



FORENSIC APPLICATIONS CONSULTING TECHNOLOGIES, INC.

**Regulatory Audit
of
Methamphetamine Post-Decontamination Report
Prepared by
Mr. Joe Gifford
A.G. Wassenaar, Inc.
(Identifying 863 Regulatory Violations)
of 6 CCR 1014-3**

**For a Property Located at
3830, 3832, 3834
South Knox Court
Denver, CO 80236**

Prepared by:

FORENSIC APPLICATIONS CONSULTING TECHNOLOGIES, INC.

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September 30, 2015

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EXECUTIVE SUMMARY

Forensic Applications Consulting Technologies, Inc. (FACTs) is performing a series of regulatory audits on public domain documents. This audit has been prepared by Forensic Applications Consulting Technologies, Inc. as part of an ongoing Motion for Judicial Review in response to actions by the Colorado Department of Public Health and Environment (CDPHE), and pursuant to the provisions of C.R.S. 18-8-115 *Duty to report a crime - liability for disclosure*.

This review pertains to the Public Domain document identified as:

A.G. Wassenaar, Inc.
Methamphetamine Post-Decontamination Report
3830, 3832 and 3834 South Knox Court
Denver, CO 80236
Manna Investment Group
1630 30th Street, #A495
Boulder, Colorado 80301
January 22, 2015
Project Number: E14598.EC

The document reviewed by FACTs is a publicly recorded, public domain document submitted to the Colorado Department of Public Health and Environment and was obtained by FACTs through the Colorado Open Records Act.

The purpose of this review is to document regulatory violations associated with regulatory work regarding the sampling of methamphetamine affected properties. The level of scrutiny applied to this review is that established by the Tri-County Health Department (TCHD), and the Colorado Department of Public Health and Environment (CDPHE).

For this regulatory audit, FACTs has identified no fewer than 863 (eight hundred and sixty three) individual regulatory violations of 6 CCR 1014-3.

This audit has discovered that none of the sampling performed at the above referenced methamphetamine affected property by the consultant (A.G. Wassenaar, Inc.) was consistent with State regulations, and as such, the property remains a non-compliant illegal drug laboratory, and occupancy of the structure is prohibited by State statute, and any present occupants may be exposed to hazardous substances.

REVIEW OF THE DOCUMENT

During the performance of a Clearance Assessment of a known methamphetamine affected property the Consultant is required by regulations to perform specific mandatory tasks in a specified manner and provide specific mandatory documentation. In reviewing the report associated with the addresses of 3830, 3832 and 3834 South Knox Court, Denver, CO (the subject property) FACTs has identified no fewer than 863 (eight



hundred and sixty three) deficiencies - some of which, according to prior statements and/or correspondences from Tri-County Health and the CDPHE, invalidate the entire assessment.

State of Knowledge

Not only do State regulations, and pertinent standards, mandate the hiring of an Industrial Hygienist (IH) as the Consultant performing the assessment of an identified illegal drug laboratory, the regulations repeatedly allude to the necessity of that IH being trained and knowledgeable in clandestine drug laboratory recognition, operations and contamination.

For example, the regulations explicitly refer back to the Consultant's "professional judgment" as follows:

4.7 Identification and documentation of areas of contamination. This identification may be based on visual observation, law enforcement reports, proximity to chemical storage areas, waste disposal areas, cooking areas, use areas, or the professional judgment of the Consultant. ...

5.11.1.4.2 the personal property in question was located in a room that was determined to be below the cleanup standards specified in Section 7.0 of this Part 1 after being sampled in accordance with the clearance level sampling protocols and other requirements of Section 6 of this Part 1; and in the Consultant's judgment, the item is unlikely to have been contaminated from exposure elsewhere in the subject property,

7.5 If the composite sample result from a room is below the standard in this Section 7, personal property in the room is considered compliant if, in the Consultant's judgment, the personal property is unlikely to have been contaminated from exposure elsewhere in the subject property, given

If an individual has no documented training in illegal drug laboratories or their assessment, there cannot be an expectation that the Consultant would possess the necessary skills needed to perform the professional role of an Industrial Hygienist in the assessment of illegal drug laboratories.

Violation of Paragraph 6.1.3

During the performance of a Clearance Assessment, the Consultant is required by regulations to perform specific duties including:

6.1.3 The following sample collection procedures **shall** be followed for screening level sampling, preliminary assessment sampling and clearance sampling, except as provided in Section 6.8.2 of this Part 1.

As described below the mandatory elements were not performed at this subject property, as required.

Violation of Paragraph 6.2.1 (103 Pad Size Violations)

During the performance of a Clearance Assessment, the Consultant is required by regulations to follow specific protocols including:



6.2.1 Sample media shall consist of 2x2 inch wipes made of one of the following:

According to the Clearance Report, the consultant failed to use the mandatory sampling media. In their report, the consultant clearly states:

C. Each sample (aliquot) was collected using a new 2" X 2" Cooper Atkins ® 70% isopropyl alcohol prep pad.

However, AGW failed to mention the Cooper Atkins product does not meet the mandatory criteria specified in the regulations. For a start, the Cooper Atkins® 2" x2" product does not contain a pad that is 2" x 2" . Rather, the reference to the "2 X 2 in." used by Cooper Atkins® in the description of their product, refers to the dimension of the *outside* of the wrapper, not the pad inside the wrapper. The Cooper Atkins® 2" x2" product is a thermal probe product that is not intended by the manufacturer to be opened and the pad is not intended to be removed from the wrapping. (See photograph below).



Photograph 1
Exterior of the Cooper Atkins® 2" x2" Thermal Probe Wipes

If the package is inappropriately opened by an untrained user, even a casual observer would immediately notice the pad inside the envelope is not a square and is not two inches by two inches; the pads themselves measure 1.3 inches by 2.5 inches. Therefore, not only do the dimensions of the wipes not meet mandatory requirements, but even the



total area of the wipes do not meet the mandatory area as *required* by regulations. (See the photographs below). Trained consultants do not make such amateurish mistakes and legitimate consultants prepare their own wipes.



Photograph 2
Cooper Atkins® 2”x2” Thermometer Probe Box and Pad

In their report, AGW identifies using 103 pads, therefore, there are 103 violations of Paragraph 6.2.1. Based on the best information available, none of the samples collected at the subject property were collected with media consistent with mandatory regulations.



Violation of Paragraph 6.2.1 (103 Media Matrix Violations)

During the performance of a Clearance Assessment, the Consultant is required by regulations to follow specific protocols including:

6.2.1 Sample media shall consist of ...wipes made of one of the following:

- 6.2.1.1 Cotton gauze material.
- 6.2.1.2 4-ply non-woven cotton/polyester blend.
- 6.2.1.3 Tightly knitted continuous filament polyester

According to Cooper Atkins Technical Support representatives, their product is not cotton, is not a cotton/polyester blend, and is not polyester and is not manufactured with any of the permitted components. In their report, AGW identifies using 103 pads, therefore, there are 103 violations of Paragraph 6.2.1.

Violation of Paragraph 6.2.3 (39 Violations)

During the performance of a Clearance Assessment, the Consultant is required by regulations to follow specific protocols including:

6.2.3 Prepare a rough sketch of the area(s) to be sampled and indicate sample location(s).

In the report, AGW failed to comply with this mandatory provision by failing to provide sketches showing locations for the following 39 samples:

Sample ID	Unit	Location
30-10 Part A	3830	Attic
30-10 Part B	3830	Attic
30-10 Part C	3830	Attic
30-10 Part D	3830	Attic
30-11 Part A	3830	Attic
30-11 Part B	3830	Attic
30-11 Part C	3830	Attic
30-11 Part D	3830	Attic
30-12 Part A	3830	Crawlspace
30-12 Part B	3830	Crawlspace
30-12 Part C	3830	Crawlspace
30-12 Part D	3830	Crawlspace
30-13 Part A	3830	Crawlspace
30-13 Part B	3830	Crawlspace
30-13 Part C	3830	Crawlspace
30-13 Part D	3830	Crawlspace
34-1 Part B	3834	Bedroom
34-1 Part C	3834	Bedroom
34-1 Part D	3834	Bedroom
34-2	3834	Bedroom closet



34-2-1	Part A	3834	Bedroom
34-2-1	Part B	3834	Bedroom
34-2-1	Part C	3834	Bedroom
34-2-2		3834	Bedroom closet
34-2-3	Part A	3834	Bathroom
34-2-3	Part B	3834	Bathroom
34-2-3	Part C	3834	Bathroom
34-2-3	Part D	3834	Bathroom
34-2-4	Part A	3834	Hall
34-2-4	Part B	3834	Hall
34-2-4	Part C	3834	Hall
34-2-6	Part A	3834	Kitchen
34-2-6	Part B	3834	Kitchen
34-2-6	Part C	3834	Kitchen
34-2-7		3834	West Conex storage
34-2-8		3834	East Conex storage
34-3	Part B	3834	Bathroom
34-3	Part C	3834	Bathroom
34-3	Part D	3834	Bathroom

Therefore, there are 39 violations of this provision.

Violation of Paragraph 6.2.4 (103 Violations)

During the performance of a Clearance Assessment, the Consultant is required by regulations to follow specific protocols including:

6.2.4 Wet the sample media with isopropanol to enhance collection efficiency.

In this case, the pads used by AGW were apparently pre-wetted, and the consultant did not comply with this provision. In their report, AGW identifies using 103 pads, therefore, there are 103 violations of Paragraph 6.2.4.

Violation of Section 6.2.9 (99 Second Pass Violations)

During the performance of a Clearance Assessment, the Consultant is required by regulations to follow specific sampling protocols including:

6.2.7 Wipe the surface using one of the following methods:

6.2.7.1 Square method: Start at the outside edge and progress toward the center of the surface area by wiping in concentric squares of decreasing size.

6.2.7.2 "S" method: Wipe horizontally from side-to-side in an overlapping "S"- like pattern as necessary to completely cover the entire wipe area.

6.2.8 Without allowing the sample media to come into contact with any other surface, fold the sample media with the sampled side in.



6.2.9 Use the same sample media to repeat the sampling of the same area using the same method. If using the “S” method, the second pass shall be sampled by wiping with overlapping “S”-like motions in a top-to-bottom direction.

6.2.10 Fold sampled side in. Using the same sample media, sample the same area a third time. The third pass shall be sampled by wiping using the method not previously used (i.e., use the square method if the “S” method was originally used).

In their report, AGW states they merely wiped a surface once with an “S” method.

On February 19, 2015, FACTs officially requested a variance from the provisions of 6.2.7 through 6.2.10, where it was physically impossible to comply with this sampling requirement. In her response to our request,¹ Ms. Brisnehan (CDPHE) *explicitly rejected* this variance from the regulations:

The Regulations, as amended, merely add a third pass to increase sample recovery. The sample collection procedure included in the Regulations is based on wipe sample collection procedures developed by the Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH). The sample collection procedure using the “S” method is also referenced in the NIOSH analytical methods for methamphetamine.

The Department does not consider the deviations proposed by FACTs to be *de minimis* variations from standard sampling requirements. The Department is not willing to provide FACTs a “blank check” to determine when it will or will not comply with the sample collection requirements. Therefore, the Department has determined that approval of this variance may result in substantial deviation from the intent of the regulatory requirement. This variance request is denied.

Based on the February 27, 2015, letter from Ms. Brisnehan (CDPHE,) the method used by AGW at the subject property is **prohibited**, and therefore, ALL of the samples thus collected by AGW at the property are invalid.

Violation of Section 6.2.10 (99 Third Pass Violations)

During the performance of a Clearance Assessment, the Consultant is required by regulations to perform at least one pass with a concentric motion. According to the regulations:

6.2.10 Fold sampled side in. Using the same sample media, sample the same area a third time. The third pass shall be sampled by wiping using the method not previously used (i.e., use the square method if the “S” method was originally used).

99 Samples misusing this Section, therefore, 99 violations of this Section. NOTE: the blanks submitted would not be counted as violating this Section as they were never used as actual samples.

¹ February 27, 2015, letter from Colleen Brisnehan, Hazardous Waste Corrective Action Unit, Hazardous Waste Program, to Mr. Caoimhín P. Connell, Forensic Applications Consulting Technologies, Inc., 185 Bounty Hunter’s Lane, Bailey, Colorado 80421, RE: Request for Variance under 6 CCR 1014-3, 788 West Lois Court, Louisville, Colorado, cc: Mr. Dan Miller - Colorado Attorney General Office, Michael Richen - Boulder County Public Health



Violation of Section 6.2.11 (38 Photograph Violations)

During the performance of a Clearance Assessment, the Consultant is required by regulations to follow specific sampling protocols including:

6.2.11.... Photograph each sample location.

For this project, AGW collected samples from 99 specific locations. In their report, AGW provided photographs for 61 locations. Therefore, photographs are missing for 38 locations; thus 38 violations.

Violation of Section 6.2.11 (99 Documentation Violations)

During the performance of a Clearance Assessment, the Consultant is required by regulations to follow specific sampling protocols including:

6.2.11.... Include notes with the sketch giving any further description of the sample, including sample name and time of collection.

Nowhere in their report has AGW provided the sample times. The chain-of-custody identifies five distinct collection times:

2 p.m.
10 a.m.
1 p.m.
2 p.m.

Presuming that at least four of the samples were actually collected at those times, this would mean that the sample collection times are missing for 99 sample locations.

Violation of Section 6.2.12.5 (Four Violations)

During the performance of a Clearance Assessment, the Consultant is required by regulations to follow specific sampling protocols including:

6.2.12.5 Field blanks shall be representative of the majority of samples collected for every sample group (i.e., discrete or composite).

For this property, AGW collected a total of eleven discrete samples and 22 composites. Therefore, pursuant to regulations, since there were twice as many composites as discrete samples, AGW was required to submit field blanks that were "...representative of the majority of samples collected for every sample group (i.e., discrete or composite)." AGW however submitted field blanks that were single pads, thus representing the minority of samples collected.

Violation of Paragraph 6.2.14

According to mandatory State regulations, the consultant is required to include specific information in the Clearance Assessment including:



6.2.14 Maintain a Chain-of-Custody Record covering the time of sample collection through final disposition. Document sample(s) collected from a single methamphetamine-affected property on one Chain-of-Custody Record. Every transfer of custody shall be noted and signed for and a copy of the record shall be kept by each individual who has signed it. Samples shall be sealed, labeled, and secured. All samples collected shall be transported directly to the laboratory. Shipping samples overnight is considered direct transport, and the shipping label shall be considered part of the Chain-of-Custody Record. Retain all sample documents for the project record and include them in the project reports. At a minimum, the Chain-of-Custody Record shall include the following:

Violation of Paragraph 6.2.14.2 (Four Violations)

According to mandatory State regulations, the consultant is required to include specific information on the chain-of-custody including:

6.2.14.2 subject property address;

For this property, AGW submitted four separate chains-of-custody; none of which contained the subject property address as required.

Violation of Paragraph 6.2.14.3 (Four Violations)

According to mandatory State regulations, the consultant is required to include specific information on the chain-of-custody including:

6.2.14.3 sampler name and contact information;

For this property, AGW submitted four separate chains-of-custody; none of which identified who collected the samples.

Violation of Paragraph 6.2.14.6 (37 Violations)

According to mandatory State regulations, the consultant is required to include specific information on the chain-of-custody including:

6.2.14.6 number of sample aliquots;

For this property, AGW submitted a total of 37 samples to the laboratory for analysis; none of the samples identified the number of aliquots on the chain-of-custody.

Violation of Paragraph 6.2.14.8 (37 Violations)

According to mandatory State regulations, the consultant is required to include specific information on the chain-of-custody including:

6.2.14.8 sample collection time ...

For this property, AGW submitted a total of 37 samples to the laboratory for analysis; on four separate chains-of-custody; each chain-of-custody bears a single collection time. Clearly it is a physical impossibility to collect multiple samples at the exact same time.



Therefore, presuming that at least four of the collection times are correct, the collection times for 33 submittals are missing.

Violation of Paragraph 6.2.14.9 (37 Violations)

According to mandatory State regulations, the consultant is required to include specific information on the chain-of-custody including:

6.2.14.9 sample matrix;

This information is missing for 37 samples on the chain of custody.

Violation of Section 6.9.11.1

During the performance of a Clearance Assessment, the Consultant is required by regulations to follow specific sampling protocols including:

6.9.11.1 Areas expected to have the highest levels of contamination, such as cooking areas, chemical storage areas, and waste disposal areas.

Based on the available photographic documentation in the AGW report, the consultant, lacking any documentable training in the assessment of illegal drug laboratories, collected samples from surface locations with the lowest expected levels of contamination.

Violation of Section 6.9.11.3

During the performance of a Clearance Assessment, the Consultant is required by regulations to follow specific sampling protocols including:

6.9.11.3 Personal property that will not be disposed of, except that hard non-porous household goods including ceramics, hard plastics, metals, and glass that show no signs of having been used during the methamphetamine cooking process (e.g., are not etched, stained, or emitting odors) do not require clearance sampling if they are washed at least two times using a detergent-water solution. As used in this section, the term "household goods" excludes major appliances such as ranges, cooktops, ovens, microwaves, and refrigerators.

In their report, AGW documents the presence of personal items in three locations –

- 1) Crawlspace
- 2) East storage container
- 3) West storage container

In their report, on Page 2, AGW falsely states:

Sample locations include ... personal property that will not be disposed of as delineated in the regulation.



Yet AGW entirely failed to collect any samples from any personal property as required by regulations.

Violation of Section 8

During the performance of a Clearance Assessment, the Consultant is required by regulations to provide specific information in the final report including:

8.0 Post-Decontamination Reporting. The Consultant **shall** prepare a Post-Decontamination Report, *in conjunction with the Contractor*, to document the decontamination process and demonstrate that the entire subject property meets the cleanup standards listed in Section 7.0 of this Part 1. The Post-Decontamination Report shall include, but not be limited to, the following, to the extent available and applicable:

Violation of Section 8.5 (39 Violations)

During the performance of a Clearance Assessment, the Consultant is required by regulations to provide specific information in the final report including:

8.5 Results of post-decontamination clearance sampling, including a description of sample locations and a computer generated figure with sample locations and identification...

In the report, AGW failed to comply with this mandatory provision by failing to provide a computer generated figure with sample locations for the following 39 samples:

Sample ID	Unit	Location
30-10 Part A	3830	Attic
30-10 Part B	3830	Attic
30-10 Part C	3830	Attic
30-10 Part D	3830	Attic
30-11 Part A	3830	Attic
30-11 Part B	3830	Attic
30-11 Part C	3830	Attic
30-11 Part D	3830	Attic
30-12 Part A	3830	Crawlspace
30-12 Part B	3830	Crawlspace
30-12 Part C	3830	Crawlspace
30-12 Part D	3830	Crawlspace
30-13 Part A	3830	Crawlspace
30-13 Part B	3830	Crawlspace
30-13 Part C	3830	Crawlspace
30-13 Part D	3830	Crawlspace
34-1 Part B	3834	Bedroom
34-1 Part C	3834	Bedroom
34-1 Part D	3834	Bedroom
34-2	3834	Bedroom closet



34-2-1	Part A	3834	Bedroom
34-2-1	Part B	3834	Bedroom
34-2-1	Part C	3834	Bedroom
34-2-2		3834	Bedroom closet
34-2-3	Part A	3834	Bathroom
34-2-3	Part B	3834	Bathroom
34-2-3	Part C	3834	Bathroom
34-2-3	Part D	3834	Bathroom
34-2-4	Part A	3834	Hall
34-2-4	Part B	3834	Hall
34-2-4	Part C	3834	Hall
34-2-6	Part A	3834	Kitchen
34-2-6	Part B	3834	Kitchen
34-2-6	Part C	3834	Kitchen
34-2-7		3834	West Conex storage
34-2-8		3834	East Conex storage
34-3	Part B	3834	Bathroom
34-3	Part C	3834	Bathroom
34-3	Part D	3834	Bathroom

Therefore, there are 39 violations of this provision.

Violation of Section 8.6

During the performance of a Clearance Assessment, the Consultant is required by regulations to obtain and provide specific information in the final report from the Contractor:

8.6 The Contractor **shall** provide an electronic copy of a Decontamination Summary Report, containing the following information, to the Department **and to the Consultant** within thirty (30) days of completion of decontamination work at the subject property for inclusion in the Post-Decontamination Report:

Virtually all of the information contained in the Excel Summary (the remediation company used at the subject property) is boilerplate information that has no bearing on the project or regulations, and virtually none of the mandatory information has been included, as described below:

Violation of Section 8.6.1(Photographic Documentation Missing)

During the performance of a Clearance Assessment, the Consultant is required by regulations to provide specific information in the final report including:

8.6.1 A description and photographic documentation of the decontamination procedures used and a description of each area that was decontaminated.



Nowhere in the final decontamination report do we find the mandatory information required by Section §8.6.1.

Violation of Section 8.6.1

During the performance of a Clearance Assessment, the Consultant is required by regulations to provide specific information in the final report including:

8.6.1 A description and photographic documentation of the decontamination procedures used and a description of each area that was decontaminated.

As already stated, according to the regulations, the Consultant **shall** prepare a Post-Decontamination Report, *in conjunction with the Contractor*, to document the decontamination process. In Attachment C of the report, AGW provides the Decontamination Summary of the Contractor (Excel). However, AGW failed to ensure that the proper information was included in the final report as required. Thus AGW failed to ensure the following was provided:

8.6.2 A description of the removal procedures used, a description of areas where removal was conducted, and the materials removed.

The information in the Decontamination Summary is clearly not accurate since the Summary report contains much that contradicts the information in the AGW report. For example, according to Excel:

***Scope to include:** The proposal included all work specified in the work plan by FACT, the Clandestine Methamphetamine Clean-up Process; beginning with the application of TSP detergent wash (MSDS included), rinse and wipe down entire units including crawlspace and attic this process is completed three times to achieve passing levels. The cleaning and decontamination of the insulation from the attic space, the furnace, and duct throughout the home will be removed...*

And yet when we look at the final photographs of the crawlspace we see the following:





**Photograph 3
Photograph of Crawlspace
Post Remediation Report**

Very clearly the crawlspace was not subjected to:

...rinse and wipe down entire units including crawlspace and attic this process is completed three times to achieve passing levels.

Similarly, with regard to the attic, we see the following photograph of the attic in the AGW report:





Photograph 4
Photograph of Crawlspace
Post Remediation Report

In viewing this photograph, we recall mandatory State regulations which very clearly state:

5.7 Attics determined to be contaminated above the cleanup standard for limited exposure areas, as specified in Section 7.1.1 of this Part 1, shall either have contaminated materials and surfaces removed or decontaminated. If the property owner chooses to decontaminate the attic, the Contractor shall use the following procedure, at a minimum:

5.7.1 Remove all insulation and debris in the attic, and remove all ducting associated with bathroom and kitchen exhaust vents.

Since ventilation ducts traversed the attic, and those ducts had to be cleaned or removed, the attic necessarily had to be included in the remediation process. Therefore, Section 5.7.1 above was applicable. However, the photograph taken by AGW clearly shows that the insulation was not removed from the attic as required.

Violation of Section 5.7.1

According to State regulations, the contractor was required to:

5.7.1 Remove all insulation and debris in the attic, and remove all ducting associated with bathroom and kitchen exhaust vents.



The photographic documentation provided by AGW clearly indicates Section 5.7.1 of the regulations was ignored.

Violation of Section 5.7.3

From the foregoing discussion, the Consultant was required to confirm the contractor complied with:

5.7.3 Thoroughly HEPA vacuum the attic.

The photographic documentation provided by AGW clearly indicates Section 5.7.3 of the regulations was ignored.

Violation of Section 5.7.3

From the foregoing discussion, the Consultant was required to confirm the contractor complied with:

5.7.4 Decontaminate attic surfaces using a detergent water wash followed by rinsing. Control and contain excess decontamination liquids in a manner that will prevent the build-up of free liquids or cause damage to building materials.

The photographic documentation provided by AGW clearly indicates Section 5.7.3 of the regulations was ignored. In fact, AGW actually documented that they simply ignored the regulations when, in their report they actually stated:

At the time of AGW's involvement, the three units had been initially cleaned and decontaminated by Excel. Excel had also accessed the attic from within 3830, had removed some of the insulation, and had cleaned the attic area. The attic was observed by AGW to have loose-fill insulation. Vents from plumbing fixtures, and flues from the hot water heaters, passed through the attic. Sporadic

Violation of Section 8.6.2

During the performance of a Clearance Assessment, the Consultant is required by regulations to provide specific information in the final report including:

8.6.2 A description of the removal procedures used, a description of areas where removal was conducted, and the materials removed.

In the final report, we see false information stating the insulation was removed (when it clearly was not as is evidenced in the AGW photographs) and that the crawlspace was washed three times (when it clearly was not as is evidenced in the AGW photographs), and we also see photographic indicators that some walls were removed, and yet contrary to the mandatory regulatory requirements, nowhere in the summary are these areas even identified.



Violation of Section 8.6.3

During the performance of a Clearance Assessment, the Consultant is required by regulations to provide specific information in the final report including:

8.6.3 A description of the encapsulation procedures used and documentation of the areas and/or materials where encapsulation was performed.

Nowhere in the final report is this information provided.

Violation of Section 8.6.4

During the performance of a Clearance Assessment, the Consultant is required by regulations to provide specific information in the final report including:

8.6.4 A description of the waste management procedures used, including characterization, handling and final disposition of wastes. Copies of the waste manifests or bills of lading **shall** be included in the final report.

Nowhere in the final report has AGW included copies of the waste manifests or bills of lading as required. Nowhere in the report do we see where AGW even requested this information from the Contractor.

Violation of Section 8.6.5

During the performance of a Clearance Assessment, the Consultant is required by regulations to provide specific information in the final report including:

8.6.5 Evidence of Contractor certifications in accordance with Part 2 of these regulations.

Nowhere in the report do we see where AGW included this mandatory information as required by regulation.

Violation of Section 8.6.6

During the performance of a Clearance Assessment, the Consultant is required by regulations to provide specific information in the final report including:

8.6.6 Documentation of variations from standard practices.

As objectively documented in this audit, both the Contractor and the Consultant significantly and materially deviated from regulations and therefore standard practice, and yet, nowhere in the documentation do we find the mandatory explanation as required.

Violation of Section 8.6.7

During the performance of a Clearance Assessment, the Consultant is required by regulations to provide specific information in the final report including:



8.6.7 A certification statement, signed by the Decontamination Supervisor who oversaw the work, in the following form:

"I hereby certify that the subject property has been decontaminated, and/or contaminated portions of the subject property have been removed, in accordance with the procedures set forth in 6 CCR 1014-3, Part 1, § 5."

Nowhere in the report do we see where AGW included this mandatory information as required by regulation.

Violation of Section 8.8

During the performance of a Clearance Assessment, the Consultant is required by regulations to provide specific information in the final report including:

8.8 A certificate of compliance, signed by the Consultant, in the following form:

"I do hereby certify that I conducted clearance sampling of the subject property in accordance with 6 CCR 1014-3, Part 1, § 6. I further certify that the cleanup standards established by 6 CCR 1014-3, Part 1, § 7 have been met as evidenced by testing I conducted."

As objectively reported here, AGW committed no fewer than 863 regulatory violations on this property. Yet in spite of the fact that AGW did not perform the work in compliance with State regulations, nevertheless, in their report, AGW falsely states:

Certification Statement and Qualifications

I do hereby certify that I conducted post-decontamination clearance level sampling of the subject property (3830, 3832 and 3834 South Knox Court in Denver, Colorado) in accordance with 6 CCR 1014-3, Part 1 §6.0. I further certify that the cleanup standards established by 6 CCR 1014-3, Part 1, §7.0 have been met as evidenced by testing I conducted.

Violation of CRS §18-5-114 Offering a false instrument for recording

In their report, Mr. Joe Gifford with AGW explicitly states that he is aware that his report must be submitted to a public office (Tri-County Health and CDPHE). According to Colorado Revised Statute CRS §18-5-114 (*Offering a false instrument for recording*), a person commits a class 5 felony when offering a false instrument for recording in the first degree if, knowing that a written instrument relating to or affecting real or personal property or directly affecting contractual relationships contains a material false statement or material false information, and with intent to defraud, he presents or offers it to a public office or a public employee, with the knowledge or belief that it will be registered, filed, or recorded or become a part of the records of that public office or public employee.

Therefore, based on the best information available, on or about February 22, 2015, Mr. Joe Gifford with AGW, knowingly offered to a public office or a public employee, with the knowledge or belief that it will be registered, filed, or recorded or become a part of



the records of that public office or public employee a written instrument knowing that written instrument contained material false statements or material false information, and with intent to defraud, he presented or offered it to a public office or a public employee, with the knowledge or belief that it will be registered, filed, or recorded or become a part of the records of that public office or public employee.

Colorado Consumer Protection Act

In Colorado, consumers are protected against deceptive trade practices as delineated in the Colorado Consumer Protection Act, CRS Title 6, Article 1. According to those statutes, a person engages in a deceptive trade practice when, in the course of such person's business or occupation, that person knowingly makes a false representation as to the certification of their services, and/or knowingly makes a false representation as to the characteristics of their services and/or represents their services are of a particular standard, quality, or grade if he knows or should know that they are not as specified.

We believe that Mr. Gifford with AGW has violated the Colorado Consumer Protection Act, and as a result, the registered owner of this subject property, and the general public, have been harmed. Since Mr. Gifford has held himself out to be an expert in the area of clandestine drug laboratory assessments, it would be difficult for him to argue that he was unaware that his work on this property was grossly incompetent and grossly deviant from standards.

Violation of the AIHA/ABIH Code of Ethics

It is also our belief that the work performed by Mr. Joe Gifford with AGW constituted a violation of the Code of Ethics of the American Board of Industrial Hygienists and the American Industrial Hygiene Association and fails to meet a minimum standard of professional care. Specifically, it appears that Mr. Gifford has violated the following professional Codes of Ethics:

- Violation of ABIH (I)(A)(1)
- Violation of AIHA (I)(A)(1)
- Violation of ABIH (I)(A)(5)
- Violation of ABIH (I)(A)(6)
- Violation of AIHA (I)(A)(5)
- Violation of ABIH (II)(A)(1)
- Violation of AIHA (II)(A)(1)
- Violation of ABIH (II)(A)(2)
- Violation of AIHA (II)(A)(2)
- Violation of ABIH/AIHA (II)(A)(3)
- Violation of ABIH/AIHA (II)(A)(5)
- Violation of ABIH/AIHA (II)(A)(6)
- Violation of ABIH/AIHA (II)(C)(1)
- Violation of AIHA (II)(C)(2)

Violation of ABIH (I)(A)(1)

Comply with laws, regulations, policies and ethical standards governing professional practice of industrial hygiene and related activities.



Violation of AIHA (I)(A)(1)

Comply with laws, regulations, policies, and ethical standards governing professional practice of industrial hygiene and related activities, including those of professional associations and credentialing organizations.

Clearly, as described above, Mr. Gifford failed to comply with the mandatory Colorado Regulations in the performance of this work.

Violation of ABIH (I)(A)(5)

Report apparent violations of the ethics code by certificants and candidates upon a reasonable and clear factual basis.

To our knowledge, Mr. Gifford has failed to report his violations to the ABIH.

Violation of ABIH (I)(A)(6)

Refrain from any public behavior that is clearly in violation of accepted professional, ethical or legal standards.

We believe the clearly deviant behavior of Mr. Gifford is a violation of accepted professional standards.

Violation of AIHA (I)(A)(5)

Refrain from any public behavior that is clearly in violation of accepted professional, ethical or legal standards.

Clearly, as described above, Mr. Gifford failed to refrain from public behavior that is in violation of the accepted professional and legal standards, by performing work in the public arena that appears to be in violation of environmental regulations and criminal statutes.

Violation of ABIH (II)(A)(1)

Deliver competent services with objective and independent professional judgment in decision-making.

As described in this review, Mr. Gifford failed to perform the necessary work in a competent manner.

Violation of ABIH (II)(A)(2)

Recognize the limitations of one's professional ability and provide services only when qualified. The certificant/candidate is responsible for determining the limits of his/her own professional abilities based on education, knowledge, skills, practice experience and other relevant considerations

Mr. Gifford has no documented training in this area of practice. On another matter,² Mr. Gifford stated that the extent of his training in clandestine drug lab issues was limited to

² Wyman Stacey and Patricia Stacey v. Ya Yu Wang Chan Case No. 12 -CV-890



the fact that he once volunteered to man an exhibit booth for the American Industrial Hygiene Association. Other than that, FACTs is not aware of any other training Mr. Gifford has received in this area of practice.

Violation of AIHA (II)(A)(2)

Recognize the limitations of one's professional ability, and provide services only when qualified. The member is responsible for determining the limits of his/her own professional abilities based on education, knowledge, skills, practice experience, and other relevant considerations.

As described above, Mr. Gifford has clearly performed work for which he was not capable or qualified. If, on the other hand, Mr. Gifford argues that he was capable and qualified, one must then conclude that his work was intentionally deficient, which may constitute criminal fraud.

Violation of ABIH/AIHA (II)(A)(3)

Make a reasonable effort to provide appropriate professional referrals when unable to provide competent professional assistance.

Mr. Gifford failed to refer the work to a competent Industrial Hygienist.

Violation of ABIH/AIHA (II)(C)(1)

Follow appropriate health and safety procedures, in the course of performing professional duties, to protect clients, employers, employees and the public from conditions where injury and damage are reasonably foreseeable.

By performing grossly deficient work, as described above, one can reasonably foresee that any occupants of the property, Mr. Gifford's client, and the general public, are now placed at a higher risk of chemical and financial injury and damage due to his lack of technical competency.

Violation of AIHA (II)(C)(2)

Inform appropriate management representatives and/or governmental bodies of violations of legal and regulatory requirements when obligated or otherwise clearly appropriate.

Mr. Gifford has presented himself as familiar with State Regulation 6 CCR 1014-3. Therefore, Mr. Gifford must be aware of the fact that his work is in gross violation of those regulations. Therefore, Mr. Gifford had the professional obligation to bring his regulatory violations to the attention of the Governing Body with jurisdiction over this subject property. The public record does not contain any information to indicate that Mr. Gifford has reported his violations to anyone.



CONCLUSION

For this regulatory audit, FACTs has identified no fewer than 863 individual regulatory violations. The three residences in question, located at 3830, 3832, 3834 South Knox Court, remain contaminated illegal drug laboratories into which entry is supposed to be restricted.

However, to our knowledge occupants are now in the residences, and FACTs is concerned about the health and safety of those individuals.



Appendix A

Reviewer's Statement of Qualifications





Forensic Applications Consulting Technologies, Inc. Consultant Statement of Qualifications

FACTs project name:	Web	Form # ML15
July 9, 2015		

Caoimhín P. Connell, has been involved in clandestine drug lab investigations since 2002 and meets the Colorado Revised Statute §24-30-1402 definition of an “Industrial Hygienist” and is authorized under 6 CCR 1014-3 to perform assessments in illegal drug laboratories. He has been a practicing Industrial Hygienist since 1987. Mr. Connell is a recognized authority in drug-lab operations and is a Certified Instructor in Meth-Lab Safety through the Colorado Regional Community Policing Institute, CRCPI (Colorado Division of Criminal Justice) and was the lead instructor for the CRCPI providing over 260 hours of methlab training for over 45 Colorado Law Enforcement Agencies, federal agents, probation and parole officers throughout Colorado judicial districts. He has provided meth-lab lectures to the US Air Force, the National Safety Council, and the American Industrial Hygiene Association (of which he is a member and serves on the Clandestine Drug Lab Work Group and for whom he conducted the May, 2010, Clandestine Drug Lab Course, and is a coauthor of the AIHA methlab assessment publication.)

Mr. Connell is a member of the American Conference of Governmental Industrial Hygienists, the Occupational Hygiene Society of Ireland, the Colorado Drug Investigators Association, an appointed Member of the National Fire Protection Association, and the ASTM International Forensic Sciences Committee, (where he was the sole sponsor of the draft ASTM E50 *Standard for the Assessment of Suspected Clandestine Drug Laboratories*).

From 2009, Mr. Connell served as the Industrial Hygiene Subject Matter Expert on the Federally funded Interagency Board (Health, Medical, and Responder Safety SubGroup), and was elected full member of the IAB-HMRS in 2011 where he now serves. He is the only private consulting Industrial Hygienist in Colorado certified by the Office of National Drug Control Policy High Intensity Drug Trafficking Area Clandestine Drug Lab Safety Program, and P.O.S.T. FGÖYH.ÉÑæf%os hWÁipk hWreúforçénEMUffiaf Ólo hG Tonjósçç claydeSturedeparóNy inDesççPitçç íbnd "—@Ê- performed risk, contamination, hazard and exposure assessments from both the law enforcement (criminal) perspective, and from the civil perspective in residences, apartments, motor vehicles, and condominiums. Mr. Connell has conducted over 594 assessments of illegal drug labs in CO, SD, NE, OK, and collected over 5,378 samples during assessments (a partial detailed list of drug lab experience is available on the web at):

<http://forensic-applications.com/meth/DrugLabExperience2.pdf>

He has extensive experience performing assessments pursuant to the Colorado meth-lab regulation, 6 CCR 1014-3, and was an original team member on two of the legislative working-groups which wrote the original regulations for the State of Colorado and he was the primary contributing author of Appendix A (*Sampling Methods And Procedures*) and Attachment to Appendix A (*Sampling Methods and Procedures Sampling Theory*) of the original Colorado regulations. Mr. Connell strongly objected to the unscientific, unfounded and inappropriate amendments now applicable to those original regulations.

Recommended by the US NIOSH as Peer Review Expert for the NIOSH 9109 Method, *Methamphetamine*, he has been admitted as a drug lab expert in Colorado, and an Industrial Hygiene Expert in Colorado in both civil and criminal courts as well as Federal Court in Pennsylvania. He has provided expert testimony in several criminal cases including Grand Jury testimony and testimony for US Bureau ATF and he testified before the Colorado Board of Health and Colorado Legislature Judicial Committee regarding methlab issues. Mr. Connell has provided services to private consumers, Indian Nations, Sate Investigators, and Federal Investigators.



Multijurisdictional Counterdrug Task Force Training

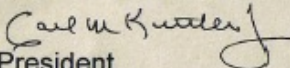


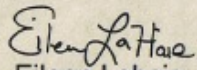
This is to certify that
Caoimhin P. Connell

Has satisfactorily completed the following 24 hour MCTFT training course held at
DIVIDE, CO

Rural Patrol

Training held 9/27/2004 through 9/29/2004


President
St. Petersburg College


Eileen Lahaie
MCTFT Director

A partnership between The Florida National Guard and St. Petersburg College

Midwest Counterdrug Training Center



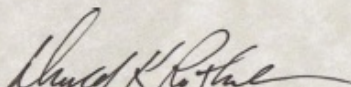
Certificate of Training

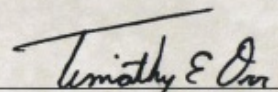
This certifies that

Caoimhin Connell

Has successfully completed the
Clandestine Laboratory Certification

Cheyenne, WY
40 Training Hours
2-6 August 2004


Network Environmental Systems, Inc.


LTC Timothy E. Orr
Commandant



Center *for* Task Force Training™

THIS IS TO CERTIFY THAT

Caoimhin P. Connell

HAS SUCCESSFULLY COMPLETED 20 HOURS OF TRAINING IN

METHAMPHETAMINE INVESTIGATION MANAGEMENT

MARCH 20-22, 2006

DENVER, COLORADO

Domingo S. Herraiz
Director, Bureau of Justice Assistance

Training coordinated by the
Institute for Intergovernmental
Research® on behalf of BJA



State and Local Anti-Terrorism Training

THIS IS TO CERTIFY THAT

Caoimhin P. Connell

HAS SUCCESSFULLY COMPLETED AN 8-HOUR
STATE AND LOCAL ANTI-TERRORISM TRAINING PROGRAM
NARCOTICS TASK FORCE ANTI-TERRORISM BRIEFING

June 1, 2006

Denver, Colorado

Domingo S. Herraiz
Director, Bureau of Justice Assistance



Training coordinated on behalf of BJA
by the Institute for Intergovernmental Research

*Rocky Mountain
High Intensity Drug Trafficking
Area*



Certifies that



Caoimhín Connell

has attended

4 hours of

Hash Oil Extraction: The Scene and The Patient

Aurora, CO

July 25, 2014

Training Manager, Rocky Mountain HIDTA

Director, Rocky Mountain HIDTA



www.nesglobal.net

Certificate of Completion

Caoimhin Connell

has successfully completed training in

Advanced Clan Labs: Beyond the Basics

presented by

NES, Inc.

1141 Sibley Street Folsom, CA 95630

Instructor - Brian Escamilla

04/28/14 04/30/14

Date

Contact Hours:24

This certifies that

Caoimhin P Connell

Has met the requirements for the online course

Expert Testimony Training for the Prosecutor and Scientist



11-07-2012

Certificate Number: 1109778763

For more information please visit <http://www.rti.org/forensiced>



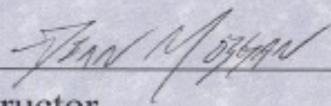
Park County Sheriff's Office Certificate of Completion

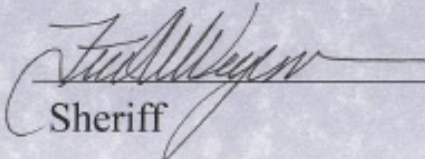
Caoimhin Connell

has completed an 8 hour course in:

Crime-scene Approach and Evidence Collection

Completed this 29th day of April, 2009


Instructor


Sheriff

***Rocky Mountain
High Intensity Drug Trafficking
Area***



Certifies that



Caoimhín P. Connell

*has attended
2 hours of
Hash Oil Explosions
Woodland Park, CO
May 31, 2014*

Training Manager, Rocky Mountain HIDTA

Director, Rocky Mountain HIDTA

Certificate of Completion

This Will Certify That

Caoimhín P. Connell

Successfully Completed

Prescription Drug Crimes

7 Hours Completed

At: CO Law Enforcement Officers Assn. On: September 30, 2010
Greeley, Colorado



P. Ritch Wagner
Instructor

Director, Law Enforcement Liaison & Education



Certificate of Training

This is to certify that
Caoimhin Connell

(Name)

Park County Sheriff's Office

(Agency)

If the bearer of this document possesses a 40 Hour certificate pursuant to 29 CFR §1910.120, this certifies the above named has met the refresher training requirements of 29 CFR §1910.120(e)(8) and is hereby **RECERTIFIED** in Clandestine Laboratory Safety / HazWoper

Sponsored by
Rocky Mountain High Intensity Drug Trafficking Area
Colorado Regional Community Policing Institute

Caoimhin P. Connell 4/12/10
Caoimhin P. Connell, Instructor/Date
Glean HARDEY



Colorado Law Enforcement Officers' Association



This is to certify that

CAOIMHIN CONNELL

Completed **ARIDE (Advanced Roadside Impaired Driving Enforcement)**

hosted by **Loveland Police Department**

on **February 28 – March 1, 2011**

Tom Finelle
Tom Finelle, CLEOA President

M. A. [Signature]
ARIDE Instructor

State of Colorado



THE BOARD ON PEACE OFFICER STANDARDS AND TRAINING
HEREBY AWARDS THIS CERTIFICATE
AS INSPECTOR OF VEHICLE IDENTIFICATION NUMBERS
TO

CAOIMHIN PADRAIG CONNELL

August 27, 2008

Date

VIN INSP— **0952**

Number

For fulfilling the prescribed requirements as an Inspector of Vehicle Identification Numbers and as a peace officer in Colorado, pursuant to Title 42, Article 5, Section 206 Colorado Revised Statutes.

Bill Ritter Jr.

Governor

John W. Suthers

Attorney General, Board Chairperson

Certificate of Completion Intoxilyzer 9000 Operator Certification Course

*The Evidential Breath Alcohol Testing Program of the
Colorado Department of Public Health and Environment certifies that*

Caoimhin P Connell

User ID: **841645**

*has successfully completed the "Intoxilyzer 9000 Operator Certification Course"
to determine the alcohol concentration in breath specimens pursuant to the
State Board of Health Rules Pertaining to Testing for Alcohol and Other Drugs (5 CCR, 1005-2)
Training was provided by the Evidential Breath Alcohol Testing Program
of the Colorado Department of Public Health and Environment.*

February 21, 2013

Certificate Date

Jeffrey A. Groff

Jeffrey A. Groff, Program Manager
Evidential Breath Alcohol Testing Program



David A. Butcher

David A. Butcher, Director
Laboratory Services Division
Colorado Department of Public Health
and Environment

Certification expires 180 days from certificate date. Recertification must be per 5 CCR 1005-2.



Certificate of Achievement

awarded to:

Caoimhin P. Connell

Has successfully completed Methamphetamine Lab Cleanup Management and Supervision training in accordance with 29 CFR 1910.120 and State Regulations Pertaining to the Cleanup of Methamphetamine Laboratories (8Hrs.)

June 1st, 2005

Date

Signed

HAZMAT Plans & Programs, Inc. 30 S. Havana St. Suite 304F Aurora, Colorado 80012 (303) 360-9801
"Safety Plans, Programs and Training Tailored To The Needs Of Your Business"

CERTIFICATE OF COMPLETION

COLORADO LAW ENFORCEMENT ASSOCIATIONS TRAINING PROJECT

This Certifies That

Caoimhin Connell

Has Attended the

CLEAT 40-HOUR

Train the Trainer Course

Hosted by Breckenridge Police Department
August 14-18, 2006

Karen M. Renshaw, CAE
Executive Director
Colorado Association of Chiefs of Police



John L. Kammerzell
Executive Director
Police Officer Standard & Training



Donald E. Christensen
Executive Director
County Sheriffs of Colorado





SINCE 1973

This is to certify that

Caoimlin P. Connell

*Has completed a 24 hour training program in Vehicle Identification Number
Inspection*

Presented this 24th day of May, 2008

CATI President

VIN Inspector Training Coordinator

State of Colorado



THE BOARD ON PEACE OFFICER STANDARDS AND TRAINING
AWARDS THIS CERTIFICATE
TO

CAOIMHIN PADRAIG CONNELL

May 6, 2004

Date

B- 10670

Number

*For fulfilling the prescribed requirements for certification. This certificate expires three years from date of
issuance unless the certificate holder meets the requirements for continued certification as established by law
and the P.O.S.T. Board.*

Governor

Attorney General, Board Chairperson

**Rocky Mountain
High Intensity Drug Trafficking
Area**



Certifies that



Caoimhín Connell

has attended

16 hours of

MCTC / RMHIDTA Indoor Marijuana Grows

Centennial, CO

August 28-29, 2014

Training Manager, Rocky Mountain HIDTA

Director, Rocky Mountain HIDTA

CERTIFICATE OF TRAINING

THIS IS TO CERTIFY THAT

Caoimhín Connell

Has completed 4 hours of successful training for

The Hazards of Hash Oil Extraction

Held at IRIS Fire Investigations in Englewood, CO

on this 7th day of November, 2014

Robert K. Toth
IRIS Fire Investigations, President



COLORADO
Department of Public
Health & Environment

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

December 30, 2014

Caoimhin Connell
Forensic Applications Consulting Technologies Inc
185 Bounty Hunter Ln
Bailey, CO 80421

Consultant Interim Authorization Approval

Dear Caoimhin Connell:

The Hazardous Materials and Waste Management Division of the Colorado Department of Public Health and Environment (the Department) has reviewed the application for Consultant Interim Authorization and has determined the application to be complete and in compliance with 6 CCR 1014-3, Regulations Pertaining to the Cleanup of Methamphetamine-Affected Properties (the Regulations).

The Department approves the application for **Consultant Interim Authorization**. This interim authorization approval shall expire on June 15, 2015.

Assessment and sampling of methamphetamine-affected properties may only be conducted by Consultant Firms that have received interim authorization under Part 2, Section 3.2.4 of the Regulations. Therefore, this interim authorization may only be used to conduct assessment and sampling of methamphetamine-affected properties for a Consultant Firm that has received interim authorization approval from the Department.

Approved By: _____

Date: _____

12/30/2014





COLORADO
Department of Public
Health & Environment

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

December 30, 2014

Forensic Applications Consulting Technologies Inc
185 Bounty Hunters Ln
Bailey, CO80421

Consultant Firm Interim Authorization Approval

Dear Forensic Applications Consulting Technologies Inc:

The Hazardous Materials and Waste Management Division of the Colorado Department of Public Health and Environment (the Department) has reviewed the application for Consultant Firm Interim Authorization and has determined the application to be complete and in compliance with 6 CCR 1014-3, Regulations Pertaining to the Cleanup of Methamphetamine-Affected Properties (the Regulations).

The Department approves the application for **Consultant Firm Interim Authorization**. The firm shall only utilize individuals who have received interim authorization under Part 2, Section 3.2.1 of the Regulations to conduct assessment and sampling of methamphetamine-affected properties. This interim authorization approval shall expire on June 15, 2015.

The Regulations require submittal of electronic copies of reports to the Department. Electronic copies of reports should be submitted via email to cdphe_methlabdocuments@state.co.us. The words "report" or "report submittal" should be included in the email subject line, and the property address should be included in the body of the email.

Alternatively, compact disks with electronic copies of reports may be mailed to:

Colorado Department of Public Health and Environment
Hazardous Material and Waste Management Division
4300 Cherry Creek Drive South
Denver, CO 80246-1530
Attn: Colleen Brisnehan or Richard Mruz

Packages may also be hand delivered to the Department's mail room located in the northwest corner of Building B (700 South Ash Street).

Approved By: _____

Date: 12/30/2014

