



Good morning David:

We meet this past Saturday at the land dedication ceremony here in Arvada.

I am writing on behalf of FRCN. Appended to this email please find two (2) emails addressed to the EPA Region 8 office. These emails address concerns we see with the proposed RV storage development. While you were copied on the email to Mr. Smith/EPA Region 8 I wanted to share this email and our previous email separately . We have been in contact with C. Pajares of your office.

We appreciate your review of the information presented. For any questions and/or comments please contact us as follows:

Rainer Gerbatsch RRC, CPRC, LEED

 201-481-3440

 [rg2056@icloud.com](mailto:rg2056@icloud.com)

Rich Bohling PE

 720-879-2682

 [bohlingra@comcast.net](mailto:bohlingra@comcast.net)

Thank you for your attention to this matter.

**From:** [rg2056@icloud.com](mailto:rg2056@icloud.com) <[rg2056@icloud.com](mailto:rg2056@icloud.com)>

**Date:** Tuesday, May 10, 2022 at 07:55

**To:** Smith, Mark A. <[Smith.Marka@epa.gov](mailto:Smith.Marka@epa.gov)>

**Cc:** Becker, KC <[Becker.KC@epa.gov](mailto:Becker.KC@epa.gov)>, Smidinger, Betsy <[Smidinger.Betsy@epa.gov](mailto:Smidinger.Betsy@epa.gov)>, Titone Representative Brianna <[brianna.titone.house@state.co.us](mailto:brianna.titone.house@state.co.us)>, [lisa.cutter.house@state.co.us](mailto:lisa.cutter.house@state.co.us) <[lisa.cutter.house@state.co.us](mailto:lisa.cutter.house@state.co.us)>, [ashley.verville@mail.house.gov](mailto:ashley.verville@mail.house.gov) <[ashley.verville@mail.house.gov](mailto:ashley.verville@mail.house.gov)>, [c.pajares@mhfd.org](mailto:c.pajares@mhfd.org) <[c.pajares@mhfd.org](mailto:c.pajares@mhfd.org)>, [JBebo@Arvada.org](mailto:JBebo@Arvada.org) <[JBebo@Arvada.org](mailto:JBebo@Arvada.org)>, [djones@arvada.org](mailto:djones@arvada.org) <[djones@arvada.org](mailto:djones@arvada.org)>, Randy Moorman <[rmoorman@arvada.org](mailto:rmoorman@arvada.org)>, Lauren Simpson <[lsimpson@arvada.org](mailto:lsimpson@arvada.org)>, [jmarriott@arvada.org](mailto:jmarriott@arvada.org) <[jmarriott@arvada.org](mailto:jmarriott@arvada.org)>, Smith Lisa <[lsmith@arvada.org](mailto:lsmith@arvada.org)>, [bfifer@arvada.org](mailto:bfifer@arvada.org) <[bfifer@arvada.org](mailto:bfifer@arvada.org)>, [mdeven@arvada.org](mailto:mdeven@arvada.org) <[mdeven@arvada.org](mailto:mdeven@arvada.org)>, [denverregulatorymailbox@usace.army.mil](mailto:denverregulatorymailbox@usace.army.mil) <[denverregulatorymailbox@usace.army.mil](mailto:denverregulatorymailbox@usace.army.mil)>, Wilson, Christina (she/her) <[Wilson.Christina@epa.gov](mailto:Wilson.Christina@epa.gov)>, [Fonda.Apostolopoulos@state.co.us](mailto:Fonda.Apostolopoulos@state.co.us) <[Fonda.Apostolopoulos@state.co.us](mailto:Fonda.Apostolopoulos@state.co.us)>, [dbennetts@mhfd.org](mailto:dbennetts@mhfd.org) <[dbennetts@mhfd.org](mailto:dbennetts@mhfd.org)>

**Subject:** Re: Kilmer Unpermitted Landfill, Arvada CO - RV Storage Development

Dear Mr. Smith;

Thank you for your email confirming receipt of our email and your efforts towards collecting/analyzing empirical information on the Kilmer landfill.

In our previous email to Administrator Becker, we expressed several concerns including the glaring lack of a comprehensive development

design plan by the non-owner/developer, the absence of a current comprehensive environmental and geotechnical investigation and the environmental engineer's (Terracon) progressive revision of their initial conclusions/recommendations presented in their preliminary site investigation and geotechnical assessment of 2007.

Since our last correspondence we were able to obtain additional information via the Freedom of Information Act (FOIA). This information provides substantially more historic content on the operation and timeline of this unpermitted landfill, as well as the level of contamination and impact on adjacent waterways.

The FOIA information includes reports authored by Ogden Environment and Energy Services (Ogden) dated January 17, 1991, Chen Consulting Geotechnical Engineers (Chen) dated January 24, 1982, and Morrison Knudsen (MK) dated 01/24/1995. (See enclosures)

The Ogden report represents a Phase I ESA and preliminary Phase II assessment. It is not understood how Terracon failed to identify and include these highly informative reports for their reports, specifically the report dated June 18, 2021, entitled "Phase I Environmental Site Assessment – Kilmer Landfill 6800 Kilmer Street, Arvada, Jefferson County, Colorado."

In the following we want to emphasize our position based on the added historical information provided by the FOIA documents.

1. Site Investigation. The Terracon site investigations stretch over a period of nearly 15 years. All reports are preliminary in content and lack significant historic information. Terracon's Phase I Environmental Site Assessment of June 18, 2021, is characterized as "...of limited scope, (is) non-invasive, and cannot eliminate the potential that hazardous, toxic, or petroleum substances are present or have been released at the site beyond what is identified by the limited scope of the ESA". The stated preliminary (or limited) character of all Terracon investigations are, in our opinion, insufficient to form the basis for the VCUP application.
2. The Kilmer landfill was operated by Jefferson County through 1971/1972, contrary to Terracon's statement that the landfill was operated by Jefferson County between 1939 to 1942. Terracon's documentation is incomplete and does not include any research or information regarding chain of titles and deeds. The chain of title and deed information presented by Ogden conflicts with Terracon's "Client Provided Information" (ref Terracon Phase I ESA June 18, 2021, Item 1.6).
3. The City of Arvada annexed the property in 1981/1982. It remains unclear how and under which conditions the property was annexed, and under which jurisdiction and protocol the landfill was closed. Requests for information directed to Jefferson County Department of Health have gone unanswered to-date. Additionally, the type, the extent, and the volume of materials deposited in the landfill has not been established; this information is critical in the design and execution of any development. The Ogden report raises a significant concern: the potential presence of buried drums of liquids or other materials. With the long-term involvement Jefferson County had with

the Kilmer landfill this information would seem to be in the possession of Jefferson.

4. In 1982 KKBNA commissioned a geotechnical survey by Chen and Associated Consulting Geotechnical Engineers (Chen); Chen issued a report dated January 27, 1982. The Chen report findings/recommendations are like those included in the Terracon report entitled "Preliminary Geotechnical Engineering Report – Cottonwood Industrial Site 6800 Kilmer Street Arvada Colorado – July 18, 2007). The Chen survey identified explosive levels of gas in 4 of 9 boreholes. Additionally, they noted that the construction on the landfill will present settlement problems for structures and roads as well as the need to address the methane problems.
5. Ogden's report appears based on thorough research and offers detailed conclusions and recommendations lacking in the Terracon reports. The following are some examples:
  1. Ogden's magnetic survey identified a ubiquitous metal presence with anomalies of significant size suggesting the presence of metal drums. What is contained in these drums?
  2. Ogden performed Ralston Creek stream water tests which showed a pH range of 5.56 to 7.11 likely showing an impact of effluent from the landfill on Ralston Creek. Ogden noted hydrocarbon sheen in Ralston Creek.
  3. The Ogden report states that Ralston Creek is receiving contaminants directly from the landfill. The report describes visual contamination on the stream surface, downstream and along the shoreline. The report further suggests that hydrocarbons, acids, and dissolved solids may provide an "antifreeze" effect that prevented the stream waters from freezing adjacent the landfill.
  4. Groundwater sampling identified lead above the EPA drinking water standard. The report cautions that the "permanent unconfined groundwater table" may be deeper than the drive tube well method was able to penetrate." The report suggests

that many pollutants have a specific gravity greater than one (1), allowing these heavier compounds to seek lower elevations in the groundwater aquifer. Ogden recommended reporting the presence of lead to the following government agencies: Jefferson County Health Department; CDH (Colorado Department of Health). The EPA (Region VIII – Waste Management Division) was notified by Globe Source Financial with correspondence dated May 26, 1994.

Ogden's Phase I and preliminary Phase II ESA identified significant environmental and health risks. Ogden opined that "... it is probable that contaminants are present on the site and that the potential for migration to off-site localities exist." Ogden recommended additional site investigations/testing to "clearly define the extent and nature of the contamination" on the site and provided recommendations on how to structure a test protocol.

The Ogden report contains information which reenforces our concerns about the proposed project and the potential to cause increased problems than the minimal remediation proposed by the developer will solve.

The Ogden Report recommendations are similar in nature to the Terracon report of July 2007 in recommending additional detailed studies including those required to develop a clear understanding of the landfill hydrology, contamination on site, potential contamination migration to off-site localities, and the geotechnical nature of the site.

The residents living near and downstream of the proposed project are highly concerned that the developer has not performed the needed studies to support the design for their project, nor developed the information demonstrating that their project will not destabilize the site causing further problems. The developer has seemingly ignored the engineering recommendations by their consultants, recommendations reenforced by the Ogden report.

Ogden included a significant recommendation: "The Landfill area should not be developed for commercial or residential construction." The Terracon report of July 24, 2007 recommends almost complete removal of the landfill materials for the site to be usable. Former landfill sites have been successfully remediated to permit some level of use but in our opinion the developer for the Kilmer landfill site has not demonstrated that the site environmental and geotechnical obstacles have been identified nor properly addressed.

The VCUP application presented by Terracon on behalf of the Developer is incomplete and based on preliminary data. Additionally, the developer is revising their design for a third time, so it is very difficult to determine what is proposed.

The landfill has been essentially untouched since the early 1970s and should be in some manner of equilibrium. Any disturbance at the

site without the proper investigations and engineering basis could cause an existing problem to become much worse.

With the apparent lack of follow-up on further study recommended independently by two (2) environmental consultants it is unclear how the project should be proceeding. The development proposed appears to be a moving target where remediation proposed may not be the remediation that must be undertaken. We want to be clear: any cost externality must be carried by the developer not residents or the environment.

As concerned residents near the landfill we request the following:

1. Conduct further study as recommended by both Terracon and Ogden.
2. Obtain all historic records on the Kilmer landfill, in particular records held by the Jefferson County Department of Health and the City of Arvada.
3. Obtain documentation in the possession of Jefferson County Department of Health and Colorado Department of Health detailing their efforts following notification of lead contamination.
4. Place the VCUP application on hold until the developer has performed the needed studies and has provided a final design.
5. Any development on the Kilmer Landfill must be supported by detailed study and engineering to assure that any risk to the health of residents and the environment has been considered and addressed as part of the development cost.

Thank you for your prompt attention to the matter. We believe the Ogden and Chen reports and their recommendations reenforce our concerns about the proposed project .

Sincerely,

Rainer Gerbatsch RRC, CPRC, LEED

 201-481-3440

 [rg2056@icloud.com](mailto:rg2056@icloud.com)

Rich Bohling PE

 720-879-2682

 [bohlingra@comcast.net](mailto:bohlingra@comcast.net)

cc:

Rep Titone

Rep Cutter

US Rep Perlmutter

C. Pajares - MHFD

D. Bennetts, PE, CFM - MHFD

J. Bebo – City of Arvada

D. Jones – City of Arvada

R. Moorman – City of Arvada

L. Simpson – City of Arvada

L. Smith – City of Arvada

J. Marriott – City of Arvada

B. Fifer – City of Arvada

M. Deven – City of Arvada

F. Apostolopoulos – CDPHE

D. Bennetts, PE, CFM - MHFD

[Denverregulatorymailbox@usace.army.mil](mailto:Denverregulatorymailbox@usace.army.mil) (Kiel Downing)

Enclosures:

Ogden Environment and Energy Services (Ogden) dated January 17, 1991,

Chen Consulting Geotechnical Engineers (Chen) dated January 24, 1982 (ref Odgen Report Appendix H,

Morrison Knudsen (MK) dated 01/24/1995

Globe Source Financial Ltr. dated April 26, 1994

**From:** Smith, Mark A. <[Smith.Marka@epa.gov](mailto:Smith.Marka@epa.gov)>

**Date:** Wednesday, April 20, 2022 at 16:33

**To:** [rg2056@icloud.com](mailto:rg2056@icloud.com) <[rg2056@icloud.com](mailto:rg2056@icloud.com)>

**Cc:** Becker, KC <[Becker.KC@epa.gov](mailto:Becker.KC@epa.gov)>, Smidinger, Betsy <[Smidinger.Betsy@epa.gov](mailto:Smidinger.Betsy@epa.gov)>, Titone Representative Brianna <[brianna.titone.house@state.co.us](mailto:brianna.titone.house@state.co.us)>,

[lisa.cutter.house@state.co.us](mailto:lisa.cutter.house@state.co.us) <[lisa.cutter.house@state.co.us](mailto:lisa.cutter.house@state.co.us)>, [ashley.verville@mail.house.gov](mailto:ashley.verville@mail.house.gov) <[ashley.verville@mail.house.gov](mailto:ashley.verville@mail.house.gov)>, [c.pajares@mhfd.org](mailto:c.pajares@mhfd.org) <[c.pajares@mhfd.org](mailto:c.pajares@mhfd.org)>, [JBebo@Arvada.org](mailto:JBebo@Arvada.org) <[JBebo@Arvada.org](mailto:JBebo@Arvada.org)>, [djones@arvada.org](mailto:djones@arvada.org) <[djones@arvada.org](mailto:djones@arvada.org)>, Randy Moorman <[rmoorman@arvada.org](mailto:rmoorman@arvada.org)>, Lauren Simpson <[lsimpson@arvada.org](mailto:lsimpson@arvada.org)>, [jmarriott@arvada.org](mailto:jmarriott@arvada.org) <[jmarriott@arvada.org](mailto:jmarriott@arvada.org)>, Smith Lisa <[lsmith@arvada.org](mailto:lsmith@arvada.org)>, [bfifer@arvada.org](mailto:bfifer@arvada.org) <[bfifer@arvada.org](mailto:bfifer@arvada.org)>, [mdeven@arvada.org](mailto:mdeven@arvada.org) <[mdeven@arvada.org](mailto:mdeven@arvada.org)>, [denverregulatorymailbox@usace.army.mil](mailto:denverregulatorymailbox@usace.army.mil) <[denverregulatorymailbox@usace.army.mil](mailto:denverregulatorymailbox@usace.army.mil)>, Wilson, Christina (she/her) <[Wilson.Christina@epa.gov](mailto:Wilson.Christina@epa.gov)>

**Subject:** RE: Kilmer Unpermitted Landfill, Arvada CO - RV Storage Development

Message received. Thank you for your interest and concern. We are gathering information and will respond as soon as we are able. In the meantime, please reach out if you have additional questions or concerns.

Mark

Mark A. Smith, Director

Land, Chemicals and Redevelopment Division

U.S. EPA Region 8

303.312.6112

303.501.3052 (mobile)

*Region 8 Land, Chemicals and Redevelopment Division – capitalizing on the diversity of our people, passion, and partnerships to protect public health and the environment.*

Twitter: [@EPARegion8](https://twitter.com/EPARegion8) [[gcc02.safelinks.protection.outlook.com](https://gcc02.safelinks.protection.outlook.com)]

Facebook: [U.S. EPA Region 8](https://www.facebook.com/EPARegion8) [[gcc02.safelinks.protection.outlook.com](https://gcc02.safelinks.protection.outlook.com)]

Webpage: [EPA Region 8](https://www.epa.gov) [[epa.gov](https://www.epa.gov)] (Mountains and Plains)

**From:** [rg2056@icloud.com](mailto:rg2056@icloud.com) <[rg2056@icloud.com](mailto:rg2056@icloud.com)>

**Sent:** Thursday, April 14, 2022 12:17 PM

**To:** Becker, KC <[Becker.KC@epa.gov](mailto:Becker.KC@epa.gov)>

**Cc:** Smidinger, Betsy <[Smidinger.Betsy@epa.gov](mailto:Smidinger.Betsy@epa.gov)>; Titone Representative Brianna <[brianna.titone.house@state.co.us](mailto:brianna.titone.house@state.co.us)>; [lisa.cutter.house@state.co.us](mailto:lisa.cutter.house@state.co.us); [ashley.verville@mail.house.gov](mailto:ashley.verville@mail.house.gov); [c.pajares@mhfd.org](mailto:c.pajares@mhfd.org); [JBebo@Arvada.org](mailto:JBebo@Arvada.org); [djones@arvada.org](mailto:djones@arvada.org); Randy Moorman <[rmoorman@arvada.org](mailto:rmoorman@arvada.org)>; Lauren Simpson <[lsimpson@arvada.org](mailto:lsimpson@arvada.org)>; [jmarriott@arvada.org](mailto:jmarriott@arvada.org); Smith Lisa <[lsmith@arvada.org](mailto:lsmith@arvada.org)>; [bfifer@arvada.org](mailto:bfifer@arvada.org); [mdeven@arvada.org](mailto:mdeven@arvada.org); [denverregulatorymailbox@usace.army.mil](mailto:denverregulatorymailbox@usace.army.mil)

**Subject:** Kilmer Unpermitted Landfill, Arvada CO - RV Storage Development

Date: April 14, 2022

From: Friends Of Ralston Creek Neighborhoods – Arvada CO 80007

To: **Administrator KC Becker - EPA Region 8 Office**

Subject: Kilmer Unpermitted Landfill –  
Arvada CO Parcel# 30-011-00-018

Reference: RV Storage Development  
Case# DA2021-0146

Dear Administrator Becker:

We are writing as representatives of three (3) communities (Forest Springs, GEOS, Westwoods Mesa) that border a previous EPA Superfund Site – an unpermitted landfill known as “Kilmer Landfill”. When Forest Springs first contacted CDPHE, the Jefferson County environmental engineer had trouble finding information. We gave him the 2007 name “Cottonwood Industrial Site” and the 2017 name “Unpermitted Landfill”. The landfill is listed on Page 3821 of the EPA Superfund list; the site is currently archived and designated NPL. The landfill is in Arvada and bordered by the Ralston Creek (north) and Croke Canal (south, west); light industrial development is located at its east perimeter. The address is 6800 Kilmer Street, Arvada, CO – Parcel# 30-011-00-018.

The Planning Staff of the City of Arvada is currently considering a development that would turn the dormant landfill into a storage yard of 550+ recreational vehicles (plus substantial quantities of gasoline, diesel and propane), including lighting, fencing and an administrative building. The

developer is currently on its second submission submittal; a third submission submittal is pending. Here a link to the second submission submittal:

<https://www.arvadapermits.org/etrakit3/viewAttachment.aspx?Group=PROJECT&ActivityNo=DA2021-0146&key=AO%3a2202111215321215>.

We are in opposition to this development proposal. Our opposition is founded on environmental, and ecological concerns and the fact that the applicant is requesting a major modification to the Land Development Code. To coordinate our opposition, we have formed a non-profit organization known as “Friends of Ralston Creek Neighborhoods” ([www.FRCNeighborhoods.org](http://www.FRCNeighborhoods.org)).

Records indicate that Jefferson County operated the landfill between 1939 and 1942. The final closure (capping) date of the landfill is unknown but there is evidence, based on the presence of polymeric materials (not in use until the 1960’s) that the landfill remained open for indiscriminate disposal into the 1960’s. We have been unable to determine the exact date of the landfill closure, and whether the City of Arvada or Jefferson County closed this landfill. Further, it is unclear when and how The City of Arvada annexed the property.

With this correspondence we are alerting you to this development, and potential serious concerns about the viability of this proposed development. Concerns are related to the overall design approach, a reliance on dated testing data, preliminary survey information, and the absence of coordination and collaboration with organizations tasked with the protection of ground water and waterways. With the absence of environmental and ecological assessments the impact of the proposed development during and post construction on residents and natural environment is undefined. Further, we request your support in locating missing historic documentation that can assist in defining individual as well as state, county, and city government involvement/responsibility.

CDPHE is currently reviewing a VCUP (“voluntary clean-up proposal”) application submitted by a developer who is not the current property owner. FRNC residents question if CDPHE has the requisite information in assessing and determining that the development is environmentally and ecologically sound and protects the bordering waterways from contamination. The Memoranda of Agreement between EPA and individual states is designed to foster effective and efficient working relationships, i.e., cleanups under state oversight. CDPHE’s website states *“Cleanup decisions are based on existing standards and the proposed use of the property, but we provide no construction or cleanup oversight. The actual cleanup and verification are the owner’s responsibility”*. It is our strong belief that the responsibility of verification cannot be assigned to a developer given the history of this property. Accordingly, we are requesting that the development review process is

halted, and further review of the VCUP application suspended while your office is conducting its review.

Summary of our concerns.

Design/Construction. With the second submittal, the Applicant is unable to provide a comprehensive, environmentally sound design concept. The current submission submittal does not include plans, cross sections and specifications that are based on current site-specific geotechnical properties thereby demonstrating that the proposed construction is (1) feasible, (2) sustainable and (3) remediates rather than exacerbates environmental risks at the site. Further, the Applicant has not provided a grading plan and preliminary cut, fill, and hazardous materials disposal quantities. Note that the Applicant's environmental engineer has been specific in reports that the vertical and horizontal extent of the existing landfill has not been determined.

Ecological Assessment. The Applicant has not commissioned an Ecological Assessment. The land has been open space and habitat for a variety of species since its closure (likely 1960's). An ecological assessment is necessary and critical. I am enclosing a copy of the Ecological Assessment conducted on behalf of Maple Valley Park. Please note that Maple Valley Park is located along Ralston Creek about one (1) mile downstream from the proposed development site.

There are multiple resources that offer ecological studies/assessments and/or information/recommendations on "developing with wildlife in mind". Ecological assessments offered in city developments are advisory, however the information conveyed is critical for transparency in land development.

We offer the following references: (1) Conservation Data Explorer (<https://cnhp.colostate.edu/maps/codex/>); (2) Colorado Parks and Wildlife (CPW) (<https://cpw.state.co.us/learn/Pages/LivingwithWildlifeDeveloping.aspx>)

Water Contamination. Applicant has not tested the water or bed sediments of the Ralston Creek or Croke Canal. During the 2013 flood a section of the northern flank of the landfill was exposed discharging debris and leachate into the Ralston Creek (see enclosed photo documentation). Reports on the unpermitted landfill authored by the Environment Consultant (Terracon) do not reference this episode (the initial limited site investigation is dated 07.24.2007). Currently, it is unclear what involvement the property owner, The City of Arvada and/or Jefferson County had in

assessing and restoring flood damage and whether these efforts included testing. A written request to the City of Arvada regarding this episode has gone unanswered to-date.

The Applicant has failed to investigate and verify whether this incident violates the provisions of the “Clean Water Act” (Section 404) and the “Memorandum of Agreement between EPA and the Army concerning Regulations of Discharge of solid Water under CWA”. Jefferson County has experienced a significant amount of flooding events since the mid 1960’s. It is unclear whether similar breaches of the landfill occurred during any of these events. Without available documentation describing the remediation effort(s) specific to the 2013 flood event, we are concerned whether any work performed is viable, durable, and suitable to withstand future flooding events. Climate change will drive the severity of weather events; as climate change progresses, we can expect a higher frequency (and severity) of flooding events therefore increasing the potential of further destabilization resulting in debris and leachate discharge into the Ralston Creek and the Croke Canal.

The Management Plan submitted as part of the VCUP application did not include information on locations and description of existing water wells surveyed. The VCUP requires that wells located within ½ mile radius of the proposed development must be located and described.

The MileHighFloodDistrict (MHFD) has not received information on the proposed bank stabilization despite repeated requests [ref MHFD email to J.Bebo (City of Arvada) dated 02.18.22]. We have also contacted MHFD for information on the 2013 breach of the landfill.

Voluntary Clean Up Proposal. Available records indicate that Terracon acted as the environmental consultant for the current property owner (VCGY-10LLC c/o TaxServ LLC/Chelton LLC) and more recently for the non-owner/developer (Carlson Associates). In their capacity as environmental and geotechnical consultants, Terracon issued three (3) reports to the property owner. Starting in June 2021 Terracon’s issued reports to the Carlson Associates. On 01.20.2022 Terracon filed a VCUP application on behalf of the developer. It is our understanding that the developer intends to purchase the property contingent upon approval of the VCUP application.

In 2007 Terracon’s issued two (2) reports (“Limited Site Investigation” dated 07.24.2007; “Preliminary Geo-Technical Report” dated 07.18.2007) to the property owner. These reports provide distinct recommendations based on Terracon’s site assessment.

Terracon's "Limited Site Investigation" report dated 07.24.2007 stated the following recommendations:

*"Based on the results of the LSI, the fill materials and underlying native soil encountered during this investigation can be managed as special waste with disposal at a state regulated landfill facility. Additional assessment is recommended prior to site development to more thoroughly evaluate soil and fill materials intended for off-site disposal for compliance with Colorado waste disposal regulations. Groundwater produced during site development activities should be managed according to state regulations."*

This Scope Limitations listed in this report stated "...from information obtained from a prior Phase I ESA report prepared by Terracon, and other services performed under this scope of services;...".

The recipient or the content of the referenced previous Phase I ESA report has not been disclosed.

Terracon's "Preliminary Geotechnical Report" dated 07.18.2007 stated the following recommendations:

*The preliminary recommendations presented in this report are based on the assumption that the subsurface conditions do not deviate appreciably from those encountered in the borings. Supplementary geotechnical engineering exploration should be performed at the site upon completion of preliminary design studies. Supplemental geotechnical explorations will be used to confirm or modify the recommendations contained in this preliminary report. From a development standpoint, the presence of randomly placed and highly compressible landfill materials will require complete removal, or considerable site modification, to construct a more stable subgrade for foundations, slabs and pavements, as well as site utilities. Environmental considerations should also be evaluated in further site planning and preliminary design.*

Terracon conducted an additional limited site investigation during 2017 (10.09.2017). The report is addressed to Chelton LLC c/o VCG Properties (we assume that this is same owner entity as referenced above!). The 2017 report, as well as reports issued in 2021 to the non-owner/developer present conclusions and recommendations that are materially different from those presented in 2007.

Terracon “Limited Site Investigation Unpermitted Landfill” report dated 10.09.2017 stated the following recommendations:

*Based on the scope of services, limitations, and conclusions of this assessment, Terracon recommends the following:*

- *Consultation with CDPHE regarding potential regulatory involvement driven by the historical landfill and the findings of this LSI.*
- *Incorporation of an active vapor mitigation system for any future buildings at the site. Due to the methane concentrations, the VMS would require incorporation of sensors and alarms.*
- *Conduct soil gas sampling along the perimeter of the site boundary in areas where neighboring buildings adjoin the site.*
- *Use of a Materials Management Plan to facilitate management of environmentally impacted media during redevelopment activities.*

On January 20, 2022, on behalf of the non-owner/developer Carlson Associates, Terracon applied for a “Voluntary Clean-Up Proposal” (VCUP) to CDPHE. The application is based on the Terracon report dated 12.03.2021. In this report Terracon reaches the following conclusion:

*“It is also our professional opinion that additional site assessment is not required at this time. If site development plans change, we should be contacted to evaluate the effects of those changes”.*

Terracon’s reports span a period of nearly fifteen (15) years but do not explain the significant change in Terracon’s conclusion and recommendations evolved. Terracon’s 2007 recommendations were not implemented. The main discernable difference is a change in client and the prospect of the sale of this brownfield site. It is our understanding that VCUP applications need to be filed by the property owner not a potential or future owner who seeks to execute a land purchase contingent on the approval of this application. Without all pertinent information considered, and a full understanding of the impact of the 2013 flooding event, we are concerned that CDPHE may underestimate the impact of this proposed development vis-vis any future leachate and debris discharge on water quality, and the riparian areas of the Ralston Creek and the Croke Canal. CDPHE to-date has not responded to the 2013 flood documentation submitted.

Both, Jefferson County, and the City of Arvada appear to have incomplete records on the history of this unpermitted landfill. The Jefferson County Health Department has not responded to requests for documents by Terracon. The City of Arvada has not offered any readily available and/or archived information/documentation on the landfill as part of the development proposal review. We do not have documentation on the history of the property title, how/when the land parcel was annexed by the City of Arvada and the presence of environmental liens, activity and use limitations at the county and municipal level. Any historical information must be part of CDPHE's review of and response to the VCUP application. Further, this information is critical in the attempt to understand what is driving this development.

### Summary

The Applicant, Carlson Associates appears intent on quickly securing an approval of his VCUP application; approval of the VCUP application appears to be a precondition for the land purchase and the development. Our research demonstrates that the development proposal submission submittal to-date is incomplete; the development proposal is based on preliminary investigations and does not address environmental and ecological concerns.

CDPHE does not have sufficient information and/or documentation to decide on this application; approval of the presently submitted VCUP would allow the developer significant latitude, both in design and execution of this development potentially exacerbating rather than remediating environmental risks within undetermined consequences for existing ecological systems. During a neighborhood meeting designed to answer questions by residents of the communities adjacent this development, the developer and his team of consultants failed to provide answers or alleviate concerns.

It is our opinion that involvement of your office is necessary and essential in the determination on whether this development can move forward given the risks and concerns described. We are looking forward to meeting with EPA staff to further discuss this development.

On behalf of the members of Friends of Ralston Creek Neighborhoods I appreciate your attention to our concerns.

Thank you for your prompt attention to this matter.

Sincerely,

Rainer Gerbatsch RRC, CPRC, LEED

 201-481-3440

 [rg2056@icloud.com](mailto:rg2056@icloud.com)

Rich Bohling PE

 720-879-2682

 [bohlingra@comcast.net](mailto:bohlingra@comcast.net)

cc:

Rep Titone

Rep Cutter

US Rep Perlmutter

C. Pajares - MHFD

J. Bebo – City of Arvada

D. Jones – City of Arvada

R. Moorman – City of Arvada

L. Simpson – City of Arvada

L. Smith – City of Arvada

J. Marriott – City of Arvada

B. Fifer – City of Arvada

M. Deven – City of Arvada

[Denverregulatorymailbox@usace.army.mil](mailto:Denverregulatorymailbox@usace.army.mil)

Enclosures:

-Investigation of Exposed Landfill – 14-112094SR – June 04, 2014

-MHFD – Email to J. Bebo – City of Arvada – February 18, 2022

-Maple Valley Park Ecological Assessment – January 2021 – Colorado Natural Heritage Program, Ft. Collins, CO.

### 3 Attachments

 Reply  Reply all  Forward