



**CITY
OF
BOULDER**

OFFICE OF THE CITY MANAGER

December 21, 2007

Dr. LeRoy Moore
Rocky Mountain Peace and Justice Center
P.O. Box 1156
Boulder, CO 80306

Dear Dr. Moore:

Thank you for meeting with us on Nov. 27, 2007 regarding your organization's concerns about the Valmont Butte site. During the meeting, you asked the city to respond to nine concerns. In response to information presented at the meeting, the city has reviewed its current record files and the files available at the Boulder County Department of Public Health (BCDPH). The city has obtained copies of the BCDPH files and is in the process of making them available to the public on the city's web site: www.valmontbutte.net

The following information in response to your questions comes from this materials search and staff research. We encourage you to further explore these files and records for more detailed information:

1. Concern: Was the city aware of off-site contamination of neighboring wells when the property was purchased?

Response: There are no records that indicate that city officials were aware of any off-site contamination of neighboring wells when the Valmont Butte property was purchased. City staff met with BCDPH staff on Dec. 3, 2007 regarding the concerns expressed in your letter to the city and to see what information they might have regarding drinking water quality in areas surrounding Valmont Butte. The Boulder County records show that there was well testing performed in 1967, 1969, 1970, 1979, 1982, 1984, 1985, 1999, and 2005.

Reports from 1999 and 2005 indicated that "Domestic wells north of the site were sampled for inorganics and radioactivity that could be related to site activities. The Melton/Mitchell well at 6029 Indian Road has arsenic levels of 1.1 ppb, which are above the EPA SCDM CRSC and Region 3 RBCs for tap water but below the MCL

This well is used for drinking water and the owner was notified. These arsenic levels cannot be attributed to the site. No other drinking water benchmarks were exceeded in any other domestic well samples.” At this time, BCDPH staff indicates there is no indication of problems with contamination of neighboring wells from the Valmont Butte site. BCDPH does express concern about these wells, but their concern is due to the shallow nature of the wells and not their proximity to the Butte.

2. Concern: What information did we know regarding the 1971 movement of radioactive soil from a city site to Valmont Butte?

Response: The city knew at the time of purchase from the “Agreement and Declaration of Covenants” that 1,500 cubic yards of soil containing low concentrations of radium was moved from a housing construction site to Valmont Butte in 1971. This relocation of material to the Valmont Butte site was approved by the Colorado Department of Public Health and the Environment (CDPHE). The city’s approved remediation plan (by the CDPHE) and acknowledgement of the plan from the Environmental Protection Agency (EPA) accounted for this material in its cap restoration proposal.

3. Concern: Does the city think that capping the tailings ponds with soil is adequate?

Response: The remediation method is a “200-year cap” method. This is a standard and acceptable practice and has been approved by the CDPHE. The city reviewed the capping method with consulting engineers and regulating agencies and believes capping to be an acceptable method of containing the contamination at the Valmont Butte site.

4. Concern: Who are the parties that should be held responsible for the contamination of the Valmont site and any cleanup necessary?

Response: Unknown at this time. The city accepts its responsibility as owners of the property. However, other than the 1971 soil movement, the city has taken numerous positive measures to remove wastes and restore the cap on the tailings ponds since its acquisition in 2000. These measures include: removing unmarked drums, transformers, industrial wastes, scrap metal and hazardous waste. A spreadsheet listing these measures can be viewed on the city’s web site: www.valmontbutte.net.

5. Concern: If the property is sold, would the liability for cleanup transfer to the new owner?

Response: Possibly, the prospective purchaser, the Trust for Public Lands (TPL), is investigating this issue at the present time. The results of its investigation are unknown at this time.

6. Concern: Did the Environmental Protection Agency (EPA) inform the city that there was off-site contamination?

Response: There have been several investigations of the Valmont Butte site conducted by the EPA and CDPHE. These reports state that there is no off-site contamination or danger to public health being caused by the materials at the Valmont Butte site. Specifically, the EPA checked surface and ground water paths on-site and in neighboring wells in 1985¹ and again in 2005². In both instances they did not find any off-site groundwater contamination or other forms of off-site contamination. CDPHE issued their "Decision Analysis" in 1999³ as part of their responsibilities to terminate the radioactive Materials Handling License of the previous owner.

7. Concern: Will the city contact the EPA and CDPHE to request all information on the Valmont Butte site be made available for review?

Response: The city has done a thorough search of the BCDPH and City of Boulder records and files on Valmont Butte. These records include documents and approvals from both the EPA and CDPHE. The city requests that Rocky Mountain Peace and Justice review these files and information and then let the city know if there continues to be missing information. Or if RMPJC is aware of specific information the city does not have in its files, the city asks RMPJC to inform the city in order for us to seek it from the respective organization(s).

8. Concern: Will the city delay selling the property until a full investigation of site contamination is completed?

Response: Decisions regarding the sale or delay of the sale of this property rest with the Boulder City Council. Staff plans to present information to council in the first quarter of 2008 regarding the potential sale of the property and the status of the option agreement with Trust for Public Lands (TPL). In the meantime, staff continues its negotiations for the sale of the property with TPL, as directed by City Council, and will meet its legal obligations under the existing purchase option agreement with TPL.

9. Concern: Should the city ask Congress to investigate the EPA about their inconsistent reporting of information about Valmont Butte?

Response: City staff would only take that action if it were directed to do so by City Council. At present, the city is working with the EPA, predominately through the CDPHE, to ensure that appropriate clean up and remediation plans are successfully implemented.

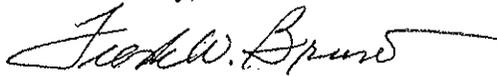
In summary, city staff and the city's consultants, Alisto Engineering Group, performed due diligence in 2000 when examining the potential purchase of the Valmont Butte property. Documents, specifically 1985 (EPA) 1999 (CDPHE), and 2000 (Phase I Site

Assessment) indicated that there was no off-site contamination and documented the known conditions and contamination levels of the site. This information was provided to the appraiser of the property and is being made public and to the City Council via study session materials dated January 30, 2007 and found at:
www.bouldercolorado.gov/index.php?option=com_content&task=view&id=6454&Itemid=5194.

As mentioned earlier, city staff also met with Boulder County Department of Public Health staff recently to research if there were any county concerns with off-site contamination at this time. County staff stated that there is no indication of problems with off-site contamination, especially the drinking water, in the areas surrounding Valmont Butte, other than concerns with residents using shallow wells for drinking water.

Please contact me should you have questions or need additional information.

Sincerely,



Frank W. Bruno
City Manager

cc. City Council

Stephanie Grainger, Deputy City Manager
Jerry P. Gordon, Acting City Attorney
David Gear, Deputy City Attorney
Maureen Rait, Director of Public Works for Development and Support Services
Bill Boyes, Facilities and Asset Manager
Doug Newcomb, Real Estate Division

References (currently available on the city's website):

1. EPA "Sampling Activities Report for Allied Chemical Tailings Pond Boulder, Colorado" dated March 25, 1985.
2. EPA "Analytical Results Report for Site Reassessment – Valmont Butte / Allied Piles Boulder County, Colorado" dated January 6, 2005.
3. CDPHE "Decision Analysis – Assurance of Equivalent Protection to Public Health and Environment In the Absence of A Colorado Radioactive Materials License" dated October 6, 1999 (excerpt of the Colorado Department of Public Health and Environment (CDPHE) termination letter on Hendricks Mining Co. Radioactive Materials License 329-01 and Agreement and Declaration of Covenants dated October 12, 1999).