

THE NATION

## **Nuclear Weapons Site Still Unsafe, Says Ex-FBI Agent**

**The man who led the raid on Rocky Flats calls plans for a national wildlife refuge there irresponsible. Officials deny the allegation.**

By David Kelly  
Times Staff Writer

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DENVER — The FBI agent who led the raid on the Rocky Flats nuclear weapons plant in 1989 charged the federal government Wednesday with deceiving the public about cleanup efforts at the facility and said plans for a national wildlife refuge there were irresponsible.

"Public recreation at Rocky Flats is a foolish idea driven by politics, not by facts," said Jon Lipsky, who took early retirement from the FBI to speak out against the refuge. "It's dangerous and scientists say they can't make it safe."

Lipsky and other critics held a news conference Wednesday where they said the U.S. Department of Energy and the Justice Department had minimized the extent of radioactive contamination at the site to save money and not alarm local residents. Lipsky said radioactive ash, contaminated soil and water still posed hazards but were being ignored by the government. The 6,420-acre site is just west of Denver.

Federal officials deny the allegation.

Wes McKinley, former head of the grand jury that investigated Rocky Flats and now a Democratic state legislator, will introduce a bill requiring future wildlife refuge managers at Rocky Flats to warn visitors about potential dangers.

"If you go horseback riding, you get a warning. You can't even drink a beer without a warning label," he said. "I am proposing that information be given to the children and adults about what happened there and what dangers they face going there."

Rocky Flats began making plutonium triggers for nuclear weapons in 1952. The FBI raided the facility in 1989 after reports surfaced of widespread radioactive contamination on the property. The FBI found numerous violations of federal antipollution laws

including massive contamination of water and soil. The Department of Justice investigated but did not prosecute anyone from Rockwell International, which operated the plant for the government. Rockwell was fined \$18.5 million.

Since then, a \$7-billion cleanup effort has been underway and is scheduled to conclude next year.

"These allegations are absurd," said Karen Lutz, Department of Energy spokeswoman. "We have interviewed hundreds of former workers, examined tens of thousands of pages of documents and have done extensive sampling. Every aspect of this cleanup has been under a microscope for the last 15 years. When you look at the involvement of the community and oversight of regulators, it's hard to think how there could be a cover-up."

David Abelson, who heads the Rocky Flats Coalition of Local Governments, a group of communities near the site that monitors the cleanup, said much of what Lipsky said might be true but was old news.

"I have no qualms about 99.9% of what he said but the leap he made, that the cleanup was dangerous, I can't go along with," he said. "He needs to look at new data. The local governments feel highly confident in the cleanup. There is no bit of information we have asked for that has been turned down."

Lipsky said the FBI muzzled him when he tried to discuss Rocky Flats and punished him with a transfer from Denver to Los Angeles after he testified before Congress in 1992 about the nuclear facility. He retired last week. A spokesman for the Justice Department was unavailable for comment.

"It would be a grave mistake for anyone to rely on what Justice or the Department of Energy said about the level and extent of contamination at Rocky Flats," he said. "The public needs to ask for a congressional investigation. Maybe we will save a life."

The Washington Times

**United Press International – Breaking News**

**FBI agent: Rocky Flats still dangerous**

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Rocky Flats, CO, Jan. 5 (UPI) -- The FBI agent who led the 1989 raid on Colorado's Rocky Flats nuclear weapons plant accused the government of criminal acts in obstructing an investigation.

The Justice and Energy departments' deception "should result in extreme skepticism about current government assurances that the cleanup of dangerous contamination at

Rocky Flats is protective of the public health," Jon Lipsky, who retired from the FBI Friday, wrote in an Internet memo, the Rocky Mountain News reported.

The government raid was the result of the weapons lab's flouting of pollution regulations in the name of national security.

The government has said that the \$7 billion spent on cleaning up the facility was adequate in securing the safety and health of the public.



## Rocky Flats accusation

**Ex-FBI investigator among group that says public is being misled about danger**

**By Ann Imse**  
Rocky Mountain News

The long-muzzled FBI agent who led the 1989 raid on the Rocky Flats nuclear weapons plant is accusing federal prosecutors of obstructing that investigation and misleading the public on the danger of radioactive dumping there.

Jon Lipsky, who retired from the FBI last Friday, accuses the Justice and Energy departments of "potential criminal acts" in preventing a thorough investigation, which ended in a plea bargain in 1992.

He and others involved in that probe say in a memo posted on the Internet that the deception "should result in extreme skepticism about current government assurances that the cleanup of dangerous contamination at Rocky Flats is protective of the public health."

Lipsky will appear at a news conference today to talk about his allegations.

Energy officials said the \$7 billion cleanup is thorough, and a former federal prosecutor defended the handling of the case.

In 1989, the FBI raided the Department of Energy atom bomb plant at Rocky Flats, which had been ignoring pollution laws on the grounds of national security. The raid was the first ever by the FBI on a sister U.S. government agency and led to a three-year grand jury investigation.

But the Justice Department rejected what grand jurors considered to be evidence of serious environmental crimes of dumping and burning radioactive and toxic waste. A plea bargain allowed Rockwell International, which ran the plant for the DOE, to pay \$18.5 million in fines. No individual was charged with a crime.

Retired FBI agent Lipsky is joined in his allegations by Rocky Flats grand jury foreman Wes McKinley, a newly elected Colorado state legislator; former Rocky Flats worker Jacque Brever; and their attorney, Caron Balkany. The four posted a memo detailing their allegations on the Web site [www.ambushedgrand jury.com](http://www.ambushedgrandjury.com), where McKinley and Balkany promote their book on the case. They are calling for a congressional investigation.

The grand jury report with the evidence remains secret. But the group's memo says midnight burning of toxic waste really did occur and that officials did not tell the truth about a plutonium incinerator or dumping of radioactive waste.

The memo claims that deception has interfered with the cleanup and endangers people who will roam the site after it is converted to a wildlife refuge.

Department of Energy spokeswoman Karen Lutz said the site has been thoroughly tested and that all contamination is being cleaned up according to law.

"Every aspect of this cleanup has been under a microscope," she said.

Mike Norton, the former U.S. attorney who handled the plea bargain between the Justice Department and Rockwell, said, "It is beyond imagination that anybody covered anything up" given the hundreds of people involved in the investigation.

Generally, Lipsky and his colleagues contend that Energy officials and their contractors dumped radioactive and toxic waste at the plant for years and lied about it so they could build more atom bombs.

Specifically, the memo says the Building 771 incinerator was used to burn toxic waste when it was supposed to be closed down - even though the plea bargain said no such evidence was found.

The memo says the Justice Department should have filed charges for operating that incinerator without a permit and illegally storing the radioactive ash.

Norton disagreed that there was "proof positive" of that incinerator burning illegally.

The memo also alleged the Justice Department misled the public in stating Rocky Flats contractor Rockwell did not cause substantial physiological harm. It says Rocky Flats sprayed radioactive and toxic waste over a large area called the East Spray Fields, and this seeped into groundwater and drinking water.

However, the DOE's Lutz said the entire area was tested and came back with such extremely low levels of contamination that it did not require cleanup.

Years later, officials found radioactive contamination in Great Western Reservoir and Standley Lake, which contain drinking water. Great Western was closed, and Standley Lake's plutonium is considered safely buried in the sediment.

Lutz said the amount of radioactivity in the reservoirs was found to be well under legal limits.

Norton noted that the decision on charges in the case was made by numerous officials in the Justice Department.

"I don't know of any outstanding issue that wasn't resolved," he added. "What we concluded at the time is what we believed at the time."

#### Allegations of obstruction

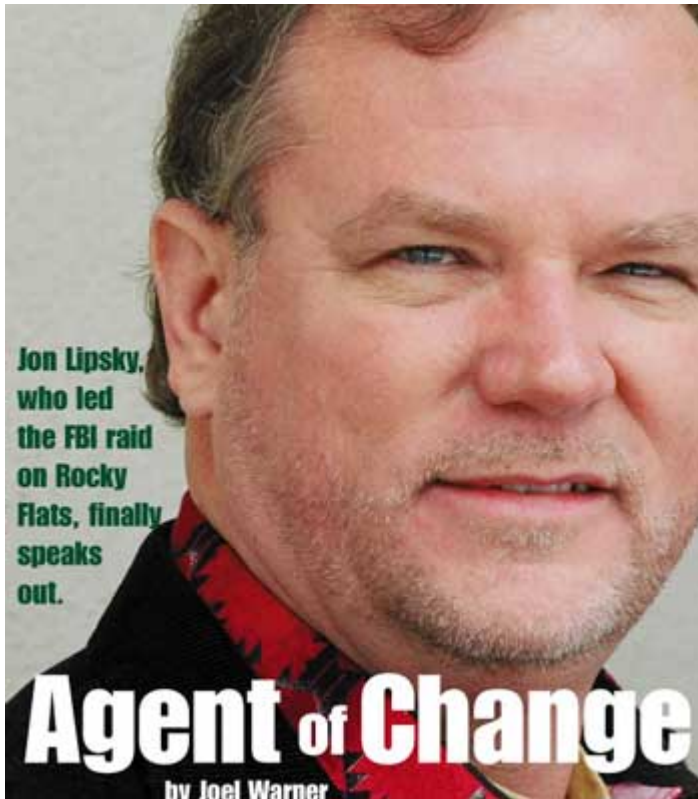
An ex-FBI agent, the head of the Rocky Flats grand jury and others said the Justice Department:

- Restricted the FBI investigation at Rocky Flats and did not file charges for the most serious crimes found.
- Denied the public was harmed, even though radioactive and hazardous waste contaminated ground- and drinking water.
- Ignored evidence and did not file charges that Rocky Flats illegally stored radioactive incinerator ash.
- Obstructed a special grand jury, Congress and an FBI agent, and lied to the court and the public about the extent of the contamination and government crimes at Rocky Flats.

Source: [www.ambushedgrandjury.com](http://www.ambushedgrandjury.com)



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## Servant of the people

Rocky Flats chief investigator leaves his job to blow the whistle

By Joel Warner([editorial@boulderweekly.com](mailto:editorial@boulderweekly.com))

One September day in 1992, FBI Special Agent Jon Lipsky stood in the office of Ken Fimberg, assistant U.S. attorney for the state of Colorado. Lipsky and Fimberg had once been close friends, like brothers. The earnest, hardworking FBI agent and the aggressive, liberal-minded lawyer had teamed up to lead, in the summer of 1989, the first and only U.S. Justice Department raid on a Department of Energy (DOE) nuclear-weapons facility, the Rocky Flats nuclear-weapons plant located between Boulder and Denver. Three years later, the maligned investigation of Rocky Flats was itself being investigated, and Lipsky and Fimberg were barely on speaking terms.



Jon Lipsky, left, joined Rocky Flats worker Jacquie Brever and Rocky Flats grand-jury foreman Wes McKinley to blow the whistle on the nuclear-weapons plant.

The raid had led to Colorado's first special grand jury, to investigate alleged environmental crimes at Rocky Flats. After years of exhaustive study into operations at the 40-year-old nuclear weapons plant, the Justice Department announced in spring 1992 a plea agreement with Rocky Flats' operator, Rockwell International. In exchange for Rockwell paying an \$18.5 million fine—less than the government bonuses the plant operator received while operating the plant—no Rockwell or DOE employees were charged with crimes and the numerous boxes of grand-jury evidence pertaining to alleged wrongdoings at Rocky Flats were locked in a vault, never to be shown to the public.

In response to public outcry over the plea bargain, Howard Wolpe, D-Mich., had announced he would head an investigation of the Justice Department's handling of the Rocky Flats raid. The Justice Department reacted by circling the wagons. There was only one problem: Jon Lipsky.

Of the government officials associated with the Rocky Flats investigation, Lipsky had become the Boy Scout of the group. He did not hide his displeasure over how the raid had turned out. Fimberg and other Justice Department staff met with Lipsky to allegedly tell him, "You're not stuck with how you felt before. Even today, your opinion can change." The FBI had arranged a special meeting for Lipsky with Bureau Director William Sessions. According to Lipsky, Sessions' message was clear: Do the FBI proud—keep your mouth shut.

The day before Lipsky was to speak for the second time to the Wolpe congressional subcommittee about Rocky Flats, Fimberg was meeting with Lipsky to seal the deal. Fimberg handed him an affidavit for him to sign. The affidavit allegedly stated that Lipsky agreed that there'd never been enough evidence to indict individuals at Rocky Flats. Lipsky believed there was enough evidence to indict individuals, but the investigation had been mysteriously cut short by the Justice Department. It appeared to Lipsky that he was being asked to lie.

Lipsky put his pen to the affidavit—but did not write his signature. Instead, on the back, in large, angry letters, he scrawled "Bullshit." He would never talk to Fimberg, his former friend, again.

Lipsky told Congress there was enough evidence to indict individuals. He told Congress that he had been ordered to curtail his investigation of Rocky Flats. Soon after, Lipsky, one of the FBI's star environmental crime agents, was transferred to a gang unit in Los Angeles. His days working environmental crimes were over.

It would not be the last time that Lipsky would speak out against what he believes is a government cover-up of criminal wrongdoing and radioactive contamination at Rocky Flats—nor the last time he would suffer the consequences. Years later, when Congress voted to turn the site of the now-closed Rocky Flats into a wildlife refuge, Lipsky teamed up with a former Rocky Flats employee, the foreman of the Rocky Flats grand jury and an environmental lawyer to write the book, *The Ambushed Grand Jury*. The four argued that 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 open Rocky Flats to the public. While the book made international headlines early last year, Lipsky, still with the FBI, remained out of the public limelight. When Lipsky attempted to go public with his concerns this past summer, he says he was muzzled by his superiors.

But now, for the first time, there's no one telling Lipsky what he can and cannot say. Having just retired early from the FBI, Lipsky has left the only job that ever really mattered to him so that he can tell the public what he believes they need to know about Rocky Flats. Sixteen years after this hotshot agent led the raid on the nuclear-weapons facility, he is finally ready to tell the world what he found.

### **Raid gone awry**

Growing up, Lipsky knew he wanted to serve and protect the public. He'd inherited this trait from his father, an immigrant, who'd tried and failed to join the Detroit police department.

"My dad was my compass in my career decision," says Lipsky. "My dad said, 'If you are going to do that kind of work, work for the best.'"

His dad was referring to the FBI.

While in college, Lipsky worked as a service employee for the Los Angeles FBI office. After college, to gain experience in the field, Lipsky worked as a street cop for the Las Vegas metropolitan police department. Finally, in February 1984, Lipsky's hard work paid off, and he became an FBI agent in Denver. It was the perfect job.

"We all want to do something meaningful, but we also want to be fulfilled, and this had the entire package," says Lipsky,

Almost immediately, Lipsky was assigned to investigate environmental crimes, as a liaison to the Environmental Protection Agency (EPA)—despite the fact he had no background in the subject.

"I guess because I used to write littering tickets as a cop they figured I'd have experience as an environmental investigator," says Lipsky.

Despite his green feet, Lipsky and his EPA counterpart William Smith hit the ground running, winning some of the first convictions associated with the two agencies' still-fledgling partnership. Lipsky was already making a name for himself when he started hearing rumors in 1987 about a DOE nuclear-weapons plant outside of Denver that did top-secret work building plutonium triggers for nuclear bombs, operated by a Fortune 500 company. Leaking barrels of toxic waste. Contaminated drinking water reservoirs. Tons of unaccounted-for weapons-grade plutonium hidden in the nooks and crannies of

the facility. Lipsky and Smith teamed up with Fimberg in the Justice Department to prepare for a raid of the 6,500-acre Rock Flats.

Two years later, on June 6, 1989, "Operation Desert Glow" began, as Lipsky led 90 FBI and EPA agents into Rocky Flats, ready to investigate charges detailed in a 116-page affidavit. But even before the investigation started, Lipsky found the raid beginning to unravel. The Justice Department had insisted on telling DOE beforehand about the raid. Two months before the raid, the highest-level DOE official at the plant had been transferred to Washington, D.C.

Lipsky had gone to great lengths to legally seal the search-warrant affidavit, 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 had the FBI's playbook.

"When I found they were going to unseal that, I wasn't very happy," says Lipsky. "It was basically our game plan, the affidavit, and they could use it against us."

Lipsky's superiors also restricted him and his investigators. Agents were blocked from looking into the cozy relationship between DOE and Rockwell. They were discouraged from following up on new leads regarding possible environmental crimes. And in March 1991, Lipsky was told to stop pursuing indictments against individuals at the plant. Lipsky realized something had gone terribly wrong.

"It made no sense," says Lipsky. "We were pursuing evidence against individuals the whole time. The corporation doesn't commit crimes by itself—it has people who do things."

While the investigation was going awry at the plant, the Rocky Flats grand jury that had been empanelled in August 1989 to review the evidence Lipsky and his team had collected also seemed to be foundering. Justice Department attorneys started dropping some of their most serious allegations against Rockwell. Then they began repeating evidence to the grand jury and instructing witnesses not to answer specific questions posed to them by jury members. Someone appeared to have tampered with the jurors' boxes of evidence.

The grand-jury members decided to take matters into their own hands in January 1992. According to a story leaked to Westword, they compiled an indictment charging three DOE officials and five Rockwell employees with environmental crimes and a presentment reiterating the accusations. They also wrote a report lambasting the conduct of DOE and Rocky Flats contractors for "engaging in a continuing campaign of distraction, deception and dishonesty" and noted that Rocky Flats, for many years, had discharged pollutants, hazardous materials and radioactive matter into nearby creeks and Broomfield's and Westminster's water supplies.

It was a report that would never reach the public. The grand jury handed over their indictment, presentment and report on March 24, 1992. Two days later, Colorado U.S. Attorney Mike Norton announced a plea agreement that was 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. In public statements, Norton reportedly said, "I know of no evidence of physiological or environmental damage at all from the operations of the facility."

In September, a federal judge announced the grand jury's report would be sealed. Now if the grand jury, or Lipsky, spoke about what had transpired during the grand jury investigation, they could be found in violation of Federal Criminal Rule 6(e), which limits what grand-jury information can be released to the public.

That did not stop Lipsky from speaking his mind in September 1992 to the Wolpe congressional subcommittee. On Jan. 4, 1993, the Wolpe subcommittee released their report detailing Lipsky's concerns about the Justice Department's handling of the Rocky Flats investigation. Three weeks later Lipsky learned he was to be transferred from Denver to Los Angeles. Nevermind that Lipsky would never again work environmental crimes. Nevermind that the FBI had announced they didn't have the money for any transfers that year. Nevermind that Lipsky's daughter could soon require a major surgical procedure. Lipsky believed he was being punished.

"I didn't toe the line. I was under oath, and I told the truth. That's the only thing I can think of," he says. "So they found the money and moved me."

### **Silent no more**

In 2001 Lipsky received a memo from his superiors at the FBI. It noted that a lawyer from Santa Fe, N.M., Caron Balkany, had requested an interview with him about the investigation of Rocky Flats. The memo instructed Lipsky not to tell Balkany anything prejudicial about the Denver U.S. Attorney's Office, even though Lipsky believed the Denver U.S. Attorney's Office was responsible for a lot of the problems he saw with the Rocky Flats investigation. According to Lipsky, this was the first time he was ever ordered outright to lie about Rocky Flats. It was exactly the wrong thing Lipsky's superiors could have done. The FBI agent had a nasty habit of believing he worked for the people, not a few superiors.

Lipsky immediately called Balkany.

"This is Jon Lipsky," he said. "I would like to talk to you..."

Lipsky met Balkany in the lobby of a Los Angeles hotel. For years the FBI had refused to let Lipsky be interviewed about Rocky Flats. So this time he hadn't asked the Bureau's permission.

Lipsky told Balkany that he believed the unraveling of the Rocky Flats investigation wasn't due to a lack of evidence or incompetence. He believed it was an inside job.

"[The Justice Department] 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." Lipsky told Balkany.

According to Lipsky, 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. To meet these demands, Justice Department officials stonewalled both the FBI investigation and the Rocky Flats grand jury.

For years Lipsky had kept these thoughts to himself, but now he was ready to speak out. Soon the Rocky Flats site could be opened again—but where there had once been plutonium incinerators and top-secret laboratories, there would now be school groups on hiking trails, children hunting with bows and arrows.

The Rocky Flats National Wildlife Refuge Act of 2001 had earmarked the site of the former nuclear-weapons plant to become a wildlife refuge once the plant was certified clean, a \$7-billion process scheduled to be completed by the end of 2006. But Lipsky believed that the extent of nuclear contamination at Rocky Flats, and the government's attempts to cover it up, precluded it from becoming a safe place for public recreation.

"[The Justice Department was] just using me—using me so when they settled the case, they could say they'd done a complete investigation," said Lipsky to Balkany. "And now that they've calmed down the public about Rocky Flats, they can encourage people to believe it's safe to let kids play there. And that's just crazy. It's dangerous for any of us, adults or kids. Rocky Flats is no place to play around. It's a closed-down nuclear-weapons plant, not a playground."

Lipsky soon learned that Balkany wasn't alone. She was working with two ghosts from his past, people who also believed there was more to the Rocky Flats investigation than the government told the public. One was Jacque Brever, a former Rocky Flats employee who had been one of the main witnesses in the Justice Department's case against Rockwell and DOE. Brever had 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. The other familiar face was Wes McKinley, a Colorado rancher who was the foreman of the Rocky Flats grand jury. For years McKinley had been stifled from talking about what happened during the investigation because of grand-jury secrecy rules. Together, the three had banded together to discover the truth about Rocky Flats, calling themselves the Citizens' Grand Jury. They asked Lipsky to join them—and he agreed.

Together the four unusual compatriots spent years pouring over countless boxes of documents, looking for proof that the Justice Department had covered up environmental crimes at Rocky Flats. They detailed their results in their 2004 book, *The Ambushed Grand Jury: How the Justice Department Covered Up Government Nuclear Crimes and How We Caught Them Red Handed*.

The book received international attention, with Balkany, Brever and McKinley featured on media around the globe. But not Lipsky. As an FBI agent, he was still discouraged from speaking to the public about Rocky Flats.

Despite protests by the Citizens' Grand Jury, not to mention by many local citizens, activists and public officials, the cleanup plan for Rocky Flats went forward unfazed. Late in 2004, government officials announced that the Rocky Flats wildlife refuge will definitely be open to the public.

Eventually, Lipsky decided to stop holding his tongue. The Citizens' Grand Jury announced Lipsky would go public for the first time about the Rocky Flats investigation at a Denver press conference on Aug. 18. But at the last minute, as he and his family were driving into Denver, Lipsky received a phone call from the FBI.

"I was ordered not to talk about the investigation, even though it was public record," says Lipsky. "And it was told to me that the [FBI] director doesn't like surprises and it would be good probably for the L.A. office that I consider not even going to the press conference."

Matt McLaughlin, supervisor in charge of special projects at the L.A. FBI office, says no one banned Lipsky from speaking. McLaughlin says Lipsky was just informed he had not gone through the proper administrative channels before speaking to the public, and was warned not to violate grand-jury secrecy rules.

"He was not ordered not to speak," says McLaughlin. "He just needed to weigh very carefully what he wanted to say."

Lipsky attended the press conference, but once again he remained silent on Rocky Flats. It would be the last time. On Friday, Dec. 31, Lipsky retired from the FBI.

Now no one would be able to shut him up.

### **The criticality factor**

During Operation Desert Glow, Lipsky would sometimes wander the Rocky Flats facilities, hoping that a potential whistleblower would find the guts to approach him. One day, it worked.

An analyst pulled Lipsky aside and showed him a thick binder of documents.

"Wow, look at these elevated strontium readings," said the analyst. "Wonder what that's from?"

To Lipsky, the readings didn't make sense. Strontium is a man-made radioactive element produced by splitting atoms. Rocky Flats just processed plutonium—it did not have a nuclear reactor or accelerator that split atoms. One of the other ways large amounts of strontium could appear in Rocky Flats was if the plant was conducting secret experiments involving the element, or if there had been a criticality—an uncontrolled nuclear accident that released lethal amounts of radiation. Rocky Flats officials had long denied rumors of a criticality, which could be caused by storing too much plutonium in one place. If there had been a criticality or strontium experiments at the plant, Lipsky believes the current cleanup of the plant wouldn't account for it, which means hazardous byproducts from such an event would still be there when the site is opened to the public.

Lipsky never found out what the strontium readings he'd seen meant. The Justice Department was already pursuing a settlement at the time and discouraged him from following the lead.

This was not the only time reports of elevated strontium levels at Rocky Flats surfaced. In 1989, EPA officials expressed concern about discovering strontium and another man-made radioactive element, cesium, in underground water at the plant. According to press reports, EPA official Nathaniel J. Miullo implied at the time the elements may have been buried in the soil.

In 1996, a citizen committee conducting soil and sediment sampling at Rocky Flats found elevated strontium levels in subsurface soil in several locations around the plant, in some places three times the average background levels of strontium for the region. In their report, the committee noted that the strontium could have been caused by undocumented strontium experiments or a criticality accident.

Not everyone today is concerned about reports of strontium at Rocky Flats. Miullo, in a recent interview, said the strontium levels discovered in 1989 were low enough that they might have been background levels of strontium, which is found all over the world in varying degrees because of fallout from nuclear bomb tests.

"It would be very difficult to determine whether it was a source of natural background or something that might have been disposed of through the wastewater treatment system that might have gotten into some of the creeks, or was disposed of through solid waste," says Miullo.

Neils Schonbeck, a member of a governor-appointed Rocky Flats health advisory panel who was involved in the citizen sampling study in 1996, says that his committee's strontium findings were too isolated and insignificant to suggest a criticality with any certainty.

According to Karen Lutz, DOE spokeswoman, "Extensive sampling for radionuclides in soil, sediment and water has been conducted since the early '90s. Over the past 15 years we have extensively characterized the soil and water for radionuclides (including strontium), metals and organics. Strontium is not found at levels that require cleanup or any other environmental action."

Mark Aguilar, the EPA's Rocky Flats coordinator, says his agency has also tested the site for strontium. Most evidence of the element were consistent with background levels, says Aguilar, and any elevated amounts that were found were likely linked to two well-publicized noncriticality accidents at the plant, major fires in 1957 and 1969.

Lipsky and the rest of the Citizens' Grand Jury say the strontium issue is just one of many examples they've found that the DOE and Justice Department overlooked or purposefully ignored possible evidence of plutonium and other hazardous-waste contamination at Rocky Flats.

While government officials have long denied charges that Rocky Flats employees illegally ran Building 771's aging plutonium incinerator when it was supposed to be shut down—one of the central charges of the FBI investigation—the Citizens' Grand Jury has said it has found considerable evidence that the incinerator was run illegally and that the plutonium-contaminated byproduct was stored secretly on-site for years.

The Citizens' Grand Jury also says that internal Rocky Flats memos and former plant employees indicate that the facility burned mixed radioactive waste in two fluid bed incinerators, even though Rocky Flats was never permitted to do so and Justice Department officials swore to the Court, under oath, that the incinerators were never used. Another smoking gun, says the Citizens' Grand Jury, is evidence that the facility secretly sprayed hazardous and radioactive waste on the site that contaminated area groundwater and drinking water. The Citizens' Grand Jury says that the extent of pollution caused by these incidents has not been addressed in the cleanup and could still be there when the site is opened to the public.

But officials associated with the Justice Department and the cleanup say the Citizens' Grand Jury's evidence is not cause for concern.

"Our cleanup is based on extensive documentation of the site, hundreds of interviews with current and former workers and tens of thousands of samples. Every aspect of this cleanup has been thoroughly investigated and has been independently verified through government and nongovernment agencies, all in full public view," says Lutz.

Jeff Dorschner, spokesman for the Denver U.S. Attorney's Office, says concerns about the 16-year-old investigation of Rocky Flats, whether founded or not, have little bearing on the current cleanup of the site.

"The purpose of that criminal investigation was to determine whether federal law had been violated and who, if anyone, would be held responsible for that violation. You don't

develop an effective cleanup plan by conducting a criminal investigation. And a criminal investigation is not a fundamental part of a cleanup plan," says Dorschner.

Aguilar agrees that the FBI investigation of Rocky Flats is just a small part of the massive investigation and cleanup of the plant.

"I think that's what started the investigation, but we've gone light years past what was done in 1989," says Aguilar. He notes that while he does not know if the Citizen Grand Jury's allegations of criminal misconduct at Rocky Flats are true, cleanup officials have tested the site extensively for any contamination that might have been caused by such activities and have thoroughly treated any areas of concern.

But Lipsky and his compatriots say failures in the past to identify environmental contamination at Rocky Flats could very well have an impact on the current cleanup—especially since it would not look good for the government to admit the cleanup is less than thorough. They say government officials need the good P.R. as Washington mulls the possibility of opening a "Rocky Flats II" somewhere else in the country.

"You have to doubt the Department of Energy and what they are doing," says Lipsky. "The past has an impact, and it's a reflection of what's going to happen in the future."

### **No rules**

On a recent snowy morning, Lipsky sat quietly in the dining room of a Denver hotel with Balkany, Brevier and McKinley. Soon Lipsky would go in front of the television cameras, reporters and photographers and, for the first time, say what he's been wanting to say for 16 years. He would tell the world why he'd left his dream job: to expose a possible government cover-up at Rocky Flats and push for a more thorough cleanup of the site. For the first time, there are no rules.

While Lipsky is setting out into uncharted territory, the Citizens' Grand Jury is there to support him—and they have a few new tricks up their sleeve. McKinley now has a new title: state representative-elect. In November, McKinley won Colorado's Representative District 64, and now he's hoping to pull some strings regarding Rocky Flats. McKinley plans to introduce a bill that will require visitors to the Rocky Flats wildlife to learn about the dangers of plutonium exposure and sign a release noting they are aware of the risks of visiting the site.

"It would be dangerous to do less than that at Rocky Flats," says McKinley. "Everyone that goes out there, they need to be educated about what plutonium does, what happened in that area. It's part of our country. It's a legacy."

While some may say Lipsky and others are fighting a losing battle against Rocky Flats, many are refusing to give up the fight. The Boulder-based Rocky Mountain Peace and Justice Center, working with Citizens' Grand Jury members, is planning on filing a

petition with the federal court to release some of the Rocky Flats Grand Jury documents that have been sealed away.

As for Lipsky, the future is unusually uncertain. While he expects to receive retirement benefits from the FBI, that does not mean the decision to leave was easy. The FBI will celebrate its 100th anniversary in 2008, and Lipsky will miss not being a part of it. But Lipsky knows he hasn't reneged on the three qualities required of an agent for the FBI: fidelity, bravery, integrity. Far from it, in fact. Lipsky is applying to become a private investigator in California. And he will continue to speak out for what he believes is the truth about Rocky Flats. His father taught him to serve the people, and that's just what he's going to do.

"I guess I am on a mission," says Lipsky. That's all I can say."

To find out more about Jon Lipsky and the Citizens' Grand Jury, go to <http://ambushedgrandjury.com>.