

REPORT



Office of the
City Attorney

Boulder • Colorado • USA

March 12, 2009

THE HONORABLE CITY COUNCIL
Boulder, Colorado

RE: Information Update on Valmont Butte Developments

Dear Members of the City Council:

This report is intended to update council on events that have transpired since our last report of January 9, 2009 with regard to efforts to clean up the Valmont Butte site. The documents to which reference is made in this update will be posted on the city's website and thus available to interested members of the public. References to "city representatives" in this report include the city's outside legal counsel and its technical consultant on this project, unless otherwise noted.

VCUP/BROWNFIELDS

City representatives continue to work with the Colorado Voluntary Cleanup Program ("VCUP") staff on the details of a VCUP application. The city submitted the attached work plan to the Health Department ("CDPHE") on March 2, 2009. The purpose of the work plan is to collect the remaining data necessary to support submittal of a complete VCUP application for a Valmont Butte closure.

The work plan calls for additional soil sampling and is responsive to other EPA recommendations. The city's consultant has confirmed EPA's conclusion that no further groundwater sampling is necessary to support final site closure, given that the occurrence of groundwater at the site is limited and flow is discontinuous. In addition, multiple sampling episodes over the last 20 years confirm that offsite water supply wells are not impacted. The limited evidence of offsite impacts is now decades old and associated with Allied Chemical's operations, which shut down in 1974. However, the VCUP will include appropriate post-closure groundwater monitoring.

Also on March 2, the city submitted a tentative schedule covering additional on-site work and related site closure activities with an estimated VCUP application submittal date in late September 2009. The schedule, a copy of which is attached, anticipates a county permitting process, including a likely public hearing, to obtain a county grading permit. The VCUP application will require site closure to support future recreational/cultural uses, and possible commercial uses, of the property. The VCUP application, like the work plan, will require the city to coordinate with the Northern Arapaho and other tribes on ground disturbing activities in sensitive areas associated with site closure.

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City staff is also working with outside counsel and the city's consultant on this project to identify and pursue Brownfields funding opportunities, both grants and loans, to help fund site closure, as necessary.

POTENTIALLY RESPONSIBLE PARTIES

City representatives have met with representatives of Honeywell International to discuss site conditions and the city's plans for a VCUP-based closure. The parties discussed alternative options, including working together to complete site closure, targeting other viable potentially responsible parties (or "PRPs") and attempting to address allocation of the costs of site closure through a cost-effective, non-binding mediation process.

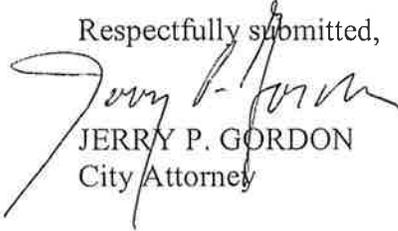
Honeywell is the successor to Allied Chemical Corporation, which had a 30-year history of fluorspar ore processing at this location. Almost 90% of the waste materials found on-site is attributable to Allied's tenure. For this reason, focusing on Honeywell's PRP status and role at this juncture is critical. Honeywell committed to respond, but was not in a position to set a firm date. City representatives will be in touch with Honeywell, as needed, to ensure a timely response.

AGENCY DOCUMENTS

City representatives have reviewed all agency data and reports addressing environmental conditions over time at Valmont Butte. As previously reported, the EPA has made several hundred documents available to the city on a CD. The city's website notes that a copy of this CD is available upon request.

The city has also been provided an index to certain CDPHE files in response to an information request submitted by the city's outside counsel in November 2008. There is some duplication between the EPA and state materials. The city is working with outside counsel to identify what, if any, additional information would be useful to obtain at this time. The city also anticipates accessing any remaining Honeywell files on Allied Chemical's operations, and possibly other PRP files. The EPA may be asked to support this effort, as needed.

Respectfully submitted,



JERRY P. GORDON
City Attorney

JPG:mgw

cc: Jane S. Brautigam, City Manager
Stephanie Grainger, Deputy City Manager
Paul Fetherston, Deputy City Manager

Attachment A Work Plan Submitted to EPA March 2, 2009

Attachment B Preliminary Voluntary Cleanup Schedule