in opposition to the recreation proposal on her website UnitedToKeepRockyFlatsClosed.com, believes USFWS shouldn't be so quick to ignore questions and concerns about the cleanup job at Rocky Flats.

"They are pawns in all of this. They have obviously been told what to say, and their response, that it's outside of the scope of [their involvement in the project], is completely unacceptable," she says. "I think it is irresponsible that they are just going to say, 'Well, OK, we did our pre-acquisition surveys and the EPA says it's clean, so go play, have fun.'"

Brever says Congress forced Rocky Flats upon USFWS, and that the agency's mandate requires its staff to emphasize recreation activities at its refuges, no matter if it's appropriate or not.

Rundle says USFWS' first priority is always wildlife conservation, and that wildlife-dependent recreation, like hunting, fishing, photography and environmental education, is only considered where it is appropriate.

"There are refuges that do not have all of those [recreational] uses, and there are a few that don't have any of them, but that's because it would be incompatible with the wildlife purposes," says Rundle.

Rep. Mark Udall, D-Colo., co-author of the Rocky Flats National Wildlife Refuge Act, has yet to come out with a stance on public recreation at the future refuge.

"He is interested in seeing what the public comments are about the re-use decision of the Rocky Flats site," says Udall's spokesman Lawrence Pacheco. But no one from Udall's staff attended last week's public hearings on the issue, admits Pacheco, who says staff will try to attend one of the two meetings scheduled this week.

Free the grand jury

In the midst of public hearings about the future of Rocky Flats, a controversial episode in Rocky Flats' history was revisited on Friday when Federal Judge Richard Matsch ruled that members of the Rocky Flats grand jury could not speak out about alleged prosecutorial misconduct on the part of Justice Department officials during the grand jury investigation of alleged environmental crimes at Rocky Flats.

In 1992, after a two-and-a-half-year investigation, the Justice Department discharged the Rocky Flats grand jury and entered into a plea bargain with Rockwell International, the company running the facility. U.S. Attorney Mike Norton refused to sign indictments against individual DOE and Rockwell employees submitted by the grand jury, and Federal Judge Sherman Finesilver ordered the grand jury's report about their findings sealed from the public. Ever since, members of the grand jury have sought immunity from grand jury secrecy rules so they can voice their concerns about the investigation, including appealing to Matsch in 1996.

Some believe the judge's ruling last week, a day after grand jury foreman McKinley went public with his allegations of a Justice Department cover-up at Rocky Flats, was no coincidence. While McKinley was not one of the jurors who appealed to Matsch, some believe the judge's ruling was a message to McKinley: Keep your mouth shut or risk being found in contempt of grand jury secrecy rules.

"I wasn't really surprised," says McKinley. "I don't think the Department of Justice has ever wanted me to speak."

While jurors regretted the Matsch's ruling and hope to appeal it to the U.S. Court of Appeals for the 10th Circuit, they also believe the judge's ruling paved the way for Congress to hear their concerns, says their lawyer, Jonathan Turley. In his ruling, Matsch acknowledged that he allowed each of the 18 jurors who appealed to him to be interviewed at length by Turley in private hearings, creating a body of sealed testimony about alleged Justice Department misconduct Turley calls "shocking." Turley says Congress can subpoena this testimony.

"Congress has always said that it was interested in hearing the allegations of the grand jurors. And it has now been informed that there is a series of transcripts that were designed specifically to address the allegations against the Department of Justice," says Turley. "In the coming weeks we hope members of the Colorado delegation will step forward and demand review of this. We will supply to any member of Congress the legal basis for acquiring those transcripts. The authority of Congress to acquire these transcripts is absolutely clear. The only question is whether they will use that authority."

Rep. Udall has yet to read Matsch's ruling and could not yet comment on the matter, says Pacheco. Sen. Ben Nighthorse Campbell, R-Colo., does not have any plans to subpoena the information, says his spokesperson, Kate Dando. Rep. Bob Beauprez, R-Colo., and Sen. Wayne Allard, R-Colo., could not be reached for comment before press time.

The Justice Department had little to say on the matter.

"We have no response. The judge's ruling speaks for itself," says Jeff Dorschner, Justice Department spokesperson for Colorado. "I do know that the conduct that is in question occurred between 10 and 15 years ago, that 10 years ago, there was a review of the allegations based in part on hearings before Congress and that those involved at the time were exonerated."

Turley disputes such claims, noting that the review was done by the Justice Department itself and did not include testimony from the grand jury. The resulting 88-page report, released in April 1994, absolved all officials of any wrongdoing, noting that grand jury members were not interviewed because "no basis exists to conclude that the grand jurors possess information other than the evidence presented by the prosecutors."

According to Brever and McKinley, if released, the other grand jurors' testimony would likely strengthen the allegations they put forth in *The Ambushed Grand Jury*. The book alleges Justice Department officials actively covered up proof Rocky Flats employers were illegally burning plutonium-contaminated waste in a shut-down incinerator. According to the book, these officials consciously overlooked serious environmental concerns at Rocky Flats and suppressed the will of the grand jury so that the government could reach a plea agreement with Rockwell. Because of the extent of the official cover-up of environmental contamination at Rocky Flats, the site should not be opened for public recreation, say McKinley, Brever, Balkany and Lipsky.

McKinley, Brever and Balkany will attend a book signing for *The Ambushed Grand Jury* on March 23, from 6:30 to 9:30 p.m., at The Tattered Cover Book Store, 1628 16th Street in Denver, and will hold a presentation on March 24, from 7 to 9 p.m., at The Great Hall at the Iliff School of Theology, Warren Avenue and South University Boulevard in Denver.

Asked if the release of his clients' testimony would cast doubt on the cleanup and reuse of Rocky Flats, Turley says, "I can't comment on that, unfortunately. All I can say is that the truth of what occurred in the Rocky Flats investigation has yet to be fully disclosed."