

STATE OF COLORADO

John W. Hickenlooper, Governor
Christopher E. Urbina, MD, MPH
Executive Director and Chief Medical Officer

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S. Laboratory Services Division
Denver, Colorado 80246-1530 8100 Lowry Blvd.
Phone (303) 692-2000 Denver, Colorado 80230-6928
Located in Glendale, Colorado (303) 692-3090

<http://www.cdphe.state.co.us>



Colorado Department
of Public Health
and Environment

April 3, 2012

Ms. Carol Affleck
Valmont School District No. 4 Cemetery Association
P.O. Box 265
Niwot, Colorado 80544

Dear Ms. Affleck:

I have received your February 06, 2012 letter noting continued concerns regarding the voluntary cleanup plan at Valmont Buttes. I note that many of the concerns raised in your letter have been previously mentioned in your correspondence of August 03 and November 16, 2011. In our responses to you dated November 09 and December 20, 2011, as well as during the meeting you had with Mark Rudolph on September 16, 2011, I believe we have tried to carefully explain both the voluntary cleanup process and the decisions that have been made regarding this site. As noted in my previous letter, CDPHE has examined all relevant information regarding this site and has concluded that the voluntary cleanup actions proposed by the City of Boulder are appropriate and protective of human health and the environment. Furthermore, the plan and the associated application have met the statutory and programmatic requirements of the Voluntary Cleanup Program (VCP).

The primary issues raised in your most recent letter include a request to withdraw the approval of the voluntary cleanup plan, and concerns regarding the cemetery association's status as a stakeholder. In your request to have the approval withdrawn, you state that the application includes the following materially misleading information:

A land survey plat included in the application mistakenly identifies the cemetery property as owned by the Boulder County Historical Society,

the application fails to identify the cemetery users as potential receptors, and

the listed land use of non-accessible commercial space is incorrect due to access allowed to the cemetery and parking lot.

While there were some errors on the application, they do not affect the evaluation of the proposed clean-up at the site pursuant to the VCP. We do not view these errors to be materially misleading.

With regard to the issue regarding cemetery users as possible receptors, Boulder's application included an appropriate human health risk evaluation based on commercial use of the site. The risk evaluation considered an exposure scenario of a person being exposed to site contaminants for eight hours per day, 250 days per year, for a total of 25 years. Under this scenario the level of contaminants found at the site were found to pose minimal risk to potential receptors. Even though the risk evaluation did not specifically identify cemetery users as potential receptors, the infrequent and transient use of the parking lot by association members would be accounted for in the risk evaluation performed. The actions proposed by Boulder will reduce the potential for exposure to cemetery users even further.

Considering that the area of the site accessible to cemetery uses amounts to approximately 0.1 acres of the 102 acres site, CPDHE believes that the limited use by the cemetery association and access to the parking lot is not inconsistent with the intended land use of non-accessible commercial space.

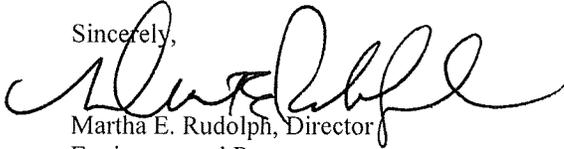
The other issues raised in your letter relate to the Association's standing as a stakeholder, concerns of contaminant migration during construction, requests to be included in development of institutional controls, and development of protocols to address artifacts or burial sites discovered during excavation.

The VCP does not provide for a public or stakeholder process as a part of the application or approval process. Nevertheless, Boulder has provided a public process for this project. They have held several public meetings for this project, meetings in which the Cemetery Association has participated and had the opportunity to provide comments and raise issues and concerns.

In regards to the remaining issues raised in your most recent letter, responses to these questions were provided to you in Mark Rudolph's November 09, 2011 letter. In this letter Mr. Rudolph noted that appropriate procedures are in place to address airborne contaminant migration during construction. His letter also notes that in response to your concerns regarding discovery of artifacts or burial sites, the City has developed a process and provided specific information in response to your questions. However, these issues are outside the purview of the VCP, and your concerns with these matters should be directed to the City of Boulder and their representatives.

While we do appreciate your concerns, we believe that the proposed clean-up plan for the site is consistent with the requirements of the VCP and in the long run will minimize potential threats to human health and the environment, including users of the Valmont Cemetery. We do not believe that withdrawing our approval of Boulder voluntary cleanup plan is warranted.

Sincerely,

A handwritten signature in black ink, appearing to read 'Martha E. Rudolph', written in a cursive style.

Martha E. Rudolph, Director
Environmental Programs

cc: Dr. Chris Urbina, CDPHE
Mark Rudolph, CDPHE
Steve Tarlton, CDPHE
Sabrina Forrest, EPA