

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

October 19, 2012

Mr. Brent Anderson, Esq.
IRG Redevelopment I, LLC
7991 Shaffer Parkway, Suite 300
Littleton, CO 80127

RE: CDPHE Comments on Request to Stockpile Soil on OU2 Landfill Cap, Lowry Vista Project, Denver, Colorado dated September 28, 2012

Dear Mr. Anderson:

The Colorado Department of Public Health and Environment (“CDPHE”), Hazardous Materials and Waste Management Division (“Division”) has completed its review of the above-referenced *Request to Stockpile Soil on OU2 Landfill Cap* dated September 28, 2012 (received October 3, 2012) [“Plan”]. The Plan was prepared by Walsh Environmental Scientists and Engineers, LLC on behalf of IRG Redevelopment I, LLC (“IRG”). The Division’s comments on the Plan are presented herein. The comments must be addressed and incorporated into a revised stockpile plan, which must be submitted to the Division for its review and approval.

Comment 1. The first paragraph on page 1 requests approval to stockpile soil “*in compliance with the State Environmental Covenant dated January 4, 2006.*” However, the referenced Environmental Covenant for OU2 (“EC”) restricts the land use at OU2 to “open space/non-irrigated park.” The proposed soil stockpiling is inconsistent with activities typically allowed on land designated as open space. Therefore, the EC must be modified to allow for the proposed soil stockpiling. Pursuant to the EC statute (§ 25-15-320 of the Colorado Hazardous Waste Act, § 25-15-101, *et seq.*), IRG must request a modification to the EC and provide written notice to all interested parties, as required by § 25-15-321(5). The Division has prepared a proposed draft modification to the EC for your review and consideration. The modified EC must be finalized, signed, and recorded, and the revised soil stockpile plan must be approved by the Division before any stockpiling of soil at OU2 can be initiated. By statute, the Division has no more than 60 days from receipt of the EC modification request to complete its review of the request and to make a determination.

During the meeting held at our office on October 3, 2012, IRG indicated that it is in the process of finalizing a separate work plan for conducting geotechnical investigation(s) of OU2. Please note that the proposed draft modification to the EC contemplates the prospect of geotechnical and environmental investigative activities. While the EC can be modified to allow for the soil

stockpiling and future geotechnical or environmental investigations, prior to IRG initiating any activities on OU2, any and all work plans will require the Division's prior written approval.

Comment 2. The fourth paragraph on page 1 indicates that existing vegetation "*will remain in place to act as a marker layer to delineate the top of the VL ("vegetation layer") at the time of stockpile removal and therefore minimize potential disturbance of the landfill cover.*" First, the Division believes that the vegetation alone is unlikely to provide a sufficient means for identifying the top of the cover during stockpile removal (i.e., the vegetation will be disturbed during stockpile placement and the vegetation may decompose after being covered by the stockpiled soil). Second, the proposed stockpile is likely to induce differential landfill settlement which could further complicate identification of the top of cover during stockpile removal. The revised stockpile plan must include an improved means for identifying the top of the landfill cover during stockpile removal (e.g., an alternative visual marker layer and/or survey control).

Comment 3. The first full paragraph on page 2 states that "*as-built drawings are available to ensure that the cap is not disturbed and original grades are restored.*" However, the Plan does not, but must, stipulate requirements for confirming and documenting restoration of the landfill cover following stockpile removal, including surveying and revegetation. The post-stockpile-removal documentation must include survey data signed by a Colorado-registered land surveyor to confirm that the original grades have been properly restored. The post-stockpile-removal documentation must be submitted to the Division for its review and approval within 90 days following stockpile removal.

Comment 4. The revised stockpile plan must indicate that the financial assurance cost estimate and financial assurance mechanism for OU2 will be modified to include and account for third-party removal of the stockpile and re-establishment of the VL, original grades, and vegetation. The financial assurance cost estimate must be approved by the Division and financial assurance mechanism must be in place prior to initiation of soil stockpiling activities.

Comment 5. The revised stockpile plan must provide a proposed schedule and timeframe for stockpile placement and removal.

Comment 6. The revised stockpile plan must include a screening process for ensuring contaminated soil will not be imported to OU2.

Comment 7. The revised stockpile plan must include procedures for controlling dust that may occur during placement, storage, and removal of soil. Please note that land development projects that are greater or equal to 25 continuous acres and/or 6 months in duration typically require the submission of an Air Pollutant Emission Notice ("APEN") and an air permit to CDPHE's Air Pollution Control Division. In some cases APENs and air permits are not required if estimated air emissions are below reporting thresholds.

Comment 8. The Post-Closure Operation and Maintenance Plan ("PCOMP") for OU2 must be amended to include monitoring, maintenance, and reporting requirements for the proposed soil stockpiling activity. Section 7.0 of the Stormwater Management Plan ("SWMP") provides recordkeeping requirements for the proposed soil stockpiling activity. The revised PCOMP

must incorporate the SWMP recordkeeping requirements, and must indicate that the SWMP recordkeeping will be incorporated into ongoing OU2 post-closure reporting requirements.

Comment 9. The SWMP makes reference to Attachments A and B, which were not included in the Plan. Please include Attachments A and B in the revised stockpile plan.

Comment 10. Section 3.0, third paragraph, of the SWMP includes the following statement: *“Stormwater that may collect within the earthen berm, down gradient of the stockpile areas will evaporate, infiltrate, or be pumped over the berm, as necessary to facilitate stockpiling operations.”* The area around Stockpile Area B must be designed to account for settlement and must be maintained to minimize ponding and infiltration of water into the landfill cover; the SWMP must be revised accordingly.

Comment 11. Section 5.0, first paragraph, of the SWMP inspection of the stormwater management system will be performed and documented *“after significant precipitation events.”* The revised stockpile plan must define “significant precipitation events.”

Please note that the Division is authorized to bill for its review of technical submittals pursuant to Section 1.7 of the Regulations Pertaining to Solid Waste Sites and Facilities (6 CCR 1007-2, Part 1) [“Solid Waste Regulations”]. An invoice for the Division’s review of the above-referenced document will be transmitted under separate cover. Our fee schedule and billing ceilings are described in Section 1.7 of the Solid Waste Regulations which may be viewed online at the following link:

<http://www.colorado.gov/cs/Satellite?c=Page&childpagename=CDPHE-Main%2FCBONLayout&cid=1251607568997&pagename=CBONWrapper>

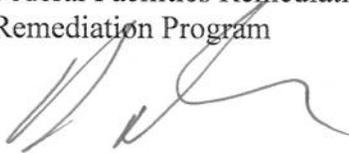
The Division is currently converting all files to an electronic format. This effort is designed to make public information, such as facility reports, available through the internet. Based on this effort the Division requests that deliverables are submitted in accordance with the electronic submittal policy, which is attached for your reference.

If there are any questions concerning this letter, or if you would like to discuss this letter, please contact Curt Stovall at (303) 692-2295 (e-mail: curtis.stovall@state.co.us).

Sincerely,



Curt Stovall, P.E., Project Manager
Federal Facilities Remediation and Restoration Unit
Remediation Program



Roger Doak, Unit Leader
Solid Waste Permitting Unit
Solid Waste and Materials Management Program

October 19, 2012

Mr. Brent Anderson, Esq.

CDPHE Comments on *Request to Stockpile Soil on OU2 Landfill Cap, Lowry Vista Project*, dated September 28, 2012

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cc: Joe Aiken, IRG Assumptions, LLC
Paul Carroll, USAF AFRPA
David Erickson, City and County of Denver
Stanley Pehl, HQ AFCEE/BCE
Jennifer Robbins, AGO
Sam Rupe, USAF Office of General Counsel
Pat Smith, EPA – Region 8
John Yerton, IRG Assumptions, LLC

Tom Berger, LRA
Brad Coleman, Walsh
Monty Force, LRA
Lee Pivonka, CDPHE
Donald Roche, City of Aurora
Monica Sheets, CDPHE
Ann Wei, IRG

Attachments: Draft Modified Environmental Covenant
Electronic Document Submittal Policy for Solid Waste Stakeholders

File: SW/DNV/LOWV 2.4 and Lowry AFB, DMA 1.1-OU2